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111TH CONGRESS
1ST SESSION

# H. R. 2300

To provide the United States with a comprehensive energy package to place Americans on a path to a secure economic future through increased energy innovation, conservation, and production.

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IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2009

Mr. BISHOP of Utah (for himself, Mr. PRICE of Georgia, Mr. LAMBORN, Mr. SCALISE, Mr. CONAWAY, Mr. SULLIVAN, Mr. BROUN of Georgia, Mr. CHAFFETZ, Ms. FALLIN, Mr. FLEMING, Mr. YOUNG of Alaska, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mrs. LUMMIS, Mr. MARCHANT, Mr. MCKEON, Mr. NEUGEBAUER, Mr. PITTS, Mr. SIMPSON, Mr. HELLER, Mr. POE of Texas, Mr. LEE of New York, Mr. WESTMORELAND, Mr. BURTON of Indiana, Mr. REHBERG, Mr. ALEXANDER, Mr. GOODLATTE, Mr. CASSIDY, Mr. RADANOVICH, Mr. LATTA, Mr. MCCAUL, Mr. SESSIONS, Mr. BOOZMAN, and Mr. THORNBERRY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Natural Resources, Energy and Commerce, Science and Technology, Rules, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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# A BILL

To provide the United States with a comprehensive energy package to place Americans on a path to a secure economic future through increased energy innovation, conservation, and production.

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

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

(a) SHORT TITLE.—This Act may be cited as the ''American Energy Innovation Act''.

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

# TITLE I—INNOVATION

## Subtitle A—Energy Independence

**SEC. 1001. SENSE OF CONGRESS.**

It is the sense of Congress that the fastest way to reach energy independence and effectively address climate change is through innovation, conservation, and responsible production. Imposing a carbon tax or artificial regulatory mandates which promise no reduction in global carbon emissions will lead to the loss of millions of jobs for Americans. Congress must rely on the most sound and complete scientific evidence in order to tackle these challenges.

## Subtitle B—Tax Exempt Financing for Qualified Renewable Energy Facilities

**SEC. 1101. SPECIAL DEPRECIATION ALLOWANCE FOR CELLULOSIC BIOMASS ETHANOL PLANT PROPERTY.**

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end the following:

''(o) SPECIAL ALLOWANCE FOR CELLULOSIC BIOMASS ETHANOL PLANT PROPERTY.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified cellulosic biomass ethanol plant property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

''(B) the adjusted basis of such property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED CELLULOSIC BIOMASS ETHANOL PLANT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified cellulosic biomass ethanol plant property' means property of a character subject to the allowance for depreciation—

''(i) which is used in the United States solely to produce cellulosic biomass ethanol,

''(ii) the original use of which commences with the taxpayer after the date of the enactment of this subsection,

''(iii) which has a nameplate capacity of 100,000,000 gallons per year of cellulosic biomass ethanol,

''(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after the date of the enactment of this subsection, but only if no written binding contract for the acquisition was in effect on or before the date of the enactment of this subsection, and

''(v) which is placed in service by the taxpayer before January 1, 2013.

''(B) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in section 168(k)(2)(D)(i).

''(ii) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation

the interest on which is exempt from tax under section 103.

''(iii) ELECTION OUT.—If a taxpayer makes an election under this subparagraph with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(3) CELLULOSIC BIOMASS ETHANOL.—For purposes of this subsection, the term 'cellulosic biomass ethanol'—

''(A) means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(i) dedicated energy crops and trees,

''(ii) wood and wood residues,

''(iii) plants,

''(iv) grasses,

''(v) agricultural residues,

''(vi) fibers,

''(vii) animal wastes and other waste materials, and

''(viii) municipal and solid waste, and

''(B) includes any ethanol produced in facilities where animal wastes or other waste materials are digested or otherwise used to displace 90 percent or more of the fossil fuel normally used in the production of ethanol.

''(4) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

''(A) by substituting 'the date of the enactment of subsection (o)' for 'December 31, 2007' each place it appears therein,

''(B) by substituting 'January 1, 2013' for 'January 1, 2010' in clause (i) thereof, and

''(C) by substituting 'qualified cellulosic biomass ethanol plant property' for 'qualified property' in clause (iv) thereof.

''(5) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

''(6) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified cellulosic biomass ethanol plant property which

ceases to be qualified cellulosic biomass ethanol plant property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 1102. COAL-TO-LIQUID FACILITIES.**

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system), as amended by this Act, is amended by adding at the end the following:

''(p) SPECIAL ALLOWANCE FOR COAL-TO-LIQUID PLANT PROPERTY.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified coal-to-liquid plant property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

''(B) the adjusted basis of such property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this

chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED COAL-TO-LIQUID PLANT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified coal-to-liquid plant property' means property of a character subject to the allowance for depreciation—

''(i) which is part of a commercial-scale project that converts coal to 1 or more liquid or gaseous transportation fuel that demonstrates the capture, and sequestration or disposal or use of, the carbon dioxide produced in the conversion process, and that, on the basis of carbon dioxide sequestration plan prepared by the applicant, is certified by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, as producing fuel with life cycle carbon dioxide emissions at or below the average life-cycle carbon dioxide emissions for the same type of fuel produced at traditional petroleum based facilities with similar annual capacities,

"(ii) which is used in the United States solely to produce coal-to-liquid fuels,

"(iii) the original use of which commences with the taxpayer after the date of the enactment of this subsection,

"(iv) which has a nameplate capacity of 30,000 barrels per day production of coal-to-liquid fuels,

"(v) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after the date of the enactment of this subsection, but only if no written binding contract for the acquisition was in effect on or before the date of the enactment of this subsection, and

"(vi) which is placed in service by the taxpayer before January 1, 2013.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in section 168(k)(2)(D)(i).

"(ii) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is fi-

nanced with the proceeds of any obligation the interest on which is exempt from tax under section 103.

''(iii) ELECTION OUT.—If a taxpayer makes an election under this subparagraph with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(3) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

''(A) by substituting 'the date of the enactment of subsection (l)' for 'December 31, 2007' each place it appears therein,

''(B) by substituting 'January 1, 2013' for 'January 1, 2010' in clause (i) thereof, and

''(C) by substituting 'qualified coal-to-liquid plant property' for 'qualified property' in clause (iv) thereof.

''(4) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

''(5) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified coal-to-liquid plant property which ceases to be qualified coal-to-liquid plant property.''.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 1103. DEDICATED ETHANOL PIPELINES TREATED AS 15-YEAR PROPERTY.**

(a) IN GENERAL.—Section 168(e)(3)(E) of the Internal Revenue Code of 1986 (defining 15-year property), is amended by striking ''and'' at the end of clause (viii), by striking the period at the end of clause (ix) and by inserting '', and'', and by adding at the end the following new clause:

''(x) any dedicated ethanol distribution line the original use of which commences with the taxpayer after August 1, 2007, and which is placed in service before January 1, 2013.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of such Code (relating to special rule for certain property assigned to classes) is amended by

inserting after the item relating to subparagraph (E)(ix) the following new item:

"(E)(x) ..... 35".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after August 1, 2008.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer or related party has entered into a binding contract for the construction thereof on or before August 1, 2009, or, in the case of self-constructed property, has started construction on or before such date.

**SEC. 1104. CREDIT FOR POLLUTION ABATEMENT EQUIPMENT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 45Q the following new section:

**"SEC. 45R. CREDIT FOR POLLUTION ABATEMENT EQUIPMENT.**

"(a) GENERAL RULE.—For purposes of section 38, the pollution abatement equipment credit for any taxable year is an amount equal to 30 percent of the costs of any

qualified pollution abatement equipment property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a) for any taxable year with respect to any qualified pollution abatement equipment property shall not exceed—

''(1) $50,000,000 in the case of a property of a character subject an allowance for depreciation provided in section 167, and

''(2) $30,000,000 in any other case.

''(c) QUALIFIED POLLUTION ABATEMENT EQUIPMENT PROPERTY.—For purposes of this section, the term 'qualified pollution abatement equipment property' means pollution abatement equipment—

''(1) which is part of a unit or facility which either—

''(A) utilizes technologies that meet relevant Federal and State clean air requirements applicable to the unit or facility, including being adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501), or

''(B) utilizes equipment or processes that exceed relevant Federal or State clean air requirements applicable to the unit or facility by achieving greater efficiency or environmental performance,

''(2) which is installed on a voluntary basis and not as a result of an agreement with a Federal or State agency or required as a decree from a judicial decision, and

''(3) with respect to which an election under section 169 is not in effect.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the pollution abatement equipment credit determined under section 45R(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 45Q the following new item:

''Sec. 45R. Credit for pollution abatement equipment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after the

date of the enactment of this Act, in taxable years ending after such date.

**SEC. 1105. MODIFICATIONS RELATING TO CLEAN RENEWABLE ENERGY BONDS.**

(a) CLEAN RENEWABLE ENERGY BOND.—Paragraph (1) of section 54(d) of the Internal Revenue Code of 1986 (defining clean renewable energy bond) is amended—

(1) in subparagraph (A), by striking ''pursuant'' and all that follows through ''subsection (f)(2)'',

(2) in subparagraph (B), by striking ''95 percent or more of the proceeds'' and inserting ''90 percent or more of the net proceeds'', and

(3) in subparagraph (D), by striking ''subsection (h)'' and inserting ''subsection (g)''.

(b) QUALIFIED PROJECT.—Subparagraph (A) of section 54(d)(2) of such Code (defining qualified project) is amended to read as follows:

''(A) IN GENERAL.—The term 'qualified project' means any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service requirement) owned by a qualified borrower and also without regard to the following:

''(i) In the case of a qualified facility described in section 45(d)(9) (regarding incremental hydropower production), any determination of incremental hydropower production and related calculations shall be determined by the qualified borrower based on a methodology that meets Federal Energy Regulatory Commission standards.

''(ii) In the case of a qualified facility described in section 45(d)(9) (regarding hydropower production), the facility need not be licensed by the Federal Energy Regulation Commission if the facility, when constructed, will meet Federal Energy Regulatory Commission licensing requirements and other applicable environmental, licensing, and regulatory requirements.''.

(c) REIMBURSEMENT.—Subparagraph (C) of section 54(d)(2) of such Code (relating to reimbursement) is amended to read as follows:

''(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), proceeds of a clean renewable energy bond may be issued to reimburse a qualified borrower for amounts paid after the

date of the enactment of this subparagraph in the same manner as proceeds of State and local government obligations the interest upon which is exempt from tax under section 103.''.

(d) CHANGE IN USE.—Subparagraph (D) of section 54(d)(2) of such Code (relating to treatment of changes in use) is amended by striking ''or qualified issuer''.

(e) MAXIMUM TERM.—Paragraph (2) of section 54(e) of such Code (relating to maximum term) is amended by striking ''without regard to the requirements of subsection (1)(6) and''.

(f) REPEAL OF LIMITATION ON AMOUNT OF BONDS DESIGNATED.—Section 54 of such Code is amended by striking subsection (f) (relating to repeal of limitation on amount of bonds designated).

(g) SPECIAL RULES RELATING TO EXPENDITURES.—Subsection (h) of section 54 of such Code (relating to special rules relating to expenditures) is amended—

(1) in paragraph (1)(A), by striking ''95 percent of the proceeds'' and inserting ''90 percent of the net proceeds'',

(2) in paragraph (1)(B)—

(A) by striking ''10 percent of the proceeds'' and inserting ''5 percent of the net proceeds'', and

(B) by striking ''the 6-month period beginning on'' both places it appears and inserting ''1 year of'',

(3) in paragraph (1)(C), by inserting ''net'' before ''proceeds'', and

(4) in paragraph (3), by striking ''95 percent of the proceeds'' and inserting ''90 percent of the net proceeds''.

(h) REPEAL OF SPECIAL RULES RELATING TO ARBITRAGE.—Section 54 of such Code is amended by striking subsection (i) (relating to repeal of special rules relating to arbitrage).

(i) PUBLIC POWER ENTITY.—Subsection (j) of section 54 of such Code (defining cooperative electric company; qualified energy tax credit bond lender; governmental body; qualified borrower) is amended—

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

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

''(4) PUBLIC POWER ENTITY.—The term 'public power entity' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of enactment of this paragraph).'',

(3) in paragraph (5), as so redesignated—

(A) by striking ''or'' at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting '', or'', and

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

''(D) a public power entity.'', and

(4) in paragraph (6), as so redesignated—

(A) by striking ''or'' at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting '', or'', and

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

''(C) a public power entity.''.

(j) REPEAL OF RATABLE PRINCIPAL AMORTIZATION REQUIREMENT.—Subsection (l) of section 54 of such Code (relating to other definitions and special rules) is amended by striking paragraph (5) and redesignating paragraph (6) as paragraph (5).

(k) NET PROCEEDS.—Subsection (l) of section 54 of such Code (relating to other definitions and special rules), as amended by subsection (j), is amended by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (4), (5),

(6), and (7), respectively, and by inserting after paragraph (1) the following new paragraphs:

''(2) NET PROCEEDS.—The term 'net proceeds' means, with respect to an issue, the proceeds of such issue reduced by amounts in a reasonably required reserve or replacement fund.

''(3) LIMITATION ON AMOUNT IN RESERVE OR REPLACEMENT FUND WHICH MAY BE FINANCED BY ISSUE.—A bond issued as part of an issue shall not be treated as a clean renewable energy bond if the amount of the proceeds from the sale of such issue which is part of any reserve or replacement fund exceeds 10 percent of the proceeds of the issue (or such higher amount which the issuer establishes is necessary to the satisfaction of the Secretary).''.

(l) OTHER SPECIAL RULES.—Subsection (l) of section 54 of such Code (relating to other definitions and special rules), as amended by subsections (j) and (k), is amended by adding at the end the following new paragraphs:

''(8) CREDITS MAY BE SEPARATED.—There may be a separation (including at issuance) of the ownership of a clean renewable energy bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation,

the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(9) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for the purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified energy tax credit bond on a credit allowance date (or the credit in the case of a separation as provided in paragraph (8)) shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

''(10) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—If the sum of the credit exceeds the limitation imposed by subsection (c) for any taxable year, any credits may be applied in a manner similar to the rules set forth in section 39.''.

(m) TERMINATION.—Subsection (m) of section 54 of such Code (relating to termination) is amended by striking ''2008'' and inserting ''2013''.

(n) CLERICAL REDESIGNATIONS.—Section 54 of such Code, as amended by the preceding provisions of this section, is amended by redesignating subsections (g), (h), (j), (k), (l), and (m) as subsections (f), (g), (h), (i), (j), and (k), respectively.

(o) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 1106. EXTENSION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.**

(a) IN GENERAL.—Section 45 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''10-year period beginning on the date the facility was originally placed in service,'' in subsection (a)(2)(A)(ii) and inserting ''5-year period beginning on the date the facility was originally placed in service,'',

(2) by striking ''in subsection (a)(2)(A)(ii).'' in subsection (b)(4)(B)(i) and inserting ''beginning on the date the facility was originally placed in service.'',

(3) by striking ''in subsection (a)(2)(A)(ii).'' in subsection (b)(4)(B)(ii) and inserting ''beginning on the date the facility was originally placed in service.'', and

(4) by striking ''January 1, 2009'' each place it appears in subsection (d) and inserting ''January 1, 2020''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

# Subtitle C—Repeal of Federal Purchasing Requirement

### SEC. 1201. REPEAL OF FEDERAL PURCHASING REQUIREMENT.

Section 526 of the Energy Independence and Security Act of 2007 is repealed.

# Subtitle D—Renewable Technologies

### SEC. 1301. PILOT PROJECT FOR DEVELOPING SOLAR ENERGY ON FEDERAL LANDS.

(a) IN GENERAL.—The Secretary of the Interior shall carry out in accordance with this section a pilot project for the leasing of Federal lands for the advancement, development, assessment, installation, and operation of commercial photovoltaic and concentrating solar power energy systems.

(b) IDENTIFICATION OF LANDS FOR LEASING.—

(1) LANDS SELECTION.—For purposes of this section, the Secretary of the Interior, acting through the Director of the Bureau of Land Management and in consultation with the Secretary of Energy, shall—

(A) identify lease sites of Federal lands under the jurisdiction of the Bureau of Land Management in the States of Arizona, California, New Mexico, Nevada, and Utah, that are suitable and feasible for the installation and operation of photovoltaic and concentrating solar power energy systems under the pilot project, subject to valid existing rights; and

(B) incorporate solar energy development under the pilot project into the relevant agency land use and resource management plans or equivalent plans for the lands identified under subparagraph (A).

(2) MINIMUM AND MAXIMUM ACREAGE OF SITES.—Each individual lease site identified under paragraph (1)(A) shall be a minimum of 1280 acres and shall not exceed 12,800 acres.

(3) LANDS RELEASED FOR LEASING.—The Secretary shall release for leasing under the pilot project lease sites identified under paragraph (1), in acreages that meet the following annual milestones:

(A) By 2010, 79,012 acres.

(B) By 2011, 316,049 acres.

(4) LANDS NOT INCLUDED.—The following Federal lands shall not be included within the pilot project:

(A) Components of the National Landscape Conservation System.

(B) Wilderness and Wilderness Study Areas.

(C) Wild and Scenic Rivers.

(D) National Scenic and Historic Trails.

(E) Monuments.

(F) Resource Natural Areas.

(c) REPORT.—The Secretary shall report to the Congress by not later than December 31, 2013, regarding the results of the pilot project and the viability of leasing Bureau of Land Management lands for solar power energy production.

**SEC. 1302. THREE-YEAR DEPRECIATION FOR SOLAR AND FUEL CELL PROPERTY.**

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) of the Internal Revenue Code of 1986 (defining 3-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by inserting after clause (iii) the following:

''(iv) any property which is described in clause (i) or (ii) of section 48(a)(3)(A) (relating to solar), or would be so described if the last sentence of such section did not apply to such clauses, and

''(v) any property which is described in paragraph (1) of section 48(c) (defining qualified fuel cell property).''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(B)(vi)(I) of such Code is amended by inserting ''(other than (i) or (ii) thereof and so much of clause (iv) thereof as relates to qualified fuel cell property)'' after ''subparagraph (A)''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service on or after December 31, 2009.

**SEC. 1303. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM WIND AND BIOMASS.**

(a) WIND.—Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2013'' and inserting ''January 1, 2018''.

(b) BIOMASS.—Paragraphs (2) and (3) of section 45(d) of such Code is amended by striking ''January 1, 2014'' each place it appears and inserting ''January 1, 2019''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 1304. NUCLEAR, HYDROPOWER, AND BIOMASS DEFINED AS RENEWABLE.**

For any public law after the enactment of the American Energy Innovation Act, any requirement that a percentage our total electrical supply must come from renewable sources, or if a Renewable Energy Portfolio is enacted, for purposes of that law, nuclear energy, biomass, hydrokinetic, and hydroelectircty shall be defined as renewable.

**SEC. 1305. PERMANENT EXTENSION OF THE CREDIT FOR NONBUSINESS ENERGY PROPERTY AND THE CREDIT FOR GAS PRODUCED FROM BIOMASS AND FOR SYNTHETIC FUELS PRODUCED FROM COAL.**

(a) CREDIT FOR NONBUSINESS ENERGY PROPERTY MADE PERMANENT.—

(1) IN GENERAL.—Section 25C of the Internal Revenue Code of 1986 is amended by striking subsection (g).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2008.

(b) CREDIT FOR GAS PRODUCED FROM BIOMASS AND FOR SYNTHETIC FUELS PRODUCED FROM COAL MADE PERMANENT.—

(1) IN GENERAL.—Subparagraph (B) of section 45K(f)(1) of such Code is amended to read as follows:

''(B) if such facility is originally placed in service after December 31, 1992, paragraph (2) of subsection (e) shall not apply.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to fuel sold after December 31, 2008.

**SEC. 1306. ALGAE-BASED FUELS PARITY.**

(a) WITH ALCOHOL, ETC, USED AS FUEL.—Section 40(b) of the Internal Revenue Code is amended by inserting after paragraph (6) the following:

''(7) ALGAE-BASED BIOFUEL CREDIT.—

''(A) IN GENERAL.—For the purpose of this section, algae-based biofuels shall be treated in the same manner as cellulosic biofuel.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) the term 'algae-based fuel' means a liquid fuel derived from the biomass of

algal organisms that can replace fuel derived from petroleum, and

"(ii) the term 'algal organisms' means single or multi-cellular organisms which are inherently aquatic and classified as non-vascular plants, which include (i) microalgae, (ii) blue-green algae (cyanobacteria), and (iii) macroalgae (seaweeds).".

(b) WITH RENEWABLE DIESEL.—Section 40A of such Code is amended by inserting after paragraph (4) the following:

"(5) ALGAE-BASED BIOFUEL.—

"(A) IN GENERAL.—Except as provided in the last 3 sentences of paragraph (3), the term 'renewable diesel' shall include algae-based biofuels.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'algae-based fuel' means a liquid fuel derived from the biomass of algal organisms that can replace fuel derived from petroleum, and

"(ii) the term 'algal organisms' means single or multi-cellular organisms which

are inherently aquatic and classified as non-vascular plants, which include (i) microalgae, (ii) blue-green algae (cyanobacteria), and (iii) macroalgae (seaweeds).''.

(c) BONUS DEPRECIATION FOR ALGAE-BASED FUEL EQUIPMENT.—Subsection (l) of section 168 of such Code is amended by inserting after paragraph (8) the following:

''(9) ALGAE-BASED FUEL PLANT PROPERTY.—

''(A) IN GENERAL.—For the purpose of this section, qualified algae-based fuel plant property equipment shall be treated in the same manner as qualified cellulosic biofuel plant property.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) QUALIFIED ALGAE-BASED FUEL PLANT PROPERTY.—The term 'qualified algae-based fuel plant property' means property of a character subject to the allowance for depreciation—

''(I) which is used in the United States solely to produce algae-based fuel,

"(II) the original use of which commences with the taxpayer after the date of the enactment of this paragraph,

"(III) which is acquired by the taxpayer by purchase after the date of the enactment of this paragraph, but only if no written binding contract for the acquisition was in effect on or before the date of the enactment of this paragraph, and

"(IV) which is placed in service by the taxpayer before January 1, 2017.

"(ii) ALGAE-BASED FUEL.—The term 'algae-based fuel' means a liquid fuel derived from the biomass of algal organisms that can replace fuel derived from petroleum.

"(iii) ALGAL ORGANISMS.—The term 'algal organisms' means single or multi-cellular organisms which are inherently aquatic and classified as non-vascular plants, which include (i) microalgae, (ii)

blue-green algae (cyanobacteria), and (iii) macroalgae (seaweeds).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

# Subtitle A—Rewarding Innovation in Technology

### SEC. 1401. INCREASE IN ALTERNATIVE SIMPLIFIED RESEARCH CREDIT.

Subparagraph (A) of section 41(c)(5) of the Internal Revenue Code of 1986 (relating to election of alternative simplified credit) is amended by striking ''14 percent (12 percent in the case of taxable years ending before January 1, 2009)'' and inserting ''20 percent''.

### SEC. 1402. RESEARCH AND EXPERIMENTATION CREDIT PERMANENT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

**SEC. 1403. ALTERNATIVE FUEL VEHICLE INNOVATION PRIZE.**

(a) IN GENERAL.—The Secretary shall carry out a program to be referred to as the ''Alternative Fuel Vehicle Innovation Prize'' to competitively award cash prizes to eligible contestants in conformity with this Act to advance the research, development, demonstration, and commercial application of alterative fuel vehicles.

(b) ADVERTISING AND SOLICITATION OF COMPETITORS.—

(1) ADVERTISING.—The Secretary shall widely advertise prize competitions to encourage broad participation in the program carried out under subsection (a).

(2) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition by publishing a notice in the Federal Register. This notice shall include the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize.

(c) PRIZES; SELECTION CRITERIA.—

(1) GRAND PRIZE.—

(A) IN GENERAL.—There shall be one grand prize of $10,000,000,000.

(B) PROTOTYPE REQUIREMENT.—In order to be eligible to receive the grand prize under this section, an eligible contestant must produce a prototype of an alternative fuel vehicle.

(C) SELECTION CRITERIA.—The Secretary shall develop, in consultation with the Secretary of Transportation and the Director of the National Science Foundation, criteria on which to select the grand prize winner. Such criteria shall include, at a minimum, the following factors:

(i) The extent to which the prototype will reduce the reliance of the United States on foreign sources of energy.

(ii) The reduction in fuel costs of operating the prototype compared to a similar non-alternative fuel vehicle.

(iii) The extent to which the prototype meets or exceeds Federal safety standards.

(iv) Whether the prototype has a fuel economy of at least 100 miles per gallon.

(v) The extent to which the prototype limits hazardous emissions compared to a comparable non-alternative fuel vehicle.

(vi) The possibility of wide commercial application, including the production of vehicles that are not hindered by lack of refueling infrastructure.

(vii) The estimated cost of the prototype, if it were mass-produced, and whether such cost is equivalent to the cost of a comparable non-alternative fuel vehicle.

(viii) Whether the prototype could be mass-produced in the United States.

(D) DEADLINE FOR AWARDING GRAND PRIZE.—The Secretary shall set a deadline of not later than 5 years after the date of the enactment of this Act for awarding the grand prize.

(2) ADDITIONAL PRIZES.—

(A) IN GENERAL.—The Secretary may choose to award no more than 5 additional prizes, with such additional prizes having a total combined value of no more than $100,000,000.

(B) SELECTION CRITERIA.—Winners of additional prizes shall be selected based on their demonstration of—

(i) Substantial advancements in specific areas of alternative vehicle technologies, components, or systems; or

(ii) transformational changes in technology.

(C) DEADLINE FOR AWARDING ADDITIONAL PRIZES.—The Secretary shall set a deadline of not later than 5 years after the date of the enactment of this Act for awarding any additional prizes.

(d) JUDGING.—

(1) IN GENERAL.—The Secretary shall appoint 5 individuals to serve as judges for the purpose of selecting the prize winners under this section. The judges shall select the grand prize winner based on the criteria developed under subsection (c)(1)(C) and shall select any additional prize winners based on the criteria described under subsection (c)(2)(B).

(2) JUDGE REQUIREMENTS.—In order to be appointed as a judge, an individual may not have a financial interest in any contestant and may not be an

employee, officer, director, agent, or family member of any contestant.

(e) REPORT.—Not later than 60 days after all prizes are awarded under this section, the Secretary shall transmit a report to the Congress containing—

(1) a list of award recipients;

(2) a description of the technologies developed by the award recipients; and

(3) a description of the actions being taken toward the commercial application of the technologies developed by the award recipients.

(f) INTELLECTUAL PROPERTY.—The Federal Government shall not, by virtue of offering or awarding a prize under this section, be entitled to any intellectual property rights derived as a consequence of, or in direct relation to, the participation by a participant in a competition authorized by this section. This subsection shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this section. The Federal Government may seek assurances that technologies for which prizes are awarded under this section are offered for commercialization in the event an award recipient does not take, or is not expected to take within

a reasonable time, effective steps to achieve practical application of the technology.

(g) WAIVER OF LIABILITY.—The Secretary may require participants to waive claims against the Federal Government for any injury, death, damage, or loss of property, revenue, or profits arising from the participants' participation in a competition under this section. The Secretary shall give notice of any waiver required under this section in the notice required by subsection (b)(2).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as may be necessary to carry out the provisions of this section.

# Subtitle B—Improve National Grid Efficiency

**SEC. 1501. INCOME AND GAINS FROM ELECTRICITY TRANSMISSION SYSTEMS TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.**

(a) IN GENERAL.—Section 7704(d)(1) of the Internal Revenue Code of 1986 (defining qualifying income) is amended by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) income and gains from the transmission of electricity at 69 or more kilovolts

through any property the original use of which commences after December 31, 2006,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 1502. FIVE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED SMART ELECTRIC METERS.**

(a) IN GENERAL.—Section 168(e)(3)(B) of the Internal Revenue Code of 1986 (defining 5-year property) is amended by striking ''and'' at the end of clause (vi), by striking the period at the end of clause (vii) and inserting '', and'', and by inserting after clause (vii) the following new clause:

''(viii) any qualified smart electric meter.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(D) of such Code is amended by striking clause (iii) and redesignating clause (iv) as clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years ending after the date of the enactment of this Act.

# Subtitle C—Regulatory Burdens

**SEC. 1601. GREENHOUSE GAS REGULATION UNDER CLEAN AIR ACT.**

(a) DEFINITION OF AIR POLLUTANT.—Section 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is amended by adding the following at the end thereof: ''The term 'air pollutant' shall not include carbon dioxide, water vapor, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.''.

(b) CLIMATE CHANGE NOT REGULATED BY CLEAN AIR ACT.—Nothing in the Clean Air Act shall be treated as authorizing or requiring the regulation of climate change or global warming.

**SEC. 1602. NEPA JUDICIAL REVIEW.**

Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is amended by adding at the end the following new section:

**''SEC. 106. JUDICIAL REVIEW.**

''(a) IN GENERAL.—Review of a Federal agency's compliance with section 102 of the Act may be filed in the circuit in which the petitioner resides or transacts business which is directly affected by the action. Any such application for review shall be made within ninety days from the date of promulgation of the Federal agency's decision.

''(b) PROCEDURES FOR REVIEW.—

''(1) LIMITATION.—In any judicial action under this Act, judicial review of any issues concerning a Federal agency's compliance with section 102 shall be limited to the administrative record. Otherwise applicable principles of administrative law shall govern whether any supplemental materials may be considered by the court.

''(2) STANDARD.—In considering objections raised in any judicial action under this Act, the court shall uphold the Federal agency's decision, whether in is the first instance, a revocation, recession or other action, unless the objecting party can demonstrate, on the administrative record, that the decision was arbitrary and capricious or otherwise not in accordance with law.

''(3) REMEDY.—If the court finds that the selection of the response action was arbitrary and capricious or otherwise not in accordance with law, the court shall award such relief as the court deems appropriate.

''(4) PROCEDURAL ERRORS.—In reviewing alleged procedural errors, the court may disallow costs or damages only if the errors were so serious and related to matters of such central relevance to the ac-

tion that the action would have been significantly changed had such errors not been made.

''(c) NOTICE OF ACTIONS.—Whenever any action is brought under this Act in a court of the United States by a plaintiff other than the United States, the plaintiff shall provide a copy of the complaint to the Attorney General of the United States and to the Secretary or Administrator of the affected Federal agency.

''(d) INTERVENTION.—In any action commenced under this Act, any person may intervene as a matter of right when such person claims an interest relating to the subject of the action and is so situated that the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest, unless the Secretary or Administrator shows that the person's interest is adequately represented by existing parties.''.

**SEC. 1603. REPEAL OF 2007 AMENDMENTS TO RENEWABLE FUEL STANDARD.**

Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended to read as provided in section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594, 1067).

**SEC. 1604. REPEAL OF REQUIREMENT TO CONSULT REGARDING IMPACTS ON GLOBAL WARMING AND POLAR BEAR POPULATION.**

Section 429 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009 (division E of Public Law 111–8) is repealed.

**SEC. 1605. LIGHT BULB CHOICE.**

(b) IN GENERAL.—Effective 6 months after the date of enactment of this Act, sections 321 and 322, and the items in the table of contents relating thereto, of the Energy Independence and Security Act of 2007 are repealed.

(c) REVERSION.—When the repeal occurs under paragraph (1), the amendments made by sections 321 and 322 of the Energy Independence and Security Act of 2007 are hereby repealed, and the laws amended thereby shall read as if those amendments had not been enacted.

**SEC. 1606. REPEAL OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.**

(a) IN GENERAL.—Section 199 of the Internal Revenue Code is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Sections 86(b)(2)(A), 135(c)(4)(A), 137(b)(3)(A), 219(g)(3)(A)(ii), 221(b)(2)(C), 246(b)(1), and 469(i)(3)(F) of such Code are each amended by striking ''199,''.

(2) Clause (i) of section 163(j)(6)(A) of such Code is amended by inserting ''and'' at the end of subclause (II), by striking subclause (III) and by redesignating subclause (IV) as subclause (III).

(3) Subparagraph (C) of section 170(b)(2) of such Code is amended by striking clause (iv), by redesignating clause (v) as clause (iv), and by inserting ''and'' at the end of clause (iii).

(4) Subsection (d) of section 172 of such Code is amended by striking paragraph (7).

(5) Subsection (a) of section 613 of such Code is amended by striking ''and without the deduction under section 199''.

(6) Paragraph (1) of section 613A(d) of such Code is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively, and by striking subparagraph (B).

(7) Subsection (a) of section 1402 of such Code is amended by inserting ''and'' at the end of paragraph (15), by striking paragraph (16), and by redesignating paragraph (17) as paragraph (16).

(8) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 199.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

**SEC. 1607. HYDRAULIC FRACTURING.**

It is the sense of Congress that—

(1) the Safe Drinking Water Act was never intended to regulate natural gas and oil well construction and stimulation;

(2) this responsibility has been effectively managed by the States reflecting their unique needs; and

(3) the modification of the Safe Drinking Water Act in the Energy Policy Act of 2005 to clarify that it was not intended to regulate the use of hydraulic fracturing was an appropriate and necessary action that should be retained.

# Subtitle D—Judicial Review Regarding Energy Projects

## PART 1—JUDICIAL REVIEW REGARDING ENERGY PROJECTS

**SEC. 1701. EXCLUSIVE JURISDICTION OVER CAUSES AND CLAIMS RELATING TO COVERED ENERGY PROJECTS.**

Notwithstanding any other provision of law, the United States District Court for the District of Columbia shall have exclusive jurisdiction to hear all causes and

claims under this title or any other provision of law that arise from any covered energy project.

**SEC. 1702. TIME FOR FILING COMPLAINT.**

All causes and claims referred to in section 1701 must be filed not later than the end of the 60-day period beginning on the date of the action or decision by a Federal official that constitutes the covered energy project concerned. Any cause or claim not filed within that time period shall be barred.

**SEC. 1703. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA DEADLINE.**

(a) IN GENERAL.—All proceedings that are subject to section 1701—

(1) shall be resolved as expeditiously as possible, and in any event not more than 180 days after such cause or claim is filed; and

(2) shall take precedence over all other pending matters before the district court.

(b) FAILURE TO COMPLY WITH DEADLINE.—If an interlocutory or final judgment, decree, or order has not been issued by the district court by the deadline described under this section, the cause or claim shall be dismissed with prejudice and all rights relating to such cause or claim shall be terminated.

**SEC. 1704. ABILITY TO SEEK APPELLATE REVIEW.**

An interlocutory or final judgment, decree, or order of the district court in a proceeding that is subject to section 1701 may be reviewed by no other court except the Supreme Court.

**SEC. 1705. DEADLINE FOR APPEAL TO THE SUPREME COURT.**

If a writ of certiorari has been granted by the Supreme Court pursuant to section 1704, then—

(1) the interlocutory or final judgment, decree, or order of the district court shall be resolved as expeditiously as possible and in any event not more than 180 days after such interlocutory or final judgment, decree, order of the district court is issued; and

(2) all such proceedings shall take precedence over all other matters then before the Supreme Court.

**SEC. 1706. COVERED ENERGY PROJECT DEFINED.**

In this part, the term ''covered energy project'' means any action or decision by the President or a Federal official regarding—

(1) the leasing of Federal lands (including submerged lands) for the exploration, development, production, processing, or transmission of oil, natural gas, or any other source or form of energy, including

actions and decisions regarding the selection or offering of Federal lands for such leasing; or

(2) any action under such a lease.

**SEC. 1707. LIMITATION ON APPLICATION.**

This part shall not apply with respect to a covered energy project to the extent such application would be inconsistent with part 2.

## PART 2—PERMITTING REFORM

**SEC. 1711. PURPOSES.**

The purposes of this part are to—

(1) respond to the Nation's increased need for domestic energy resources;

(2) facilitate interagency coordination and cooperation in the processing of permits required to support oil and gas use authorization on Federal lands, both onshore and on the outer Continental Shelf, in order to achieve greater consistency, certainty, and timeliness in permit processing requirements;

(3) promote process streamlining and increased interagency efficiency, including elimination of interagency duplication of effort;

(4) improve information sharing among agencies and understanding of respective agency roles and responsibilities;

(5) promote coordination with State agencies with expertise and responsibilities related to Federal oil and gas permitting decisions;

(6) promote responsible stewardship of Federal oil and gas resources;

(7) maintain high standards of safety and environmental protection; and

(8) enhance the benefits to Federal permitting already occurring as a result of a coordinated and timely interagency process for oil and gas permit review for certain Federal oil and gas leases.

**SEC. 1712. FEDERAL COORDINATOR.**

(a) ESTABLISHMENT.—There is established, as an independent agency in the Executive Branch, the Office of the Federal Oil and Gas Permit Coordinator.

(b) FEDERAL PERMIT COORDINATOR.—The Office shall be headed by a Federal Permit Coordinator, who shall be appointed by the President within 90 days after the date of enactment of this Act.

(c) DUTIES.—The Federal Permit Coordinator shall be responsible for the following:

(1) Coordinating the timely completion of all permitting activities by Federal agencies, and State agencies to the maximum extent practicable, with respect to any oil and gas project under a Federal

lease issued pursuant to the mineral leasing laws, either onshore or on the outer Continental Shelf. For purposes of this part only, such oil and gas projects shall include oil shale projects under Federal oil shale leases.

(2) Ensuring the compliance of Federal agencies, and State agencies to the extent they participate, with this part.

**SEC. 1713. REGIONAL OFFICES AND REGIONAL PERMIT COORDINATORS.**

(a) REGIONAL OFFICES.—Within 90 days after the date of appointment of the Federal Permit Coordinator, the Secretary of the Interior (Secretary), in consultation with the Federal Permit Coordinator, shall establish regional offices to coordinate review of Federal permits for oil and gas projects on Federal lands onshore and on the outer Continental Shelf.

(b) NUMBER AND LOCATION OF REGIONAL OFFICES.—The number of regional offices shall be established by the Secretary in consultation with the Federal Permit Coordinator. The Secretary shall ensure that there is an adequate number of offices in each region proximate to available Federal oil and gas lease tracts onshore and on the outer Continental Shelf to meet the demands for expeditious permitting in that region. The Secretary shall

designate as regional offices under this section all offices established under section 365 of the Energy Policy Act of 2005 (42 U.S.C. 15924).

(c) MEMORANDUM OF UNDERSTANDING.—Within 90 days after the appointment of the Federal Permit Coordinator, the Federal Permit Coordinator, the Secretary, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Homeland Security, the Administrator of the Environmental Protection Agency, the Secretary of Defense, and the head of any other Federal agency with responsibilities related to permitting of Federal oil and gas leases, shall enter into a memorandum of understanding (MOU) establishing respective duties and responsibilities for staffing the regional offices and accomplishing the objectives of this section.

(d) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of signing of the MOU under subsection (c), all Federal signatory agencies shall assign to each regional office the appropriate employees with expertise in the oil and gas permitting issues relating to that office, including, but not limited, with respect to—

(A) consultation and preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (NEPA);

(F) applications for permits to drill under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(G) exploration plans and development and production plans under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(2) PREFERENCE AND INCENTIVES.—To the maximum extent practicable, for purposes of this subsection, Federal agencies shall give preference to employees volunteering for reassignment to the regional offices, and shall offer incentives to attract and retain regional office employees, including, but

not limited to, retaining contract employees, rotational assignments, salary incentives of up to 120 percent of an employee's existing salary immediately prior to reassignment, or any combination of strategies.

(e) DUTIES.—Each employee assigned under subsection (d) shall—

(1) within 90 days after the date of assignment, report to the regional office to which the employee is assigned;

(2) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(3) participate as part of the team working on proposed oil and gas projects, planning, and environmental analyses.

(f) CREATION OF AND DELEGATION OF AUTHORITY TO REGIONAL PERMIT COORDINATORS.—The Federal Permit Coordinator shall appoint a Regional Permit Coordinator to be located within each regional office established under this section, with full authority to act on behalf of the Federal Permit Coordinator.

(g) ADDITIONAL PERSONNEL.—The Federal Permit Coordinator or Regional Permit Coordinators may at any time direct that any Federal agency party to the MOU

under subsection (c) assign additional staff required to implement the duties of the regional offices.

**SEC. 1714. REVIEWS AND ACTIONS OF FEDERAL AGENCIES.**

(a) SCHEDULES FOR TIMELY PERMIT DECISIONMAKING.—Within 10 days after the date on which the Secretary receives any oil and gas permit application or amended application, the Secretary shall either notify the applicant that the application is complete or notify the applicant that information is missing and specify the information that is required to be submitted for the application to be complete. Within 30 days after notifying a permit applicant that an application is complete, the Secretary, in consultation with the permit applicant as necessary, shall determine and inform the Regional Permit Coordinator responsible for that project area whether the proposed permit is a class I, class II, or class III permit. The Regional Permit Coordinator shall as soon as possible but in no event later than 30 days following the Secretary's determination establish a binding schedule to ensure the most expeditious possible review and processing of the requested permit, in accordance with this section.

(b) PERMIT CLASSES AND SCHEDULES.—

(1) CLASS I PERMITS.—An oil and gas permit shall be designated as a class I permit under this section if the permitted activity is of a nature that

would typically require preparation of an environmental impact statement under NEPA to inform the permitting decision. For such permits, the Regional Permit Coordinator shall establish a schedule for timely completion of all permit reviews and processing, not to exceed 30 months. The Regional Permit Coordinator shall make the schedule publicly available within 10 days after the schedule is established.

(2) CLASS II PERMITS.—An oil and gas permit shall be designated as a class II permit under this section if the permitted activity is of a nature that would typically be found not to significantly affect the quality of the human environment under NEPA. For such permits, the Regional Permit Coordinator shall establish the most expeditious schedule possible for completion of all permit reviews and processing, not to exceed 90 days. The Regional Permit Coordinator may grant a one-time extension of that schedule, not to exceed 60 days, upon a good cause showing that additional time is necessary to complete permit decisions. Not later than 15 days after establishing or extending any schedule for a class II permit, the Regional Permit Coordinator shall provide the permit applicant with the schedule.

(3) CLASS III PERMITS.—Notwithstanding paragraphs (1) and (2), an oil and gas permit shall be designated as a class III permit under this section if the permitted activity either qualifies for a statutory or regulatory categorical exclusion under NEPA or if the requirements under NEPA and other applicable law for the permit have been completed within 30 days after the date of a complete application. For such permits, the permit shall be issued within 30 days after the date of a complete application.

(4) RECLASSIFICATION OF CLASS II PERMIT.—If prior to the expiration of the established schedule for a class II permit newly discovered information indicates that the class II permit will significantly affect the quality of the human environment, the Secretary may, in consultation with the permit applicant, reclassify the permit as a class I permit under paragraph (1), and the Regional Coordinator shall establish an amended schedule that complies with the provisions of that paragraph.

(c) REPORTING.—The Regional Permit Coordinators shall include data on all schedule timing and compliance in their reports to the Federal Permit Coordinator required under subsection (i), who shall include such data

in the report to the President and Congress required under subsection (i).

(d) DISPUTE RESOLUTION.—The Regional Permit Coordinator shall resolve all administrative issues that affect oil and gas permit reviews. The Regional Permit Coordinator shall report jointly to the Federal Permit Coordinator and to the head of the relevant action agency, or his or her designee, for resolution of any issue regarding an oil and gas permit that may result in missing the schedule deadlines established pursuant to subsection (b). The Regional Permit Coordinators shall include data regarding the incidence and resolution of disputes under this subsection in their reports to the Federal Permit Coordinator required under subsection (i), who shall include such reported data and develop recommendations in the report to the President and Congress required under subsection (i).

(e) REMEDIES.—An applicant for a class I permit may bring a cause of action to seek expedited mandamus review, pursuant to the procedures in section 3207, if a Regional Permit Coordinator or the Secretary fails to—

(1) establish a schedule in accordance with subsection (b);

(2) enforce and ensure completion of reviews within schedule deadlines; or

(3) take all actions as are necessary and proper to avoid jeopardizing the timely completion of the entire schedule.

If an agency fails to complete its review of and issue a decision upon a permit within the schedule established by the Court pursuant to section 3207(f), that permit shall be deemed granted to the applicant.

(f) PROHIBITION OF CERTAIN TERMS AND CONDITIONS.—No Federal agency may include in any permit, right-of-way, or other authorization issued for an oil and gas project subject to the provisions of this part, any term or condition that may be authorized, but is not required, by the provisions of any applicable law, if the Federal Permit Coordinator determines that such term or condition would prevent or impair in any significant respect completion of a permit review within the time schedule established pursuant to subsection (b) or would otherwise impair in any significant respect expeditious oil and gas development. The Federal Permit Coordinator shall not have any authority to impose any terms, conditions, or requirements beyond those imposed by any Federal law, agency, regulation, or lease term.

(g) CONSOLIDATED RECORD.—The Federal Permit Coordinator, acting through the appropriate Regional Permit Coordinator, with the cooperation of Federal and

State administrative officials and agencies, shall maintain a complete, consolidated record of all decisions made or actions taken by the Federal Permit Coordinator or Regional Permit Coordinator or by any Federal agency with respect to any oil and gas permit.

(h) RELATIONSHIP TO NEPA AND ENERGY POLICY ACT OF 2005.—

(1) Section 390(a) of the Energy Policy Act of 2005 (42 U.S.C. 15942(a)) is amended—

(A) by striking ''rebuttable presumption that the use of a''; and

(B) by striking ''would apply''.

(2) Section 17(p) of the Mineral Leasing Act (30 U.S.C. 226(p)) is repealed.

(i) ADDITIONAL POWERS AND RESPONSIBILITIES.—

(1) REGIONAL PERMIT COORDINATOR REPORTS.—The Regional Permit Coordinators shall each submit a report to the Federal Permit Coordinator by December 31 of each year that documents each office's performance in meeting the objectives under this part, including recommendations to further streamline the permitting process.

(2) REDIRECTION OF PRIORITIES OR RESOURCES.—In order to expedite overall permitting activity, the Federal Permit Coordinator may redi-

rect the priority of regional office activities or the allocation of resources among such offices, and shall engage the agencies that are parties to the MOU to the extent such adjustments implicate their respective staffs or resources.

(3) REPORT TO CONGRESS.—Beginning three years after the date of enactment of this Act, the Federal Permit Coordinator shall prepare and submit a report to the President and Congress by April 15 of each year that outlines the results achieved under this part and makes recommendations to the President and Congress for further improvements in processing oil and gas permits on Federal lands.

**SEC. 1715. STATE COORDINATION.**

The Governor of any State wherein an oil and gas operation may require a Federal permit, or the coastline of which is in immediate geographic proximity to oil and gas operations on the outer Continental Shelf, may be a signatory to the MOU for purposes of fulfilling any State responsibilities with respect to Federal oil and gas permitting decisions. The Regional Permit Coordinators shall facilitate and coordinate concurrent State reviews of requested permits for oil and gas projects on the outer Continental Shelf.

**SEC. 1716. SAVINGS PROVISION.**

Except as expressly stated, nothing in this part affects—

(1) the applicability of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency the employees of which are participating in the implementation of this section.

**SEC. 1717. ADMINISTRATIVE AND JUDICIAL REVIEW.**

(a) ADMINISTRATIVE REVIEW.—Any oil and gas permitting decision for Federal lands onshore or on the outer Continental Shelf that was issued in accordance with the procedures established by this part shall not be subject to further administrative review within the respective Federal agency responsible for that decision, and shall be the final decision of that agency for purposes of judicial review.

(b) EXCLUSIVE JURISDICTION OVER PERMIT DECISIONS.—Only the United States District Court for the District of Columbia shall have original jurisdiction over any civil action for the review of such a permit decision.

(c) LIMITATIONS ON CLAIMS.—Notwithstanding any other provision of law, any action arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for an oil and gas permit subject to this part shall be barred unless it is filed within

90 days of the date of the decision. Nothing in this part shall creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

(d) FILING OF RECORD.—When any civil action is brought pursuant to this part, the Federal Permit Coordinator shall immediately prepare for the court a consolidated record.

(e) EXPEDITED REVIEW.—Any action for judicial review challenging a decision approved pursuant to this section shall be set for consideration by not later than 90 days after the date the action is filed.

(f) EXPEDITED MANDAMUS REVIEW.—Notwithstanding subsection (e), within 30 days after the filing of an action challenging or seeking to enforce an established permit review schedule for a class I permit, the court shall issue a decision either compelling permit issuance or sanctioning the delay and establishing a new schedule that enables the most expeditious possible completion of proceedings. In rendering its decision, the court shall review whether the agencies subject to the schedule have been acting in good faith, whether the permit applicant has been cooperating fully with the agencies that are responsible for issuing the requested permits, and any other rel-

evant matters. The court may issue orders to enforce any schedule it establishes under this subsection.

(g) NO PRIVATE RIGHT OF ACTION.—This part shall not be construed to create any additional right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a person against the United States, its agencies, its officers, or any person.

(h) FINALITY OF LEASING DECISIONS.—Notwithstanding the provisions of any law or regulation to the contrary, a decision by the Bureau of Land Management or the Minerals Management Service to issue a Final Notice of Sale and proceed with an oil and gas lease sale pursuant to any mineral leasing law shall not be subject to further administrative review within the Department of the Interior, and shall be the final decision of the agency for purposes of judicial review.

**SEC. 1718. AMENDMENTS TO PUBLICATION PROCESS.**

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended—

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

''(2) The Secretary shall publish a proposed leasing program in the Federal Register, and shall submit a copy of such proposed program to the Governor of each affected State, for review and com-

ment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program.'';

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

(3) in subsection (d)(2) by inserting ''final'' after ''proposed''.

**SEC. 1719. ALASKA OFFSHORE CONTINENTAL SHELF CO-ORDINATION OFFICE.**

(a) ESTABLISHMENT.—The Secretary of the Interior shall establish and maintain, in coordination with the Mayor of the North Slope Borough of Alaska, a separate office to be known as the Alaska Offshore Continental Shelf Coordination Office.

(b) PURPOSE.—The purpose of the office shall be to—

(1) coordinate the leasing of the outer Continental Shelf off the coast of Alaska;

(2) advise persons awarded such leases on local conditions and the history of areas affected by development of the oil and gas resources of the outer Continental Shelf off the coast of Alaska;

(3) provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual

reports on the status of the coordination between such and communities affected by such development;

(4) collect from residents of the North Slope of Alaska information regarding the impacts of such development on marine wildlife, coastal habitats, marine and coastal subsistence resources, and the marine and coastal environment of Alaska's North Slope region; and

(5) ensure that the information collected under paragraph (3) is submitted to—

(A) developers of such resources; and

(B) any appropriate Federal agency.

# Subtitle E—Innovation in Carbon Capture and Clean Coal Technology

**SEC. 1801. COAL-TO-LIQUID FUEL LOAN GUARANTEE PROGRAM.**

(a) ELIGIBLE PROJECTS.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is amended by adding at the end the following:

''(11) Large-scale coal-to-liquid facilities (as defined in section 101 of the Coal-to-Liquid Fuel Promotion Act of 2007) that use a feedstock, the majority of which is the coal resources of the United

States, to produce not less than 10,000 barrels a day of liquid transportation fuel.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514) is amended by adding at the end the following:

''(c) COAL-TO-LIQUID PROJECTS.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees for projects involving large-scale coal-to-liquid facilities under section 1703(b)(11).

''(2) ALTERNATIVE FUNDING.—If no appropriations are made available under paragraph (1), an eligible applicant may elect to provide payment to the Secretary, to be delivered if and at the time the application is approved, in the amount of the estimated cost of the loan guarantee to the Federal Government, as determined by the Secretary.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—No loan guarantees shall be provided under this title for projects described in paragraph (1) after (as determined by the Secretary)—

''(i) the tenth such loan guarantee is issued under this title; or

''(ii) production capacity covered by such loan guarantees reaches 100,000 barrels per day of coal-to-liquid fuel.

''(B) INDIVIDUAL PROJECTS.—

''(i) IN GENERAL.—A loan guarantee may be provided under this title for any large-scale coal-to-liquid facility described in paragraph (1) that produces no more than 20,000 barrels of coal-to-liquid fuel per day.

''(ii) NON-FEDERAL FUNDING REQUIREMENT.—To be eligible for a loan guarantee under this title, a large-scale coal-to-liquid facility described in paragraph (1) that produces more than 20,000 barrels per day of coal-to-liquid fuel shall be eligible to receive a loan guarantee for the proportion of the cost of the facility that represents 20,000 barrels of coal-to-liquid fuel per day of production.

''(4) REQUIREMENTS.—

''(A) GUIDELINES.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish guidelines

for the coal-to-liquids loan guarantee application process.

"(B) APPLICATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall begin to accept applications for coal-to-liquid loan guarantees under this subsection.

"(C) DEADLINE.—Not later than 1 year from the date of acceptance of an application under subparagraph (B), the Secretary shall evaluate the application and make final determinations under this subsection.

"(5) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the status of the program under this subsection not later than each of—

"(A) 180 days after the date of enactment of this subsection;

"(B) 1 year after the date of enactment of this subsection; and

"(C) the dates on which the Secretary approves the first and fifth applications for coal-

to-liquid loan guarantees under this subsection.''.

**SEC. 1802. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.**

(a) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term ''eligible recipient'' means an individual, organization, or other entity that owns, operates, or plans to construct a coal-to-liquid facility that will produce at least 10,000 barrels per day of coal-to-liquid fuel.

(b) ESTABLISHMENT.—The Secretary shall establish a program under which the Secretary shall provide loans, in a total amount not to exceed $20,000,000, for use by eligible recipients to pay the Federal share of the cost of obtaining any services necessary for the planning, permitting, and construction of a coal-to-liquid facility.

(c) APPLICATION.—To be eligible to receive a loan under subsection (b), the eligible recipient shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(d) NON-FEDERAL MATCH.—To be eligible to receive a loan under this section, an eligible recipient shall use non-Federal funds to provide a dollar-for-dollar match of the amount of the loan.

(e) REPAYMENT OF LOAN.—

(1) IN GENERAL.—To be eligible to receive a loan under this section, an eligible recipient shall agree to repay the original amount of the loan to the Secretary not later than 5 years after the date of the receipt of the loan.

(2) SOURCE OF FUNDS.—Repayment of a loan under paragraph (1) may be made from any financing or assistance received for the construction of a coal-to-liquid facility described in subsection (a), including a loan guarantee provided under section 1703(b)(11) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)(11)).

(f) REQUIREMENTS.—

(1) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidelines for the coal-to-liquids loan application process.

(2) APPLICATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall begin to accept applications for coal-to-liquid loans under this section.

(g) REPORTS TO CONGRESS.—Not later than each of 180 days and 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Com-

mittee on Energy and Commerce of the House of Representatives a report describing the status of the program under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000, to remain available until expended.

**SEC. 1803. ALLOWS FOR 7-YEAR DEPRECIATION FOR POWER-PLANTS THAT INSTALL CLEAN COAL TECHNOLOGY OR RETRO-FIT PLANTS FOR CARBON SEQUESTRATION TECHNOLOGY.**

Any coal fired power plant generating power that retrofits their operation to decrease their carbon output by at least 10 percent per year will get a 7-year accelerated depreciation credit for property placed in service after December 31, 2009.

**SEC. 1804. EXTENSION OF 50 CENT PER GALLON ALTERNATIVE FUELS EXCISE TAX CREDIT.**

Paragraph (5) of section 6426(d) of the Internal Revenue Code of 1986 is amended by striking ''2009'' and inserting ''2019'' and by striking ''2014'' and inserting ''2024''.

**SEC. 1805. PROVIDES A 20 PERCENT INVESTMENT TAX CREDIT CAPPED AT $200 MILLION TOTAL PER CTL PLANT PLACED IN SERVICE BEFORE 2016.**

The Internal Revenue Service shall treat the synthetic gas produced from coal-to-liquids with the same tax treatment as covered by the industrial gasification tax credit.

**SEC. 1806. REDUCES RECOVERY PERIOD FOR CERTAIN ENERGY PRODUCTION AND DISTRIBUTION FACILITIES.**

In the case of an individual or business, there shall be allowed as a credit against the taxes imposed by subtitle A of the Internal Revenue Code of 1986 an amount equal to 30 percent of the expenditures made by such individual or business for energy production and distribution facilities.

**SEC. 1807. DOE CLEAN COAL TECHNOLOGY LOAN GUARANTEES AND DIRECT LOANS.**

The Secretary of Energy may provide clean coal technology loan guarantees and direct loans for the research, development, demonstration, and deployment of clean coal technology, to build up to five commercial-scale coal-fired plants with carbon capture and sequestration capabilities. For each such loan guarantee or loan, at least 50 percent

of the total cost of the project shall be provided by the private sector.

# Subtitle F—Natural Gas

### SEC. 1901. NATURAL GAS VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Energy shall conduct a 5-year program of natural gas vehicle research, development, and demonstration. The Secretary shall coordinate with the Administrator of the Environmental Protection Agency, as necessary.

(b) PURPOSE.—The program under this section shall focus on—

(1) the continued improvement and development of new, cleaner, more efficient light-duty, medium-duty, and heavy-duty natural gas vehicle engines;

(2) the integration of those engines into light-duty, medium-duty, and heavy-duty natural gas vehicles for onroad and offroad applications;

(3) expanding product availability by assisting manufacturers with the certification of the engines or vehicles described in paragraph (1) or (2) to Federal or California certification requirements and in-use emission standards;

(4) the demonstration and proper operation and use of the vehicles described in paragraph (2) under all operating conditions;

(5) the development and improvement of nationally recognized codes and standards for the continued safe operation of natural gas vehicles and their components;

(6) improvement in the reliability and efficiency of natural gas fueling station infrastructure;

(7) the certification of natural gas fueling station infrastructure to nationally recognized and industry safety standards;

(8) the improvement in the reliability and efficiency of onboard natural gas fuel storage systems;

(9) the development of new natural gas fuel storage materials;

(10) the certification of onboard natural gas fuel storage systems to nationally recognized and industry safety standards; and

(11) the use of natural gas engines in hybrid vehicles.

(c) CERTIFICATION OF CONVERSION SYSTEMS.—The Secretary shall coordinate with the Administrator on issues related to streamlining the certification of natural

gas conversion systems to the appropriate Federal certification requirements and in-use emission standards.

(d) COOPERATION AND COORDINATION WITH INDUSTRY.—In developing and carrying out the program under this section, the Secretary shall coordinate with the natural gas vehicle industry to ensure cooperation between the public and the private sector.

(e) CONDUCT OF PROGRAM.—The program under this section shall be conducted in accordance with sections 3001 and 3002 of the Energy Policy Act of 1992.

(f) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide a report to Congress on the implementation of this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $30,000,000 for each of the fiscal years 2010 through 2014 to carry out this section.

(h) DEFINITION.—For purposes of this section, the term ''natural gas'' means compressed natural gas, liquefied natural gas, biomethane, and mixtures of hydrogen and methane or natural gas.

**SEC. 1902. MODIFICATION OF ALTERNATIVE FUEL CREDIT.**

(a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of section 6426(d) of the Internal Revenue Code of 1986 (relating to alternative fuel credit) is amended by inserting

‘‘, and December 31, 2027, in the case of any sale or use involving compressed or liquefied natural gas)’’ after ‘‘hydrogen’’.

(b) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(d) of such Code is amended by inserting ‘‘, and December 31, 2027, in the case of any sale or use involving compressed or liquefied natural gas)’’ after ‘‘hydrogen’’.

(c) PAYMENTS RELATING TO ALTERNATIVE FUEL OR ALTERNATIVE FUEL MIXTURES.—Paragraph (6) of section 6427(e) of such Code is amended—

(1) in subparagraph (C)—

(A) by striking ‘‘subparagraph (D)’’ in subparagraph (C) and inserting ‘‘subparagraphs (D) and (E)’’, and

(B) by striking ‘‘and’’ at the end thereof,

(2) by striking the period at the end of subparagraph (D) and inserting ‘‘, and’’,

(3) by inserting the following: ‘‘or with respect to compressed or liquefied natural gas’’ after ‘‘subparagraph (D)’’, and

(4) by inserting the following new subparagraph:

''(E) any alternative fuel or alternative fuel mixture (as so defined) involving compressed or liquefied natural gas.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after the date of the enactment of this Act.

**SEC. 1903. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL VEHICLE CREDIT.**

(a) IN GENERAL.—Paragraph (4) of section 30B(k) of the Internal Revenue Code of 1986 (relating to termination) is amended by inserting ''(December 31, 2027, in the case of a vehicle powered by compressed or liquefied natural gas)'' before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 1904. ALLOWANCE OF VEHICLE AND INFRASTRUCTURE CREDITS AGAINST REGULAR AND MINIMUM TAX AND TRANSFERABILITY OF CREDITS.**

(a) BUSINESS CREDITS.—Subparagraph (B) of section 38(c)(4) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting

‘‘, and’’, and by inserting after clause (viii) the following new clauses:

‘‘(ix) the portion of the credit determined under section 30B which is attributable to the application of subsection (e)(3) thereof with respect to qualified alternative fuel motor vehicles which are capable of being powered by compressed or liquefied natural gas, and

‘‘(x) the portion of the credit determined under section 30C which is attributable to the application of subsection (b) thereof with respect to refueling property which is used to store and or dispense compressed or liquefied natural gas.’’.

(b) PERSONAL CREDITS.—

(1) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLES.—Subsection (g) of section 30B of such Code is amended by adding at the end the following new paragraph:

‘‘(3) SPECIAL RULE RELATING TO CERTAIN NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLES.—In the case of the portion of the credit determined under subsection (a) which is attributable to the application of subsection (e)(3) with respect to

qualified alternative fuel motor vehicles which are capable of being powered by compressed or liquefied natural gas—

"(A) paragraph (2) shall (after the application of paragraph (1)) be applied separately with respect to such portion, and

"(B) in lieu of the limitation determined under paragraph (2), such limitation shall not exceed the excess (if any) of—

"(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tentative minimum tax for the taxable year, reduced by

"(ii) the sum of the credits allowable under subpart A and sections 27 and 30.".

(2) ALTERNATIVE FUEL VEHICLE REFUELING PROPERTIES.—Subsection (d) of section 30C of such Code is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE RELATING TO CERTAIN ALTERNATIVE FUEL VEHICLE REFUELING PROPERTIES.—In the case of the portion of the credit determined under subsection (a) with respect to refueling property which is used to store and or dispense

compressed or liquefied natural gas and which is attributable to the application of subsection (b)—

"(A) paragraph (2) shall (after the application of paragraph (1)) be applied separately with respect to such portion, and

"(B) in lieu of the limitation determined under paragraph (2), such limitation shall not exceed the excess (if any) of—

"(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tentative minimum tax for the taxable year, reduced by

"(ii) the sum of the credits allowable under subpart A and sections 27, 30, and the portion of the credit determined under section 30B which is attributable to the application of subsection (e)(3) thereof.".

(c) CREDITS MAY BE TRANSFERRED.—

(1) VEHICLE CREDITS.—Subsection (h) of section 30B of such Code is amended by adding at the end the following new paragraph:

"(11) TRANSFERABILITY OF CREDIT.—Nothing in any law or rule of law shall be construed to limit a taxpayer from transferring, through sale and repurchase agreement, the credit allowed by this sec-

tion for qualified alternative fuel motor vehicles which are capable of being powered by compressed or liquefied natural gas.''.

(2) INFRASTRUCTURE CREDIT.—Subsection (e) of section 30C of such Code is amended by adding at the end the following new paragraph:

''(6) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit a taxpayer from transferring the credit allowed by this section through sale and repurchase agreements.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property placed in service after the date of the enactment of this Act.

**SEC. 1905. CREDIT FOR PRODUCING VEHICLES FUELED BY NATURAL GAS OR LIQUIFIED NATURAL GAS.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by inserting after section 45Q the following new section:

**''SEC. 45R. PRODUCTION OF VEHICLES FUELED BY NATURAL GAS OR LIQUIFIED NATURAL GAS.**

''(a) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who is a manufacturer of natural gas vehicles, the natural gas vehicle credit determined

under this section for any taxable year with respect to each eligible natural gas vehicle produced by the taxpayer during such year is an amount equal to the lesser of—

''(1) 10 percent of the manufacturer's basis in such vehicle, or

''(2) $4,000.

''(b) AGGREGATE CREDIT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $200,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE NATURAL GAS VEHICLE.—The term 'eligible natural gas vehicle' means any motor vehicle (as defined in section 30(c)(2))—

''(A) which—

''(i) is only capable of operating on natural gas or liquefied natural gas, or

''(ii) is capable of operating on compressed or liquefied natural gas and (but not in combination with) gasoline or diesel fuel, but in no case shall such vehicle have an operating range of less than 200 miles

on compressed or liquefied natural gas, and

''(B) the final assembly of which is in the United States.

''(2) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

''(2) CONTROLLED GROUPS.—

''(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.

''(e) TERMINATION.—This section shall not apply to any vehicle produced after December 31, 2017.''.

(b) CREDIT TO BE PART OF BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following:

''(36) the natural gas vehicle credit determined under section 45R(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 45Q the following new item:

''Sec. 45R. Production of vehicles fueled by natural gas or liquified natural gas.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles produced after December 31, 2008.

# TITLE II—CONSERVATION

## Subtitle A—Conservation

**SEC. 2001. PERMANENT EXTENSION OF THE CREDIT FOR NONBUSINESS ENERGY PROPERTY, THE CREDIT FOR GAS PRODUCED FROM BIOMASS AND FOR SYNTHETIC FUELS PRODUCED FROM COAL, AND THE CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

(a) CREDIT FOR NONBUSINESS ENERGY PROPERTY MADE PERMANENT.—

(1) IN GENERAL.—Section 25C of the Internal Revenue Code of 1986 is amended by striking subsection (g).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2008.

(b) CREDIT FOR GAS PRODUCED FROM BIOMASS AND FOR SYNTHETIC FUELS PRODUCED FROM COAL MADE PERMANENT.—

(1) IN GENERAL.—Subparagraph (B) of section 45K(f)(1) of such Code is amended to read as follows:

''(B) if such facility is originally placed in service after December 31, 1992, paragraph (2) of subsection (e) shall not apply.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to fuel sold after December 31, 2008.

(c) EXTENSION OF CREDIT FOR ENERGY EFFICIENT APPLIANCES.—

(1) DISHWASHERS.—Section 45M(b)(1) of such Code is amended—

(A) in subparagraph (A) by striking ''calendar year 2008 or 2009'' and inserting ''any of calendar years 2008 through 2019'', and

(B) in subparagraph (B) by striking ''calendar year 2008, 2009, or 2010'' and inserting ''any of calendar years 2008 through 2020''.

(2) CLOTHES WASHERS.—Section 45M(b)(2) of such Code is amended—

(A) in subparagraph (B) by striking ''calendar year 2008 or 2009'' and inserting ''any of calendar years 2008 through 2019'',

(B) in subparagraphs (C) and (D) by striking ''calendar year 2008, 2009, or 2010'' both places it appears and inserting ''any of calendar years 2008 through 2020''.

(3) REFRIGERATORS.—Section 45M(b)(3) of such Code is amended—

(A) in subparagraph (B) by striking ''calendar year 2008 or 2009'' and inserting ''any of calendar years 2008 through 2019'',

(B) in subparagraphs (C) and (D) by striking ''calendar year 2008, 2009, or 2010'' both places it appears and inserting ''any of calendar years 2008 through 2020''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to appliances manufactured after December 31, 2008.

**SEC. 2002. EXTENSION AND CLARIFICATION OF NEW ENERGY EFFICIENT HOME CREDIT.**

(a) EXTENSION.—Subsection (g) of section 45L of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2013''.

(b) CLARIFICATION.—

(1) IN GENERAL.—Paragraph (1) of section 45L(a) is amended by striking ''and'' at the end of subparagraph (A) and by striking subparagraph (B) and inserting the following:

''(B) acquired by a person from such eligible contractor, and

''(C) used by any person as a residence during the taxable year.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 1332 of the Energy Policy Act of 2005.

**SEC. 2003. EXTENSION AND MODIFICATION OF DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS.**

(a) EXTENSION.—Subsection (h) of section 179D of the Internal Revenue Code of 1986 (relating to termination) is amended to read as follows:

''(h) TERMINATION.—This section shall not apply with respect to property—

''(1) which is certified under subsection (d)(6) after December 31, 2012, or

''(2) which is placed in service after December 31, 2014.

A provisional certification shall be treated as meeting the requirements of paragraph (1) if it is based on the building plans, subject to inspection and testing after installation.''.

(b) INCREASE IN MAXIMUM AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) of such Code is amended by striking ''$1.80'' and inserting ''$2.25''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) of such Code is amended—

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

(c) MODIFICATIONS TO CERTAIN SPECIAL RULES.—

(1) METHODS OF CALCULATING ENERGY SAVINGS.—

(A) IN GENERAL.—Paragraph (2) of section 179D(d) of such Code is amended—

(i) by inserting '', except that the Secretary shall use Standard 90.1–2001 in lieu of the California title 24 energy standards and the tables contained therein and the Secretary may add requirements from Standard 90.1–2001 (or any successor standard)'' before the period at the end, and

(ii) by adding at the end the following new sentence: ''The calculation methods contained in such regulations shall also provide for the calculation of appropriate energy savings for design methods and technologies not otherwise credited in such

manual or standard, including energy savings associated with natural ventilation, evaporative cooling, automatic lighting controls (such as occupancy sensors, photocells, and time clocks), day lighting, designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating, improved fan system efficiency (including reductions in static pressure), advanced unloading mechanisms for mechanical cooling (such as multiple or variable speed compressors), on-site generation of electricity (including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy), and wiring with lower energy losses than wiring satisfying Standard 90.1–2001 requirements for building power distribution systems.''.

(B) REQUIREMENTS FOR COMPUTER SOFTWARE USED IN CALCULATING ENERGY AND POWER CONSUMPTION COSTS.—Paragraph (3)(B) of section 179D(d) of such Code is amended by striking ''and'' at the end of clause

(ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following:

"(iv) which automatically—

"(I) generates the features, energy use, and energy and power consumption costs of a reference building which meets Standard 90.1–2001,

"(II) generates the features, energy use, and energy and power consumption costs of a compliant building or system which reduces the annual energy and power costs by 50 percent compared to Standard 90.1–2001, and

"(III) compares such features, energy use, and consumption costs to the features, energy use, and consumption costs of the building or system with respect to which the calculation is being made.".

(2) TARGETS FOR PARTIAL ALLOWANCE OF CREDIT.—Paragraph (1)(B) of section 179D(d) of such Code is amended—

(A) by striking ''The Secretary'' and inserting the following:

''(i) IN GENERAL.—The Secretary'', and

(B) by adding at the end the following:

''(ii) ADDITIONAL REQUIREMENTS.—For purposes of clause (i)—

''(I) the Secretary shall determine prescriptive criteria that can be modeled explicitly for reference buildings which meet the requirements of subsection (c)(1)(D) for different building types and regions,

''(II) a system may be certified as meeting the target under subparagraph (A)(ii) if the appropriate reference building either meets the requirements of subsection (c)(1)(D) with such system rather than the comparable reference system (using the calculation under paragraph (2)) or meets the relevant prescriptive criteria under subclause (I), and

''(III) the lighting system target shall be based on lighting power den-

sity, except that it shall allow lighting controls credits that trade off for lighting power density savings based on section 3.2.2 of the 2005 California Nonresidential Alternative Calculation Method Approval Manual.

''(B) PUBLICATION.—The Secretary shall publish in the Federal Register the bases for the target levels established in the regulations under clause (i).''.

(d) ALTERNATIVE STANDARDS.—Section 179D(d) of such Code is amended by adding at the end the following new paragraph:

''(7) ALTERNATIVE STANDARDS PENDING FINAL REGULATIONS.—Until such time as the Secretary issues final regulations under paragraph (1)(B)—

''(A) in the case of property which is part of a building envelope, the building envelope system target under paragraph (1)(A)(ii) shall be a 7 percent reduction in total annual energy and power costs (determined in the same manner as under subsection (c)(1)(D)), and

''(B) in the case of property which is part of the heating, cooling, ventilation, and hot

water systems, the heating, cooling, ventilation, and hot water system shall be treated as meeting the target under paragraph (1)(A)(ii) if it would meet the requirement in subsection (c)(1)(D) if combined with a building envelope system and lighting system which met their respective targets under paragraph (1)(A)(ii) (including interim targets in effect under subsection (f) and subparagraph (A)).''.

(e) MODIFICATIONS TO LIGHTING STANDARDS.—

(1) STANDARDS TO BE ALTERNATE STANDARDS.—Subsection (f) of section 179D of such Code is amended by—

(A) striking ''Interim'' in the heading and inserting ''Alternative'', and

(B) inserting '', or, if the taxpayer elects, in lieu of the target set forth in such final regulations'' after ''lighting system'' at the end of the matter preceding paragraph (1).

(2) QUALIFIED INDIVIDUALS.—Section 179D(d)(6)(C) of such Code is amended by adding at the end the following: ''For purposes of certification of whether the alternative target for lighting systems under subsection (f) is met, individuals qualified to determine compliance shall include indi-

viduals who are certified as Lighting Certified (LC) by the National Council on Qualifications for the Lighting Professions, Certified Energy Managers (CEM) by the Association of Energy Engineers, and LEED Accredited Professionals (AP) by the U.S. Green Buildings Council.''.

(3) REQUIREMENT FOR BILEVEL SWITCHING.—Section 179D(f)(2) of such Code is amended by adding at the end the following new subparagraph:

''(3) APPLICATION OF SUBSECTION TO BILEVEL SWITCHING.—

''(A) IN GENERAL.—Notwithstanding paragraph (2)(C)(i), this subsection shall apply to a system which does not include provisions for bilevel switching if the reduction in lighting power density is at least 37.5 percent of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting allowances) of Standard 90.1–2001.

''(B) REDUCTION IN DEDUCTION.—In the case of a system to which this subsection applies by reason of subparagraph (A), paragraph (2) shall be applied—

"(i) by striking '40 percent' and inserting '50 percent' in subparagraph (A) thereof, and

"(ii) in subparagraph (B)(ii) thereof—

"(I) by striking '25 percentage points' and inserting '37.5 percentage points'; and

"(II) by striking '15' and inserting '12.5'.".

(f) PUBLIC PROPERTY.—Paragraph (4) of section 179(d) of such Code is amended by striking "the Secretary shall promulgate a regulation to allow the allocation of the deduction" and inserting "the deduction under this section shall be allowed".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

**SEC. 2004. DEDUCTION FOR ENERGY EFFICIENT LOW-RISE BUILDINGS.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 179E the following new section:

**"SEC. 179F. ENERGY EFFICIENT LOW-RISE BUILDINGS DEDUCTION.**

''(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the amount of qualified energy efficiency expenditures paid or incurred by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) IN GENERAL.—The amount allowed as a credit under subsection (a) with respect to any dwelling unit shall not exceed the product of—

''(A) the qualified energy savings achieved, and

''(B) $12,000.

''(2) MINIMUM AMOUNT OF QUALIFIED ENERGY SAVINGS.—No credit shall be allowed under subsection (a) with respect to any dwelling unit in a qualified low-rise building which achieves a qualified energy savings of less than 20 percent.

''(c) QUALIFIED ENERGY EFFICIENCY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy efficiency expenditures' means any amount paid or incurred which is related to producing qualified energy savings in any dwelling unit located in a qualified low-rise building of the taxpayer which is located in the United States.

''(2) NO DOUBLE BENEFIT FOR CERTAIN EXPENDITURES.—The term 'qualified energy efficiency expenditures' shall not include any expenditure for any property for which a deduction has been allowed to the taxpayer under section 179G.

''(3) QUALIFIED LOW-RISE BUILDING.—The term 'qualified low-rise building' means a building—

''(A) with respect to which depreciation is allowable under section 167,

''(B) which is used for multifamily housing, and

''(C) which is not within the scope of Standard 90.1–2001 (as defined under section 179D(c)(2)).

''(d) QUALIFIED ENERGY SAVINGS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy savings' means, with respect to any dwelling unit in a qualified low-rise building, the amount (measured as a percentage) by which—

''(A) the annual energy use with respect to such dwelling unit after qualified energy efficiency expenditures are made, as certified under paragraph (2), is less than

''(B) the annual energy use with respect to such dwelling unit before the qualified energy efficiency expenditures were made, as certified under paragraph (2).

In determining annual energy use under subparagraph (B), any energy efficiency improvements which are not attributable to qualified energy efficiency expenditures shall be disregarded.

''(2) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall prescribe the procedures and method for the making of certifications under this paragraph based on the Residential Energy Services Network (RESNET) Technical Guidelines in effect on the date of the enactment of this Act.

''(B) QUALIFIED INDIVIDUALS.—Any certification made under this paragraph may only be made by an individual who is recognized by an organization certified by the Secretary for such purposes.

''(e) SPECIAL RULES.—For purposes of this section, rules similar to the rules under paragraphs (8) and (9) of section 25D(e) shall apply.

''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section with respect to any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) of such Code is amended by striking ''or'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', or'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) expenditures for which a deduction is allowed under section 179F.''.

(2) Section 312(k)(3)(B) of such Code is amended by striking ''179, 179A, 179B, 179C, 179D, or 179E'' each place it appears in the heading and text and inserting ''179, 179A, 179B, 179C, 179D, 179E, or 179F''.

(3) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and

inserting ‘‘, and’’, and by adding at the end the following new paragraph:

‘‘(38) to the extent provided in section 179F(f).’’.

(4) Section 1245(a) of such Code is amended by inserting ‘‘179F,’’ after ‘‘179E,’’ both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of sections for part VI of subchapter B of such Code is amended by inserting after the item relating to section 179E the following new item:

‘‘Sec. 179F. Energy efficient low-rise buildings deduction.’’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

# Subtitle B—Clean Coal Alternative Transition

## SEC. 2101. CARBON DIOXIDE STORAGE CAPACITY ASSESSMENT.

(a) DEFINITIONS.—In this section:

(1) ASSESSMENT.—The term ‘‘assessment’’ means the national assessment of capacity for carbon dioxide completed under subsection (f).

(2) CAPACITY.—The term ‘‘capacity’’ means the portion of a storage formation that can retain car-

bon dioxide in accordance with the requirements (including physical, geological, and economic requirements) established under the methodology developed under subsection (b).

(3) ENGINEERED HAZARD.—The term ''engineered hazard'' includes the location and completion history of any well that could affect potential storage.

(4) RISK.—The term ''risk'' includes any risk posed by geomechanical, geochemical, hydrogeological, structural, and engineered hazards.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(6) STORAGE FORMATION.—The term ''storage formation'' means a deep saline formation, unmineable coal seam, or oil or gas reservoir that is capable of accommodating a volume of industrial carbon dioxide.

(b) METHODOLOGY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a methodology for conducting an assessment under subsection (f), taking into consideration—

(1) the geographical extent of all potential storage formations in all States;

(2) the capacity of the potential storage formations;

(3) the injectivity of the potential storage formations;

(4) an estimate of potential volumes of oil and gas recoverable by injection and storage of industrial carbon dioxide in potential storage formations;

(5) the risk associated with the potential storage formations; and

(6) the Carbon Sequestration Atlas of the United States and Canada that was completed by the Department of Energy in April 2006.

(c) COORDINATION.—

(1) FEDERAL COORDINATION.—

(A) CONSULTATION.—The Secretary shall consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency on issues of data sharing, format, development of the methodology, and content of the assessment required under this title to ensure the maximum usefulness and success of the assessment.

(B) COOPERATION.—The Secretary of Energy and the Administrator shall cooperate with the Secretary to ensure, to the maximum extent

practicable, the usefulness and success of the assessment.

(2) STATE COORDINATION.—The Secretary shall consult with State geological surveys and other relevant entities to ensure, to the maximum extent practicable, the usefulness and success of the assessment.

(d) EXTERNAL REVIEW AND PUBLICATION.—On completion of the methodology under subsection (b), the Secretary shall—

(1) publish the methodology and solicit comments from the public and the heads of affected Federal and State agencies;

(2) establish a panel of individuals with expertise in the matters described in paragraphs (1) through (5) of subsection (b) composed, as appropriate, of representatives of Federal agencies, institutions of higher education, nongovernmental organizations, State organizations, industry, and international geoscience organizations to review the methodology and comments received under paragraph (1); and

(3) on completion of the review under paragraph (2), publish in the Federal Register the revised final methodology.

(e) PERIODIC UPDATES.—The methodology developed under this section shall be updated periodically (including at least once every 5 years) to incorporate new data as the data becomes available.

(f) NATIONAL ASSESSMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of publication of the methodology under subsection (d)(1), the Secretary, in consultation with the Secretary of Energy and State geological surveys, shall complete a national assessment of capacity for carbon dioxide in accordance with the methodology.

(2) GEOLOGICAL VERIFICATION.—As part of the assessment under this subsection, the Secretary shall carry out a drilling program to supplement the geological data relevant to determining storage capacity of carbon dioxide in geological storage formations, including—

(A) well log data;

(B) core data; and

(C) fluid sample data.

(3) PARTNERSHIP WITH OTHER DRILLING PROGRAMS.—As part of the drilling program under paragraph (2), the Secretary shall enter, as appropriate, into partnerships with other entities to collect

and integrate data from other drilling programs relevant to the storage of carbon dioxide in geologic formations.

(4) INCORPORATION INTO NATCARB.—

(A) IN GENERAL.—On completion of the assessment, the Secretary of Energy shall incorporate the results of the assessment using the NatCarb database, to the maximum extent practicable.

(B) RANKING.—The database shall include the data necessary to rank potential storage sites for capacity and risk, across the United States, within each State, by formation, and within each basin.

(5) REPORT.—Not later than 180 days after the date on which the assessment is completed, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives a report describing the findings under the assessment.

(6) PERIODIC UPDATES.—The national assessment developed under this section shall be updated periodically (including at least once every 5 years) to support public and private sector decisionmaking.

(g) AUTHORIZATION OF APPROPRIATIONS.— There is authorized to be appropriated to carry out this section $30,000,000 for the period of fiscal years 2009 through 2013.

**SEC. 2102. EFFICIENCY AUDIT AND QUANTIFICATION.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy (referred to in this section as the ''Secretary'') shall conduct an efficiency audit, and quantify the operating efficiencies, of all coal-fired electric generation facilities in the United States.

(b) REPORT.—Not later than 180 days after the date of completion of the audit and quantification under subsection (a), the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Committees on Energy and Natural Resources and Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report that—

(1) identifies all commercially available technologies, processes, and other approaches to increasing the efficiency of the coal-fired electric generation facilities audited;

(2) includes a methodology for determining which technologies and processes, in the absence of

the obstacles identified under paragraph (3), would be sufficiently cost effective to recoup all costs of the technologies and processes in not more than 5 years after the date of installation or implementation, respectively, of the technologies or processes;

(3) identifies the technical, economic, regulatory, environmental, and other obstacles to coal-fired electric generation facilities undertaking the installation of the technologies or incorporation of the processes described in paragraph (2);

(4) includes recommendations as to legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (3); and

(5) includes calculations of—

(A) the additional power to be expected from the installation or implementation of those technologies and processes that are considered to be economic under the methodology described in paragraph (2); and

(B) the greenhouse gas emissions that are or could be avoided through installation or implementation of those technologies and processes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

# Subtitle C—Natural Gas Transition

**SEC. 2201. EXTENSION OF ALTERNATIVE VEHICLE CREDIT PURCHASE OF NATURAL GAS POWERED VEHICLE FROM 2010 TILL 2020; INCREASE IN AMOUNT OF CREDIT FOR CARS.**

(a) EXTENSION.—Section 30B(k)(4) of the Internal Revenue Code of 1986 is amended by striking ''2010'' and inserting ''2020''.

(b) INCREASE IN CREDIT AMOUNT FOR CARS.—

(1) IN GENERAL.—Subparagraph (A) of section (30)(B)(e)(3) of such Code is amended by striking ''$5,000'' and inserting ''$8,000''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to property purchased after December 31, 2008.

**SEC. 2202. EXTENSION OF CREDIT OF 50 PERCENT OF THE AUTO CONVERSION COST TO A NATURAL GAS POWERED AUTOMOBILE FROM GASOLINE OR DIESEL POWERED ENGINE AND THE CNG HOME FILLING STATION COST.**

(a) AUTO CONVERSION.—Section 30B(k)(4) of the Internal Revenue Code is amended by striking ''2010'' and inserting ''2020''.

(b) CNG HOME FILLING STATION.—Section 30C(e)(6) of such Code is amended—

(1) in the text by striking ''2011'' and inserting ''2021'', and

(2) in the heading by striking ''and 2010'' and inserting ''through 2020''.

# Subtitle D—Carbon Capture and Storage Credit

**SEC. 2301. INCREASE IN CARBON CAPTURE AND STORAGE TAX CREDIT.**

(a) APPLICATION OF SECTION.—Section 45Q(e) of the Internal Revenue Code of 1986 is amended by striking ''75,000,000'' and inserting ''225,000,000''.

(b) INCREASE IN CREDIT AMOUNT.—

(1) Section 45(a) of such Code is amended—

(A) in paragraph (1) by striking ''$20'' and inserting ''$50'', and

(B) in paragraph (2) by striking ''$10'' and inserting ''$40''.

(2) CONFORMING AMENDMENT.—Section 45Q(d)(7) of such Code is amended—

(A) by striking ''2009'' and inserting ''2010'', and

(B) by striking ''2008'' and inserting ''2009''.

# TITLE III—PRODUCTION

## Subtitle A—Outer Continental Shelf

### SEC. 3001. END MORATORIUM OF OIL AND GAS LEASING IN CERTAIN AREAS OF THE GULF OF MEXICO.

(a) REPEAL OF MORATORIUM.—

(1) REPEAL.—Section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is repealed.

(2) NATIONAL DEFENSE AREA.—Section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)) is amended—

(A) by striking ''(d) The United States'' and inserting the following:

''(d) RESTRICTION OF AREAS FOR NATIONAL DEFENSE.—

''(1) IN GENERAL.—The United States''; and

(B) by adding at the end the following:

''(2) REVIEW.—Annually, the Secretary of Defense shall review the areas of the outer Continental Shelf that have been designated as restricted from exploration and operation to determine whether the areas should remain under restriction.''.

(b) LEASING OF MORATORIUM AREAS.—

(1) IN GENERAL.—As soon as practicable, but not later than 1 year, after the date of enactment of this Act, the Secretary shall offer for leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), any areas made available for leasing as a result of the enactment of subsection (a).

(2) LEASING PLAN.—Any areas made available for leasing under paragraph (1) shall be offered for lease under this section notwithstanding the omission of any of these respective areas from the applicable 5-year plan developed by the Secretary pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

(c) MILITARY MISSION.—Section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is further amended—

(1) by striking ''(b) MILITARY MISSION LINE.—Notwithstanding subsection (a), the'' and inserting ''(c) MILITARY MISSION.—'';

(2) by redesignating subsection (c) as subsection (b);.

(3) in subsection (b)(1), as so redesignated, by striking ''paragraph (2) or (3) of subsection (a)'' and inserting ''paragraph (5)''; and

(4) by adding at the end the following:

''(5) AREAS DESCRIBED.—The areas referred to in paragraph (1) are—

''(A) any area in the Eastern Planning Area that is within 125 miles of the coastline of the State of Florida; and

''(B) any area in the Central Planning Area that is—

''(i) within—

''(I) the 181 Area; and

''(II) 100 miles of the coastline of the State of Florida; or

''(i)(I) outside the 181 Area;

''(II) east of the western edge of the Pensacola Official Protraction Diagram (UTM X coordinate 1,393,920 (NAD 27 feet)); and

"(III) within 100 miles of the coastline of the State of Florida.".

**SEC. 3002. OUTER CONTINENTAL SHELF DIRECTED LEASE SALES.**

(a) 209 LEASE SALE.—The Secretary of the Interior (referred to in this section as the "Secretary") shall offer the Beaufort Sea Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2010 as established in the 2007–2012 Lease Sale Schedule.

(b) 210 LEASE SALE.—The Secretary shall offer the Western Gulf of Mexico Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2009 as established in the 2007–2012 Lease Sale Schedule.

(c) 212 LEASE SALE.—The Secretary shall offer the Chukchi Sea Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2010 as established in the 2007–2012 Lease Sale Schedule.

(d) 213 LEASE SALE.—The Secretary shall offer the Central Gulf of Mexico Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2010 as established in the 2007–2012 Lease Sale Schedule.

(e) 215 LEASE SALE.—The Secretary shall offer the Western Gulf of Mexico Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2010 as established in the 2007–2012 Lease Sale Schedule.

(f) 216 LEASE SALE.—The Secretary shall offer the Central Gulf of Mexico Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2011 as established in the 2007–2012 Lease Sale Schedule.

(g) 217 LEASE SALE.—The Secretary shall offer the Beaufort Sea Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2011 as established in the 2007–2012 Lease Sale Schedule.

(h) 214 LEASE SALE.—The Secretary shall offer the North Aleutian Basin Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2011 as established in the 2007–2012 Lease Sale Schedule.

(i) 218 LEASE SALE.—The Secretary shall offer the Western Gulf of Mexico Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2011 as established in the 2007–2012 Lease Sale Schedule.

(j) 219 LEASE SALE.—The Secretary shall offer the Cook Inlet Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2011 as established in the 2007–2012 Lease Sale Schedule.

(k) 220 LEASE SALE.—The Secretary shall offer the Mid-Atlantic Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2011 as established in the 2007–2012 Lease Sale Schedule.

(l) 221 LEASE SALE.—The Secretary shall offer the Chukchi Sea Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2012 as established in the 2007–2012 Lease Sale Schedule.

(m) 222 LEASE SALE.—The Secretary shall offer the Central Gulf of Mexico Program Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in 2012 as established in the 2007–2012 Lease Sale Schedule.

**SEC. 3003. LEASING PROGRAM CONSIDERED APPROVED.**

(a) IN GENERAL.—The Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010–2015 issued by the Secretary of the Interior (referred to in this section as the ''Secretary'') under section 18 of the Outer

Continental Shelf Lands Act (43 U.S.C. 1344) is considered to have been approved by the Secretary as a final oil and gas leasing program under that section.

(b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—The Secretary is considered to have issued a final environmental impact statement for the program described in subsection (a) in accordance with all of the requirements of sections 18, 19, and 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344, 1345, and 1346), in accordance with all requirements under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), and in accordance with all requirements of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)

**SEC. 3004. OUTER CONTINENTAL SHELF LEASE SALES.**

(a) REQUIREMENT TO CONDUCT LEASE SALES.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than one year after the date of enactment of this Act and annually thereafter, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall conduct at a minimum one lease sale in an Atlantic Planning Area, one lease sale in the Pacific Planning Area, one lease sale in the Alaska Planning Area, and three lease sales in a Gulf of Mexico Planning Area for which the Sec-

retary determines that there is a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf.

(2) SUBSEQUENT DETERMINATIONS AND SALES.—If the Secretary determines that there is not a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in a planning area under this subsection, not later than 2 years after the date of enactment of the determination and every 2 years thereafter, the Secretary shall—

(A) determine whether there is a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in the planning area; and

(B) if the Secretary determines that there is a commercial interest described in subparagraph (A), conduct a lease sale in the planning area

(b) LEASING PLAN.—Any areas made available for leasing under subsection (a) shall be offered for lease under this section notwithstanding the omission of any of these respective areas from the applicable 5-year plan developed by the Secretary pursuant to section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

**SEC. 3005. RESTRICTIONS ON LEASING OF THE OUTER CONTINENTAL SHELF.**

(a) STATE OPT-OUT.—No lease authorizing a permanent surface energy project for the exploration, development, or production of oil or gas may be issued for any area of the outer Continental Shelf located within 10 miles of the coastline of a State if the State has notified the Secretary of the Interior that the State does not want to participate in such leasing.

(b) EXISTING LEASES NOT AFFECTED.—This section shall not affect any lease issued before the date of enactment of this Act.

**SEC. 3006. SHARING OF OCS RECEIPTS WITH STATES AND LOCAL GOVERNMENTS.**

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended as follows:

(1) By designating the existing text as subsection (a).

(2) In subsection (a) (as so designated) by inserting ‘‘, if not paid as otherwise provided in this title’’ after ‘‘receipts’’.

(3) by adding the following:

‘‘(b) TREATMENT OF OCS RECEIPTS.—

‘‘(1) DEPOSIT.—The Secretary shall deposit into a separate account in the Treasury the portion

of OCS Receipts for each fiscal year that will be shared under paragraph (2).

''(2) IMMEDIATE RECEIPTS SHARING.—Beginning October 1, 2009, the Secretary shall share 50 percent of OCS Receipts derived from all leases, except that the Secretary shall only share 25 percent of such OCS Receipts derived from all such leases within a State's Adjacent Zone if leasing is not allowed within at least 25 percent of that State's Adjacent Zone located completely within 75 miles of any coastline.

''(3) ALLOCATIONS.—The Secretary shall allocate the OCS Receipts deposited into the separate account established by paragraph (1) that are shared under paragraph (2) as follows:

''(A) BONUS BIDS.—Deposits derived from bonus bids from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year to the Adjacent State.

''(B) ROYALTIES.—Deposits derived from royalties and net profit shares from a leased tract, including interest thereon, shall be allocated at the end of each fiscal year as follows:

''(i) 50 percent to the Adjacent State.

''(ii) 50 percent to all States, including the Adjacent State, having a coastline point within 300 miles of the leased tract, divided equally, if such State allows leasing within at least 25 percent of its Adjacent Zone within 75 miles of the coastline.

''(C) LIMITATION IF NOT ADMITTED TO THE UNION AS A STATE.—Any entity defined as a 'State' under section 2(r), that has not been admitted to the Union as a State shall only be entitled to one-half of a 'State' share under this paragraph.

''(c) TRANSMISSION OF ALLOCATIONS.—

''(1) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Secretary shall transmit—

''(A) to each State 60 percent of such State's allocations under subsections (b)(2), (b)(3)(A), and (b)(3)(B) (i) and (ii) for the immediate prior fiscal year; and

''(B) to each coastal county-equivalent and municipal political subdivisions of such State a total of 40 percent of such State's allocations under subsections (b)(2), (b)(3)(A), and (b)(3)(B) (i) and (ii), for the immediate prior

fiscal year, together with all accrued interest thereon.

''(2) ALLOCATIONS TO COASTAL COUNTY-EQUIVALENT POLITICAL SUBDIVISIONS.—The Secretary shall make an initial allocation of the OCS Receipts to be shared under paragraph (1)(B) as follows:

''(A) 25 percent shall be allocated to coastal county-equivalent political subdivisions that are completely more than 25 miles landward of the coastline and at least a part of which lies not more than 75 miles landward from the coastline, with the allocation among such coastal county-equivalent political subdivisions based on population.

''(B) 75 percent shall be allocated to coastal county-equivalent political subdivisions that are completely or partially less than 25 miles landward of the coastline, with the allocation among such coastal county-equivalent political subdivisions to be further allocated as follows:

''(i) 25 percent shall be allocated based on the ratio of such coastal county-equivalent political subdivision's population to the coastal population of all coastal

county-equivalent political subdivisions in the State.

''(ii) 25 percent shall be allocated based on the ratio of such coastal county-equivalent political subdivision's coastline miles to the coastline miles of all coastal county-equivalent political subdivisions in the State as calculated by the Secretary. In such calculations, coastal county-equivalent political subdivisions without a coastline shall be considered to have 50 percent of the average coastline miles of the coastal county-equivalent political subdivisions that do have coastlines.

''(iii) 50 percent shall be allocated equally to all coastal county-equivalent political subdivisions having a coastline point within 300 miles of the leased tract for which OCS Receipts are being shared.

''(3) ALLOCATIONS TO COASTAL MUNICIPAL POLITICAL SUBDIVISIONS.—The initial allocation to each coastal county-equivalent political subdivision under paragraph (2) shall be further allocated to the coastal county-equivalent political subdivision and any coastal municipal political subdivisions located

partially or wholly within the boundaries of the coastal county-equivalent political subdivision as follows:

"(A) One-third shall be allocated to the coastal county-equivalent political subdivision.

"(B) Two-thirds shall be allocated on a per capita basis to the municipal political subdivisions and the county-equivalent political subdivision, with the allocation to the latter based upon its population not included within the boundaries of a municipal political subdivision.

"(d) INVESTMENT OF DEPOSITS.—Amounts deposited under this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account in which they are deposited and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

"(e) USE OF FUNDS.—A recipient of funds under this section may use the funds for one or more of the following:

"(1) To reduce in-State college tuition at public institutions of higher learning and otherwise support public education, including career technical education.

''(2) To make transportation infrastructure improvements.

''(3) To reduce taxes.

''(4) To promote, fund, and provide for—

''(A) coastal or environmental restoration;

''(B) fish, wildlife, and marine life habitat enhancement;

''(C) waterways construction and maintenance;

''(D) levee construction and maintenance and shore protection; and

''(E) marine and oceanographic education and research.

''(5) To promote, fund, and provide for—

''(A) infrastructure associated with energy production activities conducted on the outer Continental Shelf;

''(B) energy demonstration projects;

''(C) supporting infrastructure for shore-based energy projects;

''(D) State geologic programs, including geologic mapping and data storage programs, and State geophysical data acquisition;

''(E) State seismic monitoring programs, including operation of monitoring stations;

''(F) development of oil and gas resources through enhanced recovery techniques;

''(G) alternative energy development, including bio fuels, coal-to-liquids, oil shale, tar sands, geothermal, geopressure, wind, waves, currents, hydro, and other renewable energy;

''(H) energy efficiency and conservation programs; and

''(I) front-end engineering and design for facilities that produce liquid fuels from hydrocarbons and other biological matter.

''(6) To promote, fund, and provide for—

''(A) historic preservation programs and projects;

''(B) natural disaster planning and response; and

''(C) hurricane and natural disaster insurance programs.

''(7) For any other purpose as determined by State law.

''(f) NO ACCOUNTING REQUIRED.—No recipient of funds under this section shall be required to account to the Federal Government for the expenditure of such funds, except as otherwise may be required by law. However, States may enact legislation providing for accounting

for and auditing of such expenditures. Further, funds allocated under this section to States and political subdivisions may be used as matching funds for other Federal programs.

''(g) EFFECT OF FUTURE LAWS.—Enactment of any future Federal statute that has the effect, as determined by the Secretary, of restricting any Federal agency from spending appropriated funds, or otherwise preventing it from fulfilling its pre-existing responsibilities as of the date of enactment of the statute, unless such responsibilities have been reassigned to another Federal agency by the statute with no prevention of performance, to issue any permit or other approval impacting on the OCS oil and gas leasing program, or any lease issued thereunder, or to implement any provision of this Act shall automatically prohibit any sharing of OCS Receipts under this section directly with the States, and their coastal political subdivisions, for the duration of the restriction. The Secretary shall make the determination of the existence of such restricting effects within 30 days of a petition by any outer Continental Shelf lessee or producing State.

''(h) DEFINITIONS.—In this section:

''(1) COASTAL COUNTY-EQUIVALENT POLITICAL SUBDIVISION.—The term 'coastal county-equivalent political subdivision' means a political jurisdiction

immediately below the level of State government, including a county, parish, borough in Alaska, independent municipality not part of a county, parish, or borough in Alaska, or other equivalent subdivision of a coastal State, that lies within the coastal zone.

''(2) COASTAL MUNICIPAL POLITICAL SUBDIVISION.—The term 'coastal municipal political subdivision' means a municipality located within and part of a county, parish, borough in Alaska, or other equivalent subdivision of a State, all or part of which coastal municipal political subdivision lies within the coastal zone.

''(3) COASTAL POPULATION.—The term 'coastal population' means the population of all coastal county-equivalent political subdivisions, as determined by the most recent official data of the Census Bureau.

''(4) COASTAL ZONE.—The term 'coastal zone' means that portion of a coastal State, including the entire territory of any coastal county-equivalent political subdivision at least a part of which lies, within 75 miles landward from the coastline, or a greater distance as determined by State law enacted to implement this section.

''(5) BONUS BIDS.—The term 'bonus bids' means all funds received by the Secretary to issue an outer Continental Shelf minerals lease.

''(6) ROYALTIES.—The term 'royalties' means all funds received by the Secretary from production of oil or natural gas, or the sale of production taken in-kind, or from net profit shares, from an outer Continental Shelf minerals lease.

''(7) PRODUCING STATE.—The term 'producing State' means an Adjacent State having an Adjacent Zone containing leased tracts from which OCS Receipts were derived.

''(8) OCS RECEIPTS.—The term 'OCS Receipts' means bonus bids and royalties, excluding royalties from leases amended under the authority of section 8(s) of this Act.''.

# Subtitle B—Arctic Coastal Plain

**SEC. 3101. DEFINITIONS.**

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline

issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management, in consultation with the Director of the United States Fish and Wildlife Service.

**SEC. 3102. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.**

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(A) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(B) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(c) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(d) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(e) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(f) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and

wildlife, fish and wildlife habitat, subsistence resources, and environment of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant biological, environmental, scientific or engineering data that come to the attention of the Secretary.

**SEC. 3103. LEASE SALES.**

(a) IN GENERAL.—Land may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than 90 days after the date of the completion of the sale, evaluate the bids in the sale and issue leases resulting from the sale; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

**SEC. 3104. GRANT OF LEASES BY THE SECRETARY.**

(a) IN GENERAL.—On payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in

a lease sale conducted pursuant to section 3103 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

**SEC. 3105. LEASE TERMS AND CONDITIONS.**

An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 12½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) on application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habi-

tat, subsistence resources, and the environment as required under section 3102(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and the regulations promulgated under this subtitle.

**SEC. 3106. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 3102, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the 1 or more agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation

measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on comple-

tion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting ade-

quate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing pro-

gram, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

**SEC. 3107. EXPEDITED JUDICIAL REVIEW.**

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), by not later than 90 days after the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary relating to a lease sale under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

**SEC. 3108. FEDERAL AND STATE DISTRIBUTION OF REVENUES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this subtitle for each fiscal year—

(1) 50 percent shall be paid to the State of Alaska; and

(2) the balance shall be used to offset the provisions of this Act.

(b) PAYMENTS TO ALASKA.—Payments to the State of Alaska under this section shall be made semiannually.

**SEC. 3109. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

(a) IN GENERAL.—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas—

(1) except as provided in paragraph (2), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.); and

(2) under title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170, 3171).

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 3102(f) provisions granting rights-of-way and easements described in subsection (a).

**SEC. 3110. CONVEYANCE.**

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

# Subtitle C—Nuclear Energy Reforms

**SEC. 3201. AMENDMENTS TO TITLE XVII OF THE ENERGY POLICY ACT 2005.**

(a) DEFINITION OF PROJECT COST.—Section 1701(1) of the Energy Policy Act of 2005 (42 U.S.C. 16511(1)) is amended by inserting a new paragraph (4) and renumbering the paragraphs accordingly:

''(4) PROJECT COST.—The term 'project cost' means all costs associated with the development, planning, design, engineering, permitting and licensing, construction, commissioning, start-up, shakedown and financing of the facility, including but not limited to reasonable escalation and contingencies, the cost of and fees for the guarantee, reasonably required reserve funds, initial working capital and interest during construction.''.

(b) TERMS AND CONDITIONS.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsections (b) and (c) and inserting the following:

''(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

''(1) IN GENERAL.—No guarantee shall be made unless—

''(A) an appropriation for the cost has been made;

''(B) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury; or

''(C) a combination of (A) and (B) has been made, that when combined is sufficient to cover the cost of the obligation.

''(2) RELATION TO OTHER LAWS.—Section 504 (b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply to a loan guarantee made in accordance with paragraph (1)(B).''.

(c) AMOUNT.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsection (c) and inserting the following:

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall guarantee 100 percent of the obligation for a facility that is the subject of the guarantee, or a lesser amount if requested by the borrower.

''(2) LIMITATION.—The total amount of loans guaranteed for a facility by the Secretary shall not exceed 80 percent of the total cost of the facility, as

estimated at the time at which the guarantee is issued.''.

**SEC. 3202. AMENDMENTS TO SECTION 638 OF THE ENERGY POLICY ACT OF 2005.**

(a) DEFINITIONS.—Section 638(a) of the Energy Policy Act of 2005 (42 U.S.C. 16014(a)) is amended—

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

''(4) FULL POWER OPERATION.—The term 'full power operation' means whichever occurs first of—

''(A) the 'commercial operation date' or the equivalent under the terms of the financing documents for such facility; or

''(B) operation of such facility at an average of 50 percent or greater of nameplate capacity over any consecutive 30-day period.

''(5) INCREASED PROJECT COSTS.—The term 'increased project costs' means the increased cost of constructing, commissioning, testing, operating or maintaining a reactor prior to full-power operation incurred as a result of a delay covered by the contract including but not limited to costs of demobilization and demobilization, increased costs of equipment, materials and labor due to delay (including idle time), increased general and administrative

costs, and escalation costs for completing construction.

''(6) LITIGATION.—The term 'litigation' means adjudication in Federal, State, local or tribal courts and administrative proceedings or hearings at or before Federal, State, local or tribal agencies or administrative bodies.''; and

(2) by redesignating paragraph (4) as paragraph (7).

(b) CONTRACT AUTHORITY.—Section 638(b) of the Energy Policy Act of 2005 (42 U.S.C. 16014(b)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Secretary may enter into contracts under this section with sponsors of an advanced nuclear facility that cover at any one time outstanding a total of not more than 6 reactors, with the 6 reactors consisting of not more than 3 different reactor designs, in accordance with paragraph (2). In the event that any contract entered into under this section terminates or expires without a claim being paid by the Secretary thereunder, then the Secretary may enter into a new contract under this section in replacement or substitution for such contract.''.

(c) COVERED COSTS.—Section 638(d) of the Energy Policy Act of 2005 (42 U.S.C. 16014(d)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) COVERAGE.—In the case of reactors that receive combined licenses and on which construction is commenced, the Secretary shall pay—

''(A) 100 percent of the covered costs of delay that occur after the initial 30-day period of covered delay; but

''(B) not more than $500,000,000 per contract.

''(3) COVERED DEBT OBLIGATIONS.—Debt obligations covered under subparagraph (A) of paragraph (5) shall include but not be limited to debt obligations incurred to pay increased project costs.''.

(d) DISPUTE RESOLUTION.—Section 638 of the Energy Policy Act of 2005 (42 U.S.C. 16014) is amended—

(1) by inserting after subsection (e) the following:

''(f) DISPUTE RESOLUTION.—Any controversy or claim arising out of or relating to any contract entered into under this section shall be determined by arbitration in Washington, DC according to the then prevailing Commercial Arbitration Rules of the American Arbitration As-

sociation. A decision by the arbitrator(s) shall be final and binding, and any court having jurisdiction may enter judgment on it.''; and

(2) by designating subsections (f), (g), and (h) as subsections (g), (h), and (i) respectively.

**SEC. 3203. AMENDMENTS TO SECTION 952(c) OF THE ENERGY POLICY ACT 2005.**

Section 952(c) of the Energy Policy Act of 2005 (42 U.S.C. 16014) is amended by striking paragraphs (1) and (2) and substituting the following:

''(1) IN GENERAL.—The Secretary shall carry out a Nuclear Power 2010 Program to position the nation to start construction of new nuclear power plants by 2010 or as close to 2010 as achievable.

''(2) SCOPE OF PROGRAM.—The Nuclear Power 2010 Program shall be cost-shared with the private sector and shall support the following objectives:

''(A) Demonstrating the licensing process for new nuclear power plants, including the Nuclear Regulatory Commission process for obtaining early site permits (EPS), combined construction/operating licenses (cols), and design certifications.

''(B) Conducting first-of-a-kind design and engineering work on at least two advanced nu-

clear reactor designs sufficient to bring those designs to a state of design completion sufficient to allow development of firm cost estimates.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the Nuclear Power 2010 Program—

''(A) $182,800,000 for fiscal year 2009;

''(B) $159,600,000 for fiscal year 2010;

''(C) $135,600,000 for fiscal year 2011;

''(D) $46,900,000 for fiscal year 2012; and

''(E) $2,200,000 for fiscal year 2013.''.

**SEC. 3204. DOMESTIC MANUFACTURING BASE FOR NUCLEAR COMPONENTS AND EQUIPMENT.**

(a) ESTABLISHMENT OF INTERAGENCY WORKING GROUP.—

(1) PURPOSES.—The purposes of this section are—

(A) to increase the competitiveness of the United States nuclear energy products and services industries;

(B) to identify the stimulus or incentives necessary to cause United States manufacturers

of nuclear energy products to expand manufacturing capacity;

(C) to facilitate the export of United States nuclear energy products and services;

(D) to reduce the trade deficit of the United States through the export of United States nuclear energy products and services;

(E) to retain and create nuclear energy manufacturing and related service jobs in the United States;

(F) to integrate the objectives in paragraphs (1) through (4) in a manner consistent with the interests of the United States, into the foreign policy of the United States; and

(G) to authorize funds for increasing United States capacity to manufacture nuclear energy products and supply nuclear energy services.

(2) ESTABLISHMENT.—

(A) There shall be established an interagency working group that, in consultation with representative industry organizations and manufacturers of nuclear energy products, shall make recommendations to coordinate the actions and programs of the Federal Government

in order to promote increasing domestic manufacturing capacity and export of domestic nuclear energy products and services.

(B) The Interagency Working Group shall be composed as follows:

(i) The Secretary of Energy, or the Secretary's designee, shall chair the interagency working group. The Secretary of Energy shall provide staff for carrying out the functions of the interagency working group established under this section.

(ii) Representatives of—

(I) the Department of Energy;

(II) the Department of Commerce;

(III) the Department of Defense;

(IV) the Department of Treasury;

(V) the Department of State;

(VI) the Environmental Protection Agency;

(VII) the United States Agency for International Development;

(VIII) the Export-Import Bank of the United States;

(IX) the Trade and Development Agency;

(X) the Small Business Administration;

(XI) the Office of the U.S. Trade Representative; and

(XII) other Federal agencies, as determined by the President.

(iii) The heads of appropriate agencies shall detail such personnel and furnish such services to the interagency group, with or without reimbursement, as may be necessary to carry out the group's functions.

(3) DUTIES OF THE INTERAGENCY WORKING GROUP.—

(A) Within six months of enactment, the interagency working group established under paragraph (2) shall identify the actions necessary to promote the safe development and application in foreign countries of nuclear energy products and services in order to—

(i) increase electricity generation from nuclear energy sources through development of new generation facilities;

(ii) improve the efficiency, safety and/or reliability of existing nuclear generating facilities through modifications; and

(iii) enhance the safe treatment, handling, storage and disposal of used nuclear fuel.

(B) Within 6 months of enactment, the interagency working group shall identify mechanisms (including, but not limited to, tax stimulus for investment, loans and loan guarantees, and grants) necessary for United States companies to increase their capacity to produce or provide nuclear energy products and services, and to increase their exports of nuclear energy products and services. The interagency working group shall identify administrative or legislative initiatives necessary to—

(i) encourage United States companies to increase their manufacturing capacity for nuclear energy products;

(ii) provide technical and financial assistance and support to small and mid-sized businesses to establish quality assurance programs in accordance with domestic

and international nuclear quality assurance code requirements;

(iii) encourage, through financial incentives, private sector capital investment to expand manufacturing capacity; and

(iv) provide technical assistance and financial incentives to small and mid-sized businesses to develop the work-force necessary to increase manufacturing capacity and meet domestic and international nuclear quality assurance code requirements.

(C) Within 9 months of enactment, the interagency working group shall provide a report to Congress on its findings under subparagraphs (A) and (B), including recommendations for new legislative authority where necessary.

(4) TRADE ASSISTANCE.—The interagency working group shall encourage the member agencies of the interagency working group to—

(A) provide technical training and education for international development personnel and local users in their own country;

(B) provide financial and technical assistance to nonprofit institutions that support the marketing and export efforts of domestic com-

panies that provide nuclear energy products and services;

(C) develop nuclear energy projects in foreign countries;

(D) provide technical assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States and other appropriate personnel in order to provide information about nuclear energy products and services to foreign governments or other potential project sponsors;

(E) support, through financial incentives, private sector efforts to commercialize and export nuclear energy products and services in accordance with the subsidy codes of the World Trade Organization; and

(F) augment budgets for trade and development programs in order to support pre-feasibility or feasibility studies for projects that utilize nuclear energy products and services.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out this section $20,000,000 for fiscal years 2009 and 2010.

(b) CREDIT FOR QUALIFYING NUCLEAR POWER MANUFACTURING.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code is amended by inserting after section 48B the following new section:

**"SEC. 48C. QUALIFYING NUCLEAR POWER MANUFACTURING CREDIT.**

"(a) IN GENERAL.—For purposes of section 46, the qualifying nuclear power manufacturing credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

"(b) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year—

"(A) which is either part of a qualifying nuclear power manufacturing project or is qualifying nuclear power manufacturing equipment,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

''(D) which is placed in service on or before December 31, 2015.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT.—The term 'qualifying nuclear power manufacturing project' means any project which is designed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(2) QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT.—The term 'qualifying nuclear power manufacturing equipment' means machine tools and other similar equipment, including com-

puters and other peripheral equipment, acquired or constructed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(3) PROJECT.—The term 'project' includes any building constructed to house qualifying nuclear power manufacturing equipment.''.

(c) CONFORMING AMENDMENTS.—

(1) ADDITIONAL INVESTMENT CREDIT.—Section 46 of such Code is amended by—

(A) striking ''and'' at the end of paragraph (3),

(B) striking the period at the end of paragraph (4) and inserting '', and'', and

(C) inserting after paragraph (4) the following new paragraph:

''(5) the qualifying nuclear power manufacturing credit.''.

(2) APPLICATION OF SECTION 49.—Subparagraph (C) of section 49(a)(1) of such Code is amended by:

(A) striking ''and'' at the end of clause (iii),

(B) striking the period at the end of clause (iv) and inserting '', and'', and

(C) inserting after clause (iv) the following new clause:

"(v) the basis of any property which is part of a qualifying nuclear power equipment manufacturing project under section 48C.".

(3) TABLE OF SECTIONS.—The table of sections preceding section 46 is amended by inserting after the line for section 48B the following new line:

"Sec. 48C. Qualifying nuclear power manufacturing credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property—

(1) the construction, reconstruction, or erection of which of began after the date of enactment, or

(2) which was acquired by the taxpayer on or after the date of enactment and not pursuant to a binding contract which was in effect on the day prior to the date of enactment.

**SEC. 3205. USE OF FUNDS FOR RECYCLING.**

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended—

(1) in subsection (d), by striking "The Secretary may" and inserting "Except as provided in subsection (f), the Secretary may"; and

(2) by adding at the end the following new subsection:

''(f) RECYCLING.—

''(1) IN GENERAL.—Amounts in the Waste Fund may be used by the Secretary of Energy to make grants to or enter into long-term contracts with private sector entities for the recycling of spent nuclear fuel.

''(2) COMPETITIVE SELECTION.—Grants and contracts authorized under paragraph (1) shall be awarded on the basis of a competitive bidding process that—

''(A) maximizes the competitive efficiency of the projects funded;

''(B) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

''(C) ensures adequate protection against the proliferation of nuclear materials that could be used in the manufacture of nuclear weapons.''.

**SEC. 3206. LICENSING OF NEW NUCLEAR POWER PLANTS.**

(a) Sections 189A(1)(A) of the Atomic Energy Act of 1954 is modified thus:

''(A) In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit, or ap-

plication to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under section 153, 157, 186c., or 188, the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. The Commission may, in the absence of a request therefor by any person whose interest may be affected, issue a construction permit, an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing, but upon thirty days' notice and publication once in the Federal Register of its intent to do so. The Commission may dispense with such thirty days' notice and publication with respect to any application for an amendment to a construction permit or an amendment to an operating license upon a determination by the Commission that the amendment involves no significant hazards consideration.''.

(b) Section 185b of the Atomic Energy Act of 1954 is modified thus:

"b. After any public hearing held under section 189a.(1)(A), the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189a.(1)(B).".

**SEC. 3207. INVESTMENT TAX CREDIT FOR INVESTMENTS IN NUCLEAR POWER FACILTIES.**

(a) NEW CREDIT FOR NUCLEAR POWER FACILITIES.—Section 46 of the Internal Revenue Code of 1986 is amended by—

(1) striking ''and'' at the end of paragraph (3),

(2) striking the period at the end of paragraph (4) and inserting '', and'', and

(3) inserting after paragraph (4) the following new paragraph:

''(5) the nuclear power facility construction credit.''.

(b) NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after section 48B the following new section:

**''SEC. 48D. NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.**

''(a) IN GENERAL.—For purposes of section 46, the nuclear power facility construction credit for any taxable year is 10 percent of the qualified nuclear power facility expenditures with respect to a qualified nuclear power facility.

''(b) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

''(1) IN GENERAL.—Qualified nuclear power facility expenditures shall be taken into account for the taxable year in which the qualified nuclear power facility is placed in service.

''(2) COORDINATION WITH SUBSECTION (C).—The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified nuclear power facility shall be reduced (but not below zero) by any amount of qualified nuclear power facility expenditures taken into account under subsection (c) by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).

''(c) PROGRESS EXPENDITURES.—

''(1) IN GENERAL.—A taxpayer may elect to take into account qualified nuclear power facility expenditures—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of a qualified nuclear power facility which is a self-constructed facility, in the taxable year for which such expenditures are prop-

erly chargeable to capital account with respect to such facility.

''(B) ACQUIRED FACILITY.—In the case of a qualified nuclear facility which is not self-constructed property, in the taxable year in which such expenditures are paid.

''(2) SPECIAL RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

''(A) COMPONENT PARTS, ETC.—Property which is not self-constructed property and which is to be a component part of, or is otherwise to be included in, any facility to which this subsection applies shall be taken into account in accordance with paragraph (1)(B).

''(B) CERTAIN BORROWING DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer on a nonrecourse basis from the person constructing the facility for the taxpayer shall not be treated as an amount expended for such facility.

''(C) LIMITATION FOR FACILITIES OR COMPONENTS WHICH ARE NOT SELF-CONSTRUCTED.—

''(i) IN GENERAL.—In the case of a facility or a component of a facility which

is not self-constructed, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the facility or component of a facility which is properly attributable to the portion of the facility or component which is completed during such taxable year.

''(ii) CARRY-OVER OF CERTAIN AMOUNTS.—In the case of a facility or component of a facility which is not self-constructed, if for the taxable year—

''(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year, or

''(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall in-

crease the limitation of clause (i) for the succeeding taxable year.

''(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the construction which is properly attributable to construction completed during any taxable year shall be made on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

''(E) NO PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—No qualified nuclear facility expenditures shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

''(F) NO PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any qualified nuclear facility, no qualified nuclear facility expenditures

shall be taken into account under this subsection for the earlier of—

''(i) the taxable year in which the facility is placed in service, or

''(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such facility, or for any taxable year thereafter.

''(3) SELF-CONSTRUCTED.—For purposes of this subsection—

''(A) The term 'self-constructed facility' means any facility if it is reasonable to believe that more than half of the qualified nuclear facility expenditures for such facility will be made directly by the taxpayer.

''(B) A component of a facility shall be treated as not self-constructed if the cost of the component is at least 5 percent of the expected cost of the facility and the component is acquired by the taxpayer.

''(4) ELECTION.—An election shall be made under this section for a qualified nuclear power facility by claiming the nuclear power facility construction credit for expenditures described in paragraph (1) on a tax return filed by the due date for such

return (taking into account extensions). Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED NUCLEAR POWER FACILITY.—The term 'qualified nuclear power facility' means an advanced nuclear power facility, as defined in section 45J, the construction of which was approved by the Nuclear Regulatory Commission on or before December 31, 2013.

''(2) QUALIFIED NUCLEAR POWER FACILITY EXPENDITURES.—

''(A) IN GENERAL.—The term 'qualified nuclear power facility expenditures' means any amount properly chargeable to capital account—

''(i) with respect to a qualified nuclear power facility,

''(ii) for which depreciation is allowable under section 168, and

''(iii) which are incurred before the qualified nuclear power facility is placed in

service or in connection with the placement of such facility in service.

''(B) PRE-EFFECTIVE DATE EXPENDITURES.—Qualified nuclear power facility expenditures do not include any expenditures incurred by the taxpayer before January 1, 2007, unless such expenditures constitute less than 20 percent of the total qualified nuclear power facility expenditures (determined without regard to this subparagraph) for the qualified nuclear power facility.

''(3) DELAYS AND SUSPENSION OF CONSTRUCTION.—

''(A) IN GENERAL.—For purposes of applying this section and section 50, a nuclear power facility that is under construction shall cease to be treated as a facility that will be a qualified nuclear power facility as of the earlier of—

''(i) the date on which the taxpayer decides to terminate construction of the facility, or

''(ii) the last day of any 24-month period in which the taxpayer has failed to incur qualified nuclear power facility ex-

penditures totaling at least 20 percent of the expected total cost of the nuclear power facility.

''(B) AUTHORITY TO WAIVE.—The Secretary may waive the application of clause (ii) of subparagraph (A) if the Secretary determines that the taxpayer intended to continue the construction of the qualified nuclear power facility and the expenditures were not incurred for reasons outside the control of the taxpayer.

''(C) RESUMPTION OF CONSTRUCTION.—If a nuclear power facility that is under construction ceases to be a qualified nuclear power facility by reason of paragraph (2) and work is subsequently resumed on the construction of such facility—

''(i) the date work is subsequently resumed shall be treated as the date that construction began for purposes of paragraph (1), and

''(ii) if the facility is a qualified nuclear power facility, the qualified nuclear power facility expenditures shall be determined without regard to any delay or tem-

porary termination of construction of the facility.''.

(c) PROVISIONS RELATING TO CREDIT RECAPTURE.—

(1) PROGRESS EXPENDITURE RECAPTURE RULES.—

(A) BASIC RULES.—Subparagraph (A) of section 50(a)(2) of such Code is amended to read as follows:

''(A) IN GENERAL.—If during any taxable year any building to which section 47(d) applied or any facility to which section 48C(c) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be a qualified rehabilitated building or a qualified nuclear power facility, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the credit determined under this subpart with respect to such building or facility.''

(B) AMENDMENT TO EXCESS CREDIT RECAPTURE RULE.—Subparagraph (B) of section 50(a)(2) of such Code is amended by—

(i) inserting ''or paragraph (2) of section 48C(b)'' after ''paragraph (2) of section 47(b)'',

(ii) inserting ''or section 48C(b)(1)'' after ''section 47(b)(1)'', and

(iii) inserting ''or facility'' after ''building''.

(C) AMENDMENT OF SALE AND LEASEBACK RULE.—Subparagraph (C) of section 50(a)(2) of such Code is amended by—

(i) inserting ''or section 48C(c)'' after ''section 47(d)'', and

(ii) inserting ''or qualified nuclear power facility expenditures'' after ''qualified rehabilitation expenditures''.

(D) OTHER AMENDMENT.—Subparagraph (D) of section 50(a)(2) of such Code is amended by inserting ''or section 48C(c)'' after ''section 47(d)''.

(d) NO BASIS ADJUSTMENT.—Section 50(c) of such Code is amended by inserting at the end thereof the following new paragraph:

''(6) NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.—Paragraphs (1) and (2) shall not apply to the nuclear power facility construction credit.''.

(e) TECHNICAL AMENDMENTS.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the line for section 48B the following new line:

''Sec. 48C. Nuclear power facility construction credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective for expenditures incurred and property placed in service in taxable years beginning after the date of enactment.

**SEC. 3208. NATIONAL NUCLEAR ENERGY COUNCIL.**

(a) IN GENERAL.—

(1) The Secretary of Energy shall establish a National Nuclear Energy Council (hereinafter the ''Council'').

(2) The National Nuclear Energy Council shall be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. appendix 2).

(b) PURPOSE.—The National Nuclear Energy Council shall—

(1) serve in an advisory capacity to the Secretary of Energy regarding nuclear energy on mat-

ters submitted to the Council by the Secretary of Energy; and

(2) advise, inform, and make recommendations to the Secretary of Energy, and represent the views of the nuclear energy industry with respect to any matter relating to nuclear energy.

(c) MEMBERSHIP AND ORGANIZATION.—

(1) The members of the Council shall be appointed by the Secretary of Energy.

(2) The Council may establish such study and administrative committees as it may deem appropriate. Study committees shall only assist the Council in preparing its advice, information, or recommendations to the Secretary of Energy. Administrative committees shall be formed solely for the purpose of assisting the Council or its Chairman in the management of the internal affairs of the Council.

(3) The officers of the Council shall consist of a Chairman, a Vice Chairman, and such other officers as may be approved by the Council. The Chairman and Vice Chairman must be members of the Council and shall receive no compensation for service as officers of the Council.

(4) The Secretary of Energy shall be Cochairman of the Council. If the Secretary of Energy designates a full-time, salaried official of the Department of Energy as his alternate, such alternate may exercise any duties of the Secretary of Energy and may perform any function on the Council otherwise reserved for the Secretary of Energy.

(5) The Chairman and the Vice Chairman shall be elected by the Council at its organizational meeting to serve until their successors are elected at the next organizational meeting of the Council.

(d) MEETINGS.—

(1) Regular meetings of the Council shall be held at least twice each year at times determined by the Chairman and approved by the Government Cochairman.

(2) No meeting of the Council shall be held unless the Government Cochairman approves the agenda thereof, approves the calling thereof, and is present thereat.

(3) The time and place of all Council meetings shall be given general publicity and such meetings shall be open to the public.

(e) STUDIES BY THE COUNCIL.—

(1) The Council may establish study committees to prepare reports for the consideration of the Council pursuant to requests from the Secretary of Energy for advice, information, and recommendations.

(2) The Secretary of Energy or a full-time employee of the Department of Energy designated by the Secretary shall be the Cochairman of each study committee.

(3) The members of study committees shall be selected from the Council membership on the basis of their training, experience, and general qualifications to deal with the matters assigned.

**SEC. 3209. TEMPORARY SPENT NUCLEAR FUEL STORAGE AGREEMENTS.**

(a) AUTHORIZATION AND LOCATION.—The Secretary of Energy (Secretary) is authorized to initiate spent nuclear fuel storage agreements as provided herein.

(1) No later than 180 days from the date of enactment of this Act, representatives of a community may submit written notice to the Secretary that the community is willing to host a temporary spent nuclear fuel storage facility within its jurisdiction.

(2) Within 90 days of the receipt of the notification under subsection (a)(1), the Secretary shall determine whether the identified site is suitable for

a temporary storage facility. In determining the site's suitability, the Secretary will evaluate technical feasibility and consider favorably local support for collocating a temporary spent nuclear fuel storage facility with facilities intended to develop and implement advanced nuclear fuel cycle technologies.

(b) CONTENT OF AGREEMENTS.—If the Secretary determines one or more sites to be suitable in accordance with subsection (a)(2), negotiation of a temporary spent nuclear fuel storage facility agreement shall proceed.

(1) Any temporary spent nuclear fuel storage agreement shall contain such terms and conditions, including financial, institutional and such other arrangements as the Secretary and community determine to be reasonable and appropriate.

(2) Any temporary spent nuclear fuel storage agreement may be amended only with the mutual consent of the parties to the agreement.

(c) ENVIRONMENTAL IMPACT STATEMENT.—Execution of a temporary spent nuclear fuel storage agreement shall not require preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or require any environmental review under subparagraph (E)

or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E), (F)).

**SEC. 3210. IMPLEMENTATION OF TEMPORARY SPENT NUCLEAR FUEL STORAGE AGREEMENTS.**

(a) IN GENERAL.—Any temporary spent nuclear fuel storage agreement or agreements entered into under section 1 shall enter into force with respect to the United States if (and only if)—

(1) the Secretary, at least 60 days before the day on which he or she enters into the temporary spent nuclear fuel storage agreement or agreements notifies the House of Representatives and the Senate of his intention to enter into the agreement or agreements, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) the Governor of the State or States in which the facility is proposed to be located submits written notice to the Secretary that the Governor supports the temporary spent nuclear fuel storage agreement; and

(3) after entering into the agreement, the Secretary submits to the House of Representatives and to the Senate a copy of the final text of the agreement, together with—

(A) a draft of an implementing bill, and

(B) a statement of any administrative action proposed to implement the agreement.

(b) APPLICATION OF EXPEDITED PROCEDURES TO IMPLEMENTING BILLS.—The provisions of paragraph (3) apply to implementing bills submitted with respect to temporary spent nuclear fuel storage agreements entered into and submitted pursuant to paragraph (2).

**SEC. 3211. EXPEDITED PROCEDURES FOR CONGRESSIONAL REVIEW OF TEMPORARY SPENT NUCLEAR FUEL STORAGE AGREEMENTS.**

(a) RULES OF HOUSE OF REPRESENTATIVE AND SENATE.—The provisions of this subsection are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementing bills described in subsection (b)(2) of this section and approval resolutions described in subsection (b)(3) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as

relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

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

(1) the term ''community'' means any entity of local government appropriate, in terms of legal authority, for negotiating and entering into temporary spent nuclear fuel storage agreements provided for in section 3210;

(2) the term ''implementing bill'' means only a bill of either House of Congress which is introduced as provided in subsection (c) of this section with respect to one or more temporary spent nuclear fuel storage agreements and which contain—

(A) a provision approving such storage agreements,

(B) a provision approving the statement of administrative action (if any) proposed to implement such storage agreements,

(C) if changes in existing laws or new statutory authority is required to implement such storage agreement or agreements, provisions necessary or appropriate to implement such agreement or agreements either repealing or

amending existing laws or providing new statutory authority, and

(D) a provision containing revenue measures (if any), by reason of which the bill must originate in the House of Representatives as provided for in subsection (c); and

(3) The term ''approval resolution'' means only a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: ''That the Congress approves the temporary spent nuclear fuel storage agreement between the Secretary of Energy and _____ on _____,'' the first blank space being filled with the name of the governor involved and the second blank space being filled in with the appropriate date.

(c) INTRODUCTION AND REFERRAL.—On the day on which the temporary spent nuclear fuel storage agreement is submitted to the House of Representatives and the Senate under this title, the implementing bill submitted by the Secretary with respect to such temporary spent nuclear fuel storage agreement shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader

and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such temporary spent nuclear fuel storage agreement is submitted, the implementing bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. Such bills shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

(d) AMENDMENTS PROHIBITED.—No amendment to an implementing bill or approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(1) Except as provided in subsection (e)(2), if the committee or committees of either House to which an implementing bill or approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill or resolution and it shall be placed on the appropriate calendar. A vote on final passage of the bill or resolution shall be taken in each House on or before the close of the 15th day after the bill or resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the bill or resolution. If prior to the passage by one House of an implementing bill or approval resolution of that House, that House receives the same implementing bill or approval resolution from the other House, then—

(A) the procedure in that House shall be the same as if no implementation bill or approval resolution had been received from the other House, but

(B) the vote on final passage shall be on the implementing bill or approval resolution of the other House.

(2) For purposes of computing a number of days in either House as provided for in subsection (e)(1), there shall be excluded any day on which that House is not in session.

(3) If the implementing bill contains one or more revenue measures—

(A) the provisions of subsection (e)(1) shall not apply; and

(B) the Senate shall not take final action on the bill until it is received from the House.

(f) FLOOR CONSIDERATION IN THE HOUSE.—

(1) A motion in the House of Representatives to proceed to the consideration of an implementing bill or approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those op-

posing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or approval resolution or to move to reconsider the vote by which an implementing bill or approval resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill or approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate. If a motion to proceed to consideration is agreed to, such resolution shall remain unfinished business of House until disposed of.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill or approval resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of an implementing bill or approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(g) FLOOR CONSIDERATION IN THE SENATE.—

(1) A motion in the Senate to proceed to the consideration of an implementing bill or approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on an implementing bill or approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with an implementing bill or approval resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill or approval resolution, allot additional

time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementation bill or approval resolution is not in order.

**SEC. 3212. CONTRACTING AND NUCLEAR WASTE FUND.**

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended—

(1) in subsection (a)(1), by adding at the end the following:

''For any civilian nuclear power reactor a license application for which is filed with the Commission, pursuant to its authority under section 103 or 104 of the Atomic Energy Act of 1954, after the date of enactment of this Act, contracts entered into under this section shall—

''(A) except as provided in subsections 302(a)(1) (B), (C), (D), and (E), below, be generally consistent with the terms and conditions of the 'Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste,' as codified at 10 CFR part 961 and in effect on January 1, 2007;

"(B) provide for the taking of title to, and for the Secretary to dispose of, the high-level waste or spent nuclear fuel;

"(C) contain no provisions providing for adjustment of the 1.0 mil per kilowatt-hour fee established by paragraph (2);

"(D) be entered into no later than 60 days following the docketing of the license application by the Commission, or the date of enactment of this Act, whichever is later; and

"(E) provide that, on a schedule consistent with the Secretary's acceptance of spent nuclear fuel from each civilian nuclear power reactor or site, and completed not later than the Secretary's completing the acceptance of all spent nuclear fuel from that commercial nuclear power reactor or site, the Secretary shall accept from each such reactor or site, all low-level radioactive waste defined in section 3(b)(1)(D) of the Low-level Radioactive Waste Policy Act, as amended, 42 U.S.C. 2021c(b)(1)(D).";

(2) in subsection (a)(4), by striking all after "herein." in the second sentence;

(3) in subsection (a)(6), by adding at the end the following:

''Further, the Secretary shall offer to settle any actions pending on the date of enactment of this Act for damages resulting from failure to commence accepting spent nuclear fuel or high-level radioactive waste on or before January 31, 1998. Each offer to settle shall provide for the payment of $150 to the other party to a contract for disposal of spent nuclear fuel and high-level radioactive waste for each kilogram of spent nuclear fuel which such party was or shall be entitled to deliver to the Department in a particular year, based on the following aggregate acceptance rates: 400 MTU for 1998; 600 MTU for 1999; 1,200 MTU for 2000; 2,000 MTU for 2001; and 3,000 MTU for 2002 and thereafter; provided that the Secretary shall adjust the payment amount per kilogram of spent nuclear fuel under this subsection (a)(6) annually according to the most recent Producer Price Index published by the Department of Labor. Such aggregate acceptance rates shall be allocated among parties to contracts with the United States based upon the age of spent nuclear fuel, as measured by the date of the discharge of such spent nuclear fuel from the civilian nuclear power reactor. Such offer to settle also shall include an annual payment of the amount to be determined by the Secretary of Energy to any such party where a civilian nuclear power reactor has been decommissioned, except for those portions of

the facility that cannot be decommissioned until removal of spent nuclear fuel and high-level radioactive waste. The Secretary also shall offer like compensation to parties to contracts entered into pursuant to section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) who brought actions for damages prior to the date of enactment of this Act, but which were no longer pending as of said date, provided that such compensation shall be reduced by the amount of any settlement or judgment received by such party.''; and

(4) in subsection (d), by adding at the end the following:

''No amount may be expended by the Secretary from the Waste Fund to carry out research and development activities on advanced nu-clear fuel cycle technologies.''.

**SEC. 3213. CONFIDENCE IN AVAILABILITY OF WASTE DISPOSAL.**

(a) CONGRESSIONAL DETERMINATION.—The Congress finds that—

(1) there is reasonable assurance that high-level radioactive waste and spent nuclear fuel generated in reactors licensed by the Nuclear Regulatory Commission in the past, currently, or in the future will be managed in a safe manner without significant en-

vironmental impact until capacity for ultimate disposal is available; and

(2) the Federal Government is responsible and has an established a policy for the ultimate safe and environmentally sound disposal of such high-level radioactive waste and spent nuclear fuel.

(b) REGULATORY CONSIDERATION.—Notwithstanding any other provision of law, for the period following the licensed operation of a civilian nuclear power reactor or any facility for the treatment or storage of spent nuclear fuel or high-level radioactive waste, no consideration of the public health and safety, common defense and security, or environmental impacts of the storage of high-level radioactive waste and spent nuclear fuel generated in reactors licensed by the Nuclear Regulatory Commission in the past, currently, or in the future, is required by the Department of Energy or the Nuclear Regulatory Commission in connection with the development, construction, and operation of, or any permit, license, license amendment, or siting approval for, a civilian nuclear power reactor or any facility for the treatment or storage of spent nuclear fuel or high-level radioactive waste. Nothing in this section shall affect the Department of Energy's and Nuclear Regulatory Commission's obligation to consider the public health and safety, common defense and

security, and environmental impacts of storage during the period of licensed operation of a civilian nuclear power reactor or facility for the treatment or storage of spent nuclear fuel or high-level radioactive waste.

**SEC. 3214. LIMITATION ON USE OF FUNDS.**

None of the funds authorized by this Act may be used to improve or build any temporary storage or spent nuclear fuel and high-level radioactive waste disposal facility in a State previously recommended for repository development under Public Law 97–425, as amended.

# Subtitle D—Expedited Oil, Gas, and Oil Shale Leasing of Federal Lands

**SEC. 3301. EXPEDITED PERMITTING OF COVERED ENERGY PROJECTS.**

(a) PERMIT APPLICATIONS DEEMED APPROVED.—

(1) IN GENERAL.—Any application for a permit under Federal law for a covered energy project is deemed approved upon the expiration of the 6-month period beginning on the date of the submittal of a completed application for such permit, unless before the end of such period the Federal official authorized by law to issue such permit affirmatively disapproves the application and certifies to Congress the reasons for such disapproval.

(2) EXTENSION OF PERIOD.—

(A) IN GENERAL.—The President may extend the period under subsection (a) for a permit application by an additional 6 months by submitting to Congress a certification of the reasons why such extension is necessary.

(B) LIMITATION.—The President may not extend such period more than one time with respect to any particular permit application.

(b) APPEAL OF DISAPPROVAL OF PERMIT APPLICATION.—

(1) IN GENERAL.—Any person who submits an application for a permit under Federal law for a covered energy project that is disapproved may file an action seeking judicial review (subject to subtitle B) of such disapproval within the 2-month period beginning on the date of the disapproval.

(2) DEADLINE FOR DECISION.—If a person files such an action—

(A) a final decision shall be issued before the end of the 2-month period beginning on the date the appeal is filed; and

(B) if a decision is not issued before the end of such period the permit application is deemed approved and the permit issued upon the expiration of such period.

**SEC. 3302. WAIVER OF LAWS APPLICABLE TO COVERED ENERGY PROJECTS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the President or a designee of the President may waive any legal requirement under any provision of Federal law otherwise applicable to a covered energy project, including any provision of law relating to any administrative protest of any agency action taken with respect to such a project, as the President or such designee, in his or her sole discretion, determines necessary to ensure expeditious conduct of such project. Any such determination shall be effective upon being published in the Federal Register.

(b) FEDERAL COURT REVIEW.—

(1) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction to hear all causes or claims arising from any action undertaken, or any decision made, by the President or such designee pursuant to subsection (a). Such a cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court shall not have jurisdiction to hear any claim not specified in this paragraph.

(2) TIME FOR FILING OF COMPLAINT.—Any cause or claim brought pursuant to paragraph (1) shall be filed not later than the end of the 60-day

period beginning upon the expiration of the date of the action or decision made by the President or such designee. A claim shall be barred unless it is filed within that period.

(3) ABILITY TO SEEK APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

**SEC. 3303. PERMITTING FOR YEAR-ROUND CONDUCT OF COVERED ENERGY PROJECTS.**

Notwithstanding any other provision of law—

(1) nothing in Federal law shall be construed as prohibiting the issuance of a permit authorizing conduct of a covered energy project throughout the year; and

(2) any Federal official who is otherwise authorized to issue a permit authorizing a covered energy project is encouraged to issue such a permit authorizing conduct of a covered energy project throughout the year.

# Subtitle E—Refining Capacity and Efficiency

**SEC. 3401. REFINERY REVITALIZATION REPEAL.**

Subtitle H of title III of the Energy Policy Act of 2005 and the items relating thereto in the table of contents of such Act are repealed.

**SEC. 3402. REDUCTION IN NUMBER OF BOUTIQUE FUELS.**

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended as follows:

(1) By redesignating the clause (v) added by section 1541(b) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1106) as clause (vi).

(2) In clause (vi) (as so redesignated)—

(A) in subclause (I) by striking ''approved under this paragraph as of September 1, 2004, in all State implementation plans'' and by inserting in lieu there of ''set forth on the list published under subclause (II) (or on the revised list referred to in subclause (III) if the list has been revised)'';

(B) by amending subclause (III) to read as follows:

''(III) The Administrator shall, after notice and opportunity for comment, remove a fuel from the list published under subclause (II) if

the Administrator determines that such fuel has ceased to be included in any State implementation plan or is identical to a Federal fuel control or prohibition promulgated and implemented by the Administrator. The Administrator shall publish a revised list reflecting the reduction in the number of fuels.'';

(C) in subclause (IV) by striking ''Subclause (I)'' and inserting ''Neither subclause (I) nor subclause (V)'' and by striking ''not'' and by striking ''if such new fuel''; and

(D) by amending subclause (IV) to read as follows:

''(IV) Subclause (I) shall not limit the Administrator's authority to approve a control or prohibition respecting any new fuel under this paragraph in a State implementation plan or revision to a State implementation plan if such new fuel completely replaces a fuel on the list published under subclause (II) (or the revised list referred to in subclause (III) if the list has been revised) and if

the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register after notice and comment a finding that, in the Administrator's judgment, such control or prohibition respecting such new fuel will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas.''.

**SEC. 3403. REFINERY PERMITTING PROCESS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated authority by the Federal Government, or authorized under Federal law, to issue permits.

(4) REFINER.—The term ''refiner'' means a person that—

(A) owns or operates a refinery; or

(B) seeks to become an owner or operator of a refinery.

(5) REFINERY.—

(A) IN GENERAL.—The term ''refinery'' means—

(i) a facility at which crude oil is refined into transportation fuel or other petroleum products; and

(ii) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other fuel.

(B) INCLUSIONS.—The term ''refinery'' includes an expansion of a refinery.

(6) REFINERY EXPANSION.—The term ''refinery expansion'' means a physical change in a refinery that results in an increase in the capacity of the refinery.

(7) REFINERY PERMITTING AGREEMENT.—The term ''refinery permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under subsection (b).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(b) STREAMLINING OF REFINERY PERMITTING PROCESS.—

(1) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a refinery permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a refinery shall be streamlined using a systematic interdisciplinary multimedia approach as provided in this section.

(2) AUTHORITY OF ADMINISTRATOR.—Under a refinery permitting agreement—

(A) the Administrator shall have authority, as applicable and necessary, to—

(i) accept from a refiner a consolidated application for all permits that the refiner is required to obtain to construct and operate a refinery;

(ii) in consultation and cooperation with each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit, establish a schedule under which each agency shall—

(I) concurrently consider, to the maximum extent practicable, each determination to be made; and

(II) complete each step in the permitting process; and

(iii) issue a consolidated permit that combines all permits issued under the schedule established under clause (ii); and

(B) the Administrator shall provide to State and Indian tribal government agencies—

(i) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the Government agencies to comply with the applicable schedule established under subparagraph (A)(ii); and

(ii) technical, legal, and other assistance in complying with the refinery permitting agreement.

(3) AGREEMENT BY THE STATE.—Under a refinery permitting agreement, a State or governing body of an Indian tribe shall agree that—

(A) the Administrator shall have each of the authorities described in paragraph (2); and

(B) each State or Indian tribal government agency shall—

(i) in accordance with State law, make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(ii) comply, to the maximum extent practicable, with the applicable schedule established under paragraph (2)(A)(ii).

(4) DEADLINES.—

(A) NEW REFINERIES.—In the case of a consolidated permit for the construction of a new refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under clause (i).

(B) EXPANSION OF EXISTING REFINERIES.—In the case of a consolidated permit for the expansion of an existing refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under clause (i).

(5) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under paragraph (2)(A)(ii).

(6) JUDICIAL REVIEW.—Any civil action for review of any permit determination under a refinery permitting agreement shall be brought exclusively in the United States district court for the district in which the refinery is located or proposed to be located.

(7) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this title.

(8) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a refinery are not approved on or before any deadline established under paragraph (4), the Administrator may issue a consolidated permit that combines all other permits that the refiner is required to obtain other than any permits that are not approved.

(9) SAVINGS.—Nothing in this subsection affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a refinery.

(10) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(12) EFFECT ON LOCAL AUTHORITY.—Nothing in this subsection affects—

(A) the authority of a local government with respect to the issuance of permits; or

(B) any requirement or ordinance of a local government (such as a zoning regulation).

(c) FISCHER-TROPSCH FUELS.—

(1) IN GENERAL.—In cooperation with the Secretary of Energy, the Secretary of Defense, the Administrator of the Federal Aviation Administration, Secretary of Health and Human Services, and Fischer-Tropsch industry representatives, the Administrator shall—

(A) conduct a research and demonstration program to evaluate the air quality benefits of ultra-clean Fischer-Tropsch transportation fuel, including diesel and jet fuel;

(B) evaluate the use of ultra-clean Fischer-Tropsch transportation fuel as a mechanism for reducing engine exhaust emissions; and

(C) submit recommendations to Congress on the most effective use and associated benefits of these ultra-clean fuel for reducing public exposure to exhaust emissions.

(2) GUIDANCE AND TECHNICAL SUPPORT.—The Administrator shall, to the extent necessary, issue any guidance or technical support documents that would facilitate the effective use and associated benefit of Fischer-Tropsch fuel and blends.

(3) REQUIREMENTS.—The program described in paragraph (1) shall consider—

(A) the use of neat (100 percent) Fischer-Tropsch fuel and blends with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(B) the production costs associated with domestic production of those ultra clean fuel and prices for consumers.

(4) REPORTS.—The Administrator shall submit to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(A) not later than 1 year, an interim report on actions taken to carry out this subsection; and

(B) not later than 2 years, a final report on actions taken to carry out this subsection.

**SEC. 3404. EXISTING REFINERY PERMIT APPLICATION DEADLINE.**

Notwithstanding any other provision of law, applications for a permit for existing refinery applications shall not be considered to be timely if submitted after 120 days after the date of the enactment of this Act.

**SEC. 3405. REMOVAL OF ADDITIONAL FEE FOR NEW APPLICATIONS FOR PERMITS TO DRILL.**

The second undesignated paragraph of the matter under the heading ''MANAGEMENT OF LANDS AND RESOURCES'' under the heading ''Bureau of Land Management'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2098) is amended by striking ''to be be reduced'' and all that follows through ''each new application''.

# Subtitle F—Alternative Sources of Fuel

**SEC. 3501. YEAR EXTENSION OF ELECTION TO EXPENSE CERTAIN REFINERIES.**

(a) IN GENERAL.—Paragraph (1) of section 179C(c) of the Internal Revenue Code of 1986 (defining qualified refinery property) is amended—

(1) by striking ''January 1, 2014'' in subparagraph (B) and inserting ''January 1, 2017'', and

(2) by striking ''January 1, 2010'' each place it appears in subparagraph (F) and inserting ''January 1, 2013''.

(b) IMPLEMENTATION THROUGH SECRETARIAL GUIDANCE.—

(1) GUIDANCE.—Paragraph (1) of section 179C(b) of such Code (relating to general rule for

election) is amended by inserting ''or other guidance'' after ''regulations''.

(2) REPORTING.—Subsection (h) of section 179C of such Code (relating to reporting) is amended by striking ''shall require'' and inserting ''may, through guidance, require''.

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply to property placed in service after December 31, 2008.

(d) REQUIREMENT FOR ISSUANCE OF GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue regulations or other guidance to carry out section 179C of the Internal Revenue Code of 1986 (as amended by this section).

**SEC. 3502. OPENING OF LANDS TO OIL SHALE LEASING.**

(a) REPEAL OF LIMITATION ON USE OF FUNDS.—Section 433 of division F of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

(b) ISSUANCE OF REGULATIONS.—The Secretary of the Interior shall issue all regulations necessary to implement section 369 of the Energy Policy Act of 2005 (Public Law 109–58; 42 U.S.C. 15927) with respect to oil shale by not later than 60 days after the date of the enactment

of this Act. Such regulations shall include such safeguards and assurances as the Secretary considers necessary to allow States to exercise their regulatory and statutory authorities under State law, consistent with otherwise applicable Federal law.

(c) LEASING OF OIL SHALE RESOURCE.—Immediately after issuing regulations under subsection (b), the Secretary of the Interior shall—

(1) offer for leasing for research and development of oil shale resources under subsection (c) of section 369 of the Energy Policy Act of 2005 (Public Law 109–58; 42 U.S.C. 15927), additional 160-acre tracts of lands the Secretary considers necessary to fulfill the research and development objectives of such Act; and

(2) offer for leasing for commercial exploration, development, and production of oil shale resources under subsection (e) of such section, public lands in States for which the Secretary finds sufficient support and interest as required by that subsection.

**SEC. 3503. OIL SHALE AND TAR SANDS AMENDMENTS.**

(a) REPEAL OF REQUIREMENT TO ESTABLISH PAYMENTS.—Section 369(o) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 728; 42 U.S.C. 15927) is repealed.

(b) TREATMENT OF REVENUES.—Section 21 of the Mineral Leasing Act (30 U.S.C. 241) is amended by adding at the end the following:

''(e) REVENUES.—

''(1) IN GENERAL.—Notwithstanding the provisions of section 35, all revenues received from and under an oil shale or tar sands lease shall be disposed of as provided in this subsection.

''(2) ROYALTY RATES FOR COMMERCIAL LEASES.—

''(A) ROYALTY RATES.—The Secretary shall model the royalty schedule for oil shale and tar sands leases based on the royalty program currently in effect for the production of synthetic crude oil from oil sands in the Province of Alberta, Canada.

''(B) REDUCTION.—The Secretary shall reduce any royalty otherwise required to be paid under subparagraph (A) under any oil shale or tar sands lease on a sliding scale based upon market price, with a 10 percent reduction if the average futures price of NYMEX Light Sweet Crude, or a similar index, drops, for the previous quarter year, below $50 (in January 1, 2008, dollars), and an 80 percent reduction if

the average price drops below $30 (in January 1, 2008, dollars) for the quarter previous to the one in which the production is sold.

''(3) DISPOSITION OF REVENUES.—

''(A) DEPOSIT.—The Secretary shall deposit into a separate account in the Treasury all revenues derived from any oil shale or tar sands lease.

''(B) ALLOCATIONS TO STATES AND LOCAL POLITICAL SUBDIVISIONS.—The Secretary shall allocate 50 percent of the revenues deposited into the account established under subparagraph (A) to the State within the boundaries of which the leased lands are located, with a portion of that to be paid directly by the Secretary to the State's local political subdivisions as provided in this paragraph.

''(C) TRANSMISSION OF ALLOCATIONS.—

''(i) IN GENERAL.—Not later than the last business day of the month after the month in which the revenues were received, the Secretary shall transmit—

''(I) to each State two-thirds of such State's allocations under subparagraph (B), and in accordance

with clauses (ii) and (iii) to certain county-equivalent and municipal political subdivisions of such State a total of one-third of such States allocations under subparagraph (B), together with all accrued interest thereon; and

''(II) the remaining balance of such revenues shall be deposited into the Deficit Reduction Trust Fund created by this Act.

''(ii) ALLOCATIONS TO CERTAIN COUNTY-EQUIVALENT POLITICAL SUBDIVISIONS.—The Secretary shall under clause (i)(I) make equitable allocations of the revenues to county-equivalent political subdivisions that the Secretary determines are closely associated with the leasing and production of oil shale and tar sands, under a formula that the Secretary shall determine by regulation.

''(iii) ALLOCATIONS TO MUNICIPAL POLITICAL SUBDIVISIONS.—The initial allocation to each county-equivalent political subdivision under clause (ii) shall be further allocated to the county-equivalent po-

litical subdivision and any municipal political subdivisions located partially or wholly within the boundaries of the county-equivalent political subdivision on an equitable basis under a formula that the Secretary shall determine by regulation.

''(D) INVESTMENT OF DEPOSITS.—The deposits in the Treasury account established under this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

''(E) USE OF FUNDS.—A recipient of funds under this subsection may use the funds for any lawful purpose as determined by State law. Funds allocated under this subsection to States and local political subdivisions may be used as matching funds for other Federal programs without limitation. Funds allocated to local political subdivisions under this subsection may not be used in calculation of payments to such local political subdivisions under programs

for payments in lieu of taxes or other similar programs.

''(F) NO ACCOUNTING REQUIRED.—No recipient of funds under this subsection shall be required to account to the Federal Government for the expenditure of such funds, except as otherwise may be required by law.

''(4) DEFINITIONS.—In this subsection:

''(A) COUNTY-EQUIVALENT POLITICAL SUBDIVISION.—The term 'county-equivalent political subdivision' means a political jurisdiction immediately below the level of State government, including a county, parish, borough in Alaska, independent municipality not part of a county, parish, or borough in Alaska, or other equivalent subdivision of a State.

''(B) MUNICIPAL POLITICAL SUBDIVISION.—The term 'municipal political subdivision' means a municipality located within and part of a county, parish, borough in Alaska, or other equivalent subdivision of a State.''.

**SEC. 3504. TAX CREDIT FOR CARBON DIOXIDE CAPTURED FROM INDUSTRIAL SOURCES AND USED IN ENHANCED OIL AND NATURAL GAS RECOVERY.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business credits) is amended by adding at the end the following new section:

**"SEC. 45R. CREDIT FOR CARBON DIOXIDE CAPTURED FROM INDUSTRIAL SOURCES AND USED AS A TERTIARY INJECTANT IN ENHANCED OIL AND NATURAL GAS RECOVERY.**

''(a) GENERAL RULE.—For purposes of section 38, the captured carbon dioxide tertiary injectant credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified carbon dioxide captured from industrial sources and used as a tertiary injectant in qualified enhanced oil and natural gas recovery which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is $0.75 per 1,000 standard cubic feet.

''(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after

2009, there shall be substituted for the $0.75 amount under paragraph (1) an amount equal to the product of—

''(A) $0.75, multiplied by

''(B) the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2008' for '1990'.

''(c) QUALIFIED CARBON DIOXIDE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified carbon dioxide' means carbon dioxide captured from an anthropogenic source that—

''(A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas,

''(B) is measurable at the source of capture,

''(C) is compressed, treated, and transported via pipeline,

''(D) is sold as a tertiary injectant in qualified enhanced oil and natural gas recovery, and

''(E) is permanently sequestered in geological formations as a result of the enhanced oil and natural gas recovery process.

''(2) ANTHROPOGENIC SOURCE.—An anthropogenic source of carbon dioxide is an industrial source, including any of the following types of plants, and facilities related to such plant—

''(A) a coal and natural gas fired electrical generating power station,

''(B) a natural gas processing and treating plant,

''(C) an ethanol plant,

''(D) a fertilizer plant, and

''(E) a chemical plant.

''(3) DEFINITIONS.—

''(A) QUALIFIED ENHANCED OIL AND NATURAL GAS RECOVERY.—The term 'qualified enhanced oil and natural gas recovery' has the meaning given such term by section 43(c)(2).

''(B) TERTIARY INJECTANT.—The term 'tertiary injectant' has the same meaning as when used within section 193(b)(1).

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ONLY CARBON DIOXIDE CAPTURED WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to qualified carbon dioxide of which is within—

''(A) the United States (within the meaning of section 638(1)), or

''(B) a possession of the United States (within the meaning of section 638(2)).

''(2) RECYCLED CARBON DIOXIDE.—The term 'qualified carbon dioxide' includes the initial deposit of captured carbon dioxide used as a tertiary injectant. Such term does not include carbon dioxide that is re-captured, recycled, and re-injected as part of the enhanced oil and natural gas recovery process.

''(3) CREDIT ATTRIBUTABLE TO TAXPAYER.—Any credit under this section shall be attributable to the person that captures, treats, compresses, transports and sells the carbon dioxide for use as a tertiary injectant in enhanced oil and natural gas recovery, except to the extent provided in regulations prescribed by the Secretary.''.

(b) CONFORMING AMENDMENT.—Section 38(b) of such Code (relating to general business credit), as amended by section 302, is amended by striking ''plus'' at the

end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", plus", and by adding at the end of following new paragraph:

"(36) the captured carbon dioxide tertiary injectant credit determined under section 45P(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code (relating to other credits) is amended by adding at the end the following new section:

"Sec. 45R. Credit for carbon dioxide captured from industrial sources and used as a tertiary injectant in enhanced oil and natural gas recovery.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

# Subtitle G—Domestic Energy Impact Statements

## SEC. 3601. COMMITTEE REPORTS IN HOUSE OF REPRESENTATIVES REQUIRED TO INCLUDE DOMESTIC ENERGY IMPACT STATEMENTS.

(a) AMENDMENT TO RULE.—Clause 3(d) of rule XIII of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

"(4)(A) A statement (if timely submitted to the committee by the Comptroller General before the filing of the report) for each such bill or joint resolution that would have an impact on the governance

of public lands, including the outer Continental Shelf, of the impact of such bill on domestic energy availability.

''(B) Each such statement shall contain—

''(i) the physical/geographic size of any new areas of public lands which are opened up or closed off for energy exploration; and

''(ii) the total amount of cubic feet of dry natural gas or the total number of barrels of oil or liquid natural gas, or the total number of short tons of coal, which could be recovered from any public lands which are opened up or closed off for energy exploration.''.

(b) EXERCISE OF RULEMAKING POWERS.—The amendment made by subsection (a) is enacted as an exercise of the rulemaking power of the House of Representatives, and as such shall be considered as part of the Rules of the House of Representatives, with full recognition of the constitutional right of the House of Representatives to change such Rules at any time, in the same manner, and to the same extent as in the case of any other Rule of the House of Representatives.

**SEC. 3602. DOMESTIC ENERGY IMPACT STATEMENTS.**

(a) IN GENERAL.—Section 719 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(i) The Comptroller General shall, to the extent practicable, prepare for each bill or joint resolution reported by any committee of the House of Representatives or the Senate that would have an impact on domestic energy availability, and submit to such committee a domestic energy impact statement containing—

''(1) the physical/geographic size of any new areas of public lands which are opened up or closed off for energy exploration; and

''(2) the total amount of cubic feet of dry natural gas or the total number of barrels of oil or liquid natural gas, or the total number of short tons of coal, which could be recovered from any public lands which are opened up or closed off for energy exploration.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bills and joint resolutions reported by committees of the House of Representatives or the Senate 90 or more days after the date of the enactment of this Act.

# Subtitle H—Deficit Reduction

**SEC. 3701. DEFICIT REDUCTION TRUST FUND.**

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**"SEC. 9511. DEFICIT REDUCTION TRUST FUND.**

''(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the 'Deficit Reduction Trust Fund', consisting of such amounts as may be appropriated or credited to the Deficit Reduction Trust Fund as provided in this section.

''(b) TRANSFERS.—There are hereby appropriated to the Deficit Reduction Trust Fund amounts equivalent to 25 percent of all OCS Receipts, as defined in section 9(i)(8) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), that are derived from leases under that Act on tracts that would not have been available for leasing prior to the enactment of the American Energy Innovation Act and that would otherwise have been deposited in the General Fund of the Treasury and not allocated to any other specific use.

''(c) EXPENDITURES.—Amounts in the Deficit Reduction Trust Fund shall be available as provided in appropriation Acts only for the purpose of reducing the Federal debt.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9511. Deficit Reduction Trust Fund.".

# TITLE IV—JOB CREATION

**SEC. 4001. SENSE OF CONGRESS.**

(a) FINDINGS.—Congress finds the following:

(1) A comprehensive energy policy would enhance the national security of the United States in two ways, by reducing our dependency on foreign sources of fuel and by simultaneously creating tens of millions of jobs over the next few decades.

(2) Opening the full outer Continental Shelf to energy production would create 36 million jobs over the next 30 years.

(3) Despite its distance from the continental United States, the opening of just 2,000 acres of land in the Arctic Coastal plain of Alaska is enough to supply up to an additional million jobs throughout the Nation. Millions more jobs will be created in sectors of the economy that make our traditional sources of energy more efficient and clean.

(4) Despite the progress being made in the development of new and renewable energy sources and technologies, for the foreseeable future, there are no viable substitutes for the widely available, affordable

petroleum resources located within the United States.

(5) While support must be given to continue to encourage the development of alternative energy sources, Congress must embrace a comprehensive energy policy that understands fossil fuels will continue to play a significant role in our energy policy for at least several more generations.

(6) By doing so, the United States will embrace a realistic plan to reduce our dependency on foreign sources of energy and ensure our economic security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a comprehensive energy policy that promotes conservation, production, and innovation will consequently lead to massive long-term job creation.

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