102D CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
102–1018

ENERGY POLICY ACT OF 1992

CONFERENCE REPORT

TO ACCOMPANY

H.R. 776

OCTOBER 5, 1992.—Ordered to be printed

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Mr. DINGELL, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 776]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 776), to provide for improved energy efficiency, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Energy Policy Act of 1992".

(b) TABLE OF CONTENTS.—

SEC. 2. DEFINITION.

For purposes of this Act, the term "Secretary" means the Secretary of Energy.

TITLE I—ENERGY EFFICIENCY

Subtitle A—Buildings

SEC. 101. BUILDING ENERGY EFFICIENCY STANDARDS.

(a) IN GENERAL.—Title III of the Energy Conservation and Production Act (42 U.S.C. 6831 et seq.) is amended—

(1) in section 303—

(A) by striking paragraph (9);

(B) by redesignating paragraphs (10), (11), (12), and (13) as paragraphs (9), (10), (11), and (12), respectively; and

(C) by adding at the end the following new paragraphs—

"(13) The term 'Federal building energy standards' means energy consumption objectives to be met without specification of the methods, materials, or equipment to be employed in achieving those objectives, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term 'voluntary building energy code' means a building energy code developed and updated through a consensus process among interested persons, such as that used by the Council of American Building Officials; the American Society

of Heating, Refrigerating, and Air-Conditioning Engineers; or other appropriate organizations.

"(15) The term 'CABO' means the Council of American Building Officials.

"(16) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers."; and

(2) by striking sections 304, 306, 308, 309, 310, and 311 and inserting the following:

"SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

"(a) CONSIDERATION AND DETERMINATION RESPECTING RESIDENTIAL BUILDING ENERGY CODES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed CABO Model Energy Code, 1992.

"(2) The determination referred to in paragraph (1) shall be—

"(A) made after public notice and hearing;

"(B) in writing;

"(C) based upon findings included in such determination and upon the evidence presented at the hearing; and

"(D) available to the public.

"(3) Each State may, to the extent consistent with otherwise applicable State law, revise the provisions of its residential building code regarding energy efficiency to meet or exceed CABO Model Energy Code, 1992, or may decline to make such revisions.

"(4) If a State makes a determination under paragraph (1) that it is not appropriate for such State to revise its residential building code, such State shall submit to the Secretary, in writing, the reasons for such determination, and such statement shall be available to the public.

"(5)(A) Whenever CABO Model Energy Code, 1992, (or any successor of such code) is revised, the Secretary shall, not later than 12 months after such revision, determine whether such revision would improve energy efficiency in residential buildings. The Secretary shall publish notice of such determination in the Federal Register.

"(B) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised code for which the Secretary made such determination.

"(C) Paragraphs (2), (3), and (4) shall apply to any determination made under subparagraph (B).

"(b) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency. Such certification

shall include a demonstration that such State's code provisions meet or exceed the requirements of ASHRAE Standard 90.1–1989.

"(2)(A) Whenever the provisions of ASHRAE Standard 90.1–1989 (or any successor standard) regarding energy efficiency in commercial buildings are revised, the Secretary shall, not later than 12 months after the date of such revision, determine whether such revision will improve energy efficiency in commercial buildings. The Secretary shall publish a notice of such determination in the Federal Register.

"(B)(i) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency in accordance with the revised standard for which such determination was made. Such certification shall include a demonstration that the provisions of such State's commercial building code regarding energy efficiency meet or exceed such revised standard.

"(ii) If the Secretary makes a determination under subparagraph (A) that such revised standard will not improve energy efficiency in commercial buildings, State commercial building code provisions regarding energy efficiency shall meet or exceed ASHRAE Standard 90.1–1989, or if such standard has been revised, the last revised standard for which the Secretary has made an affirmative determination under subparagraph (A).

"(c) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (a) and (b) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

"(e) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"SEC. 305. FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.

"(a)(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with appropriate Federal agencies, CABO, ASHRAE, the National Association of Home Builders, the Illuminating Engineering Society, the American Institute of Architects, the National Con-

ference of the States on Building Codes and Standards, and other appropriate persons, shall establish, by rule, Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. Such standards shall become effective no later than 1 year after such rule is issued.

"(2) The standards established under paragraph (1) shall—

"(A) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1-1989 (in the case of commercial buildings);

"(B) to the extent practicable, use the same format as the appropriate voluntary building energy code; and

"(C) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures with regard to radon and other indoor air pollutants.

"(b) REPORT ON COMPARATIVE STANDARDS.—The Secretary shall identify and describe, in the report required under section 308, the basis for any substantive difference between the Federal building energy standards established under this section (including differences in treatment of energy efficiency and renewable energy) and the appropriate voluntary building energy code.

"(c) PERIODIC REVIEW.—The Secretary shall periodically, but not less than once every 5 years, review the Federal building energy standards established under this section and shall, if significant energy savings would result, upgrade such standards to include all new energy efficiency and renewable energy measures that are technologically feasible and economically justified.

"(d) INTERIM STANDARDS.—Interim energy performance standards for new Federal buildings issued by the Secretary under this title as it existed before the date of the enactment of the Energy Policy Act of 1992 shall remain in effect until the standards established under subsection (a) become effective.

"SEC. 306. FEDERAL COMPLIANCE.

"(a) PROCEDURES.—(1) The head of each Federal agency shall adopt procedures necessary to assure that new Federal buildings meet or exceed the Federal building energy standards established under section 305.

"(2) The Federal building energy standards established under section 305 shall apply to new buildings under the jurisdiction of the Architect of the Capitol. The Architect shall adopt procedures necessary to assure that such buildings meet or exceed such standards.

"(b) CONSTRUCTION OF NEW BUILDINGS.—The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the appropriate Federal building energy standards established under section 305.

"SEC. 307. SUPPORT FOR VOLUNTARY BUILDING ENERGY CODES.

"(a) IN GENERAL.—Not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with the Secretary of Housing and Urban Development, the

Secretary of Veterans Affairs, other appropriate Federal agencies, CABO, ASHRAE, the National Conference of States on Building Codes and Standards, and any other appropriate building codes and standards organization, shall support the upgrading of voluntary building energy codes for new residential and commercial buildings. Such support shall include—

"(1) a compilation of data and other information regarding building energy efficiency standards and codes in the possession of the Federal Government, State and local governments, and industry organizations;

"(2) assistance in improving the technical basis for such standards and codes;

"(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in such standards and codes; and

"(4) assistance in identifying appropriate measures with regard to radon and other indoor air pollutants.

"(b) REVIEW.—The Secretary shall periodically review the technical and economic basis of voluntary building energy codes and, based upon ongoing research activities—

"(1) recommend amendments to such codes including measures with regard to radon and other indoor air pollutants;

"(2) seek adoption of all technologically feasible and economically justified energy efficiency measures; and

"(3) otherwise participate in any industry process for review and modification of such codes.

"SEC. 308. REPORTS.

"The Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, and other appropriate Federal agencies, shall report annually to the Congress on activities conducted pursuant to this title. Such report shall include—

"(1) recommendations made under section 307(b) regarding the prevailing voluntary building energy codes;

"(2) a State-by-State summary of actions taken under this title; and

"(3) recommendations to the Congress with respect to opportunities to further promote building energy efficiency and otherwise carry out the purposes of this title.".

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by striking the items relating to sections 304, 306, 308, 309, 310 and 311, and inserting in lieu thereof the following—

"Sec. 304. Updating State building energy efficiency codes.
"Sec. 305. Federal building energy efficiency standards.
"Sec. 306. Federal compliance.
"Sec. 307. Support for voluntary building energy codes.
"Sec. 308. Reports.".

(c) FEDERAL MORTGAGE REQUIREMENTS.—

(1) AMENDMENT TO CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended to read as follows:

"SEC. 109. ENERGY EFFICIENCY STANDARDS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, jointly establish, by rule, energy efficiency standards for—

"(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act; and

"(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949.

"(2) CONTENTS.—Such standards shall meet or exceed the requirements of the Council of American Building Officials Model Energy Code, 1992 (hereafter in this section referred to as 'CABO Model Energy Code, 1992'), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-1989 (hereafter in this section referred to as 'ASHRAE Standard 90.1-1989'), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

"(b) MODEL ENERGY CODE.—If the Secretaries have not, within 1 year after the date of the enactment of the Energy Policy Act of 1992, established energy efficiency standards under subsection (a), all new construction of housing specified in such subsection shall meet the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1-1989.

"(c) REVISIONS OF MODEL ENERGY CODE.—If the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, ASHRAE Standard 90.1-1989, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.".

(2) AMENDMENT TO TITLE 38, UNITED STATES CODE.—Section 3704 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) A loan for the purchase or construction of new residential property, the construction of which began after the energy efficiency standards under section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709), as amended by section 101(c) of the Energy Policy Act of 1992, take effect, may not be financed

through the assistance of this chapter unless the new residential property is constructed in compliance with such standards.".

SEC. 102. RESIDENTIAL ENERGY EFFICIENCY RATINGS.

(a) RATINGS.—Title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by adding at the end the following new part:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) IN GENERAL.—Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, representatives of existing home energy rating programs, and other appropriate persons, shall, by rule, issue voluntary guidelines that may be used by State and local governments, utilities, builders, real estate agents, lenders, agencies in mortgage markets, and others, to enable and encourage the assignment of energy efficiency ratings to residential buildings.

"(b) CONTENTS OF GUIDELINES.—The voluntary guidelines issued under subsection (a) shall—

"(1) encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings;

"(2) establish protocols and procedures for—

"(A) certification of the technical accuracy of building energy analysis tools used to determine energy efficiency ratings;

"(B) training of personnel conducting energy efficiency ratings;

"(C) data collection and reporting;

"(D) quality control; and

"(E) monitoring and evaluation;

"(3) encourage consistency with, and support for, the uniform plan for Federal energy efficient mortgages, including that developed under section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) and pursuant to sections 105 and 106 of the Energy Policy Act of 1992;

"(4) provide that rating systems take into account local climate conditions and construction practices, solar energy collected on-site, and the benefits of peak load shifting construction practices, and not discriminate among fuel types; and

"(5) establish procedures to ensure that residential buildings can receive an energy efficiency rating at the time of sale and that such rating is communicated to potential buyers.

"SEC. 272. TECHNICAL ASSISTANCE.

"Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of and use of residential energy efficiency rating systems consistent with the voluntary guidelines issued under section 271.

"SEC. 273. REPORT.

"Not later than 3 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall transmit to the President and the Congress a final report containing—

"(1) a description of actions taken by the Secretary and other Federal agencies to implement this part;

"(2) a description of the action taken by States, local governments, and other organizations to implement the voluntary guidelines issued under section 271 and any problems encountered in implementing such guidelines; and

"(3) recommendations on the feasibility of requiring, as a prerequisite to receiving federally assisted, guaranteed, or insured mortgages, the achievement of a minimum energy efficiency rating.".

(b) CONFORMING AMENDMENT.—The table of contents for such Act is amended by adding at the end of title II the following:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Voluntary rating guidelines.
"Sec. 272. Technical assistance.
"Sec. 273. Report.".

SEC. 103. ENERGY EFFICIENT LIGHTING AND BUILDING CENTERS.

(a) PURPOSE.—The purpose of this section is to encourage energy efficiency in buildings through the establishment of regional centers to promote energy efficient lighting, heating and cooling, and building design.

(b) GRANTS FOR ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall make grants to nonprofit institutions, or to consortiums that may include nonprofit institutions, State and local governments, universities, and utilities, to establish or enhance one regional building energy efficiency center (hereafter in this section referred to as a "regional center") in each of the 10 regions served by a Department of Energy regional support office.

(c) PERMITTED ACTIVITIES.—Each regional center established under this section may—

(1) provide information, training, and technical assistance to building professionals such as architects, designers, engineers, contractors, and building code officials, on building energy efficiency methods and technologies, including lighting, heating and cooling, and passive solar;

(2) operate an outreach program to inform such building professionals of the benefits and opportunities of energy efficiency, and of the services of the center;

(3) provide displays demonstrating building energy efficiency methods and technologies, such as lighting, windows, and heating and cooling equipment;

(4) coordinate its activities and programs with other institutions within the region, such as State and local governments, utilities, and educational institutions, in order to support their efforts to promote building energy efficiency;

(5) serve as a clearinghouse to ensure that information about new building energy efficiency technologies, including

case studies of successful applications, is disseminated to end-users in the region;

(6) study the building energy needs of the region and make available region-specific energy efficiency information to facilitate the adoption of cost-effective energy efficiency improvements;

(7) assist educational institutions in establishing building energy efficiency engineering and technical programs and curricula; and

(8) evaluate the performance of the center in promoting building energy efficiency.

(d) APPLICATION.—Any nonprofit institution or consortium interested in receiving a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. A lighting or building energy center in existence on the date of the enactment of this section which is owned and operated by a nonprofit institution or a consortium as described in subsection (b) shall be eligible for a grant under this section.

(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(1) The capability of the grant recipient to establish a board of directors for the regional center composed of representatives from utilities, State and local governments, building trade and professional organizations, manufacturers, and nonprofit energy and environmental organizations.

(2) The demonstrated or potential resources available to the grant recipient for carrying out this subsection.

(3) The demonstrated or potential ability of the grant recipient to promote building energy efficiency by carrying out the activities specified in subsection (c).

(4) The activities which the grant recipient proposes to carry out under the grant.

(f) REQUIREMENT OF MATCHING FUNDS.—

(1) FEDERAL SHARE.—The Federal share of a grant under this section shall be no more than 50 percent of the costs of establishing, and no more than 25 percent of the cost of operating the regional center.

(2) NON-FEDERAL CONTRIBUTIONS.—No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will provide the necessary non-Federal contributions. Such non-Federal contributions may be provided by utilities, State and local governments, nonprofit institutions, foundations, corporations, and other non-Federal entities.

(g) TASK FORCE.—The Secretary shall establish a task force to—

(1) advise the Secretary on activities to be carried out by grant recipients;

(2) review and evaluate programs carried out by grant recipients; and

(3) make recommendations regarding the building energy efficiency center grant program.

(h) MEMBERSHIP TERMS AND ADMINISTRATION OF TASK FORCE.—

(1) IN GENERAL.—The task force shall be composed of approximately 20 members, appointed by the Secretary, with expertise in the area of building energy efficiency, including representatives from—

(A) State or local energy offices;

(B) utilities;

(C) building construction trade or professional associations;

(D) architecture, engineering or professional associations;

(E) building component or equipment manufacturers;

(F) from national laboratories;

(G) building code officials or professional associations; and

(H) nonprofit energy or environmental organizations.

(2) GEOGRAPHIC REPRESENTATION.—The Secretary shall ensure that there is broad geographical representation among task force members.

(3) TERMS.—Members shall be appointed for a term of 3 years. A vacancy in the task force shall be filled in the manner in which the original appointment was made.

(4) PAY.—Members shall serve without pay. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRPERSON.—The Chairperson and Vice Chairperson of the task force shall be elected by the members.

(6) MEETINGS.—The task force shall meet biannually and at the call of the Chairperson.

(7) INAPPLICABILITY OF TERMINATION DATE.—Section 14 of the Federal Advisory Committee Act shall not apply to the task force.

(i) REPORT.—The Secretary shall transmit annually to the Congress a report on the activities of regional centers established under this section, including the degree to which matching funds are being leveraged from private sources to establish and operate such centers.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1994, 1995, and 1996.

SEC. 104. MANUFACTURED HOUSING ENERGY EFFICIENCY.

(a) AMENDMENTS TO CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 943(d)(1) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 109 Stat. 4413) is amended—

(1) in subparagraph (D), by striking "thermal insulation, energy efficiency";

(2) by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (F), (G), (H), and (I), respectively; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy effciency applicable to manufactured housing;".

(b) DUTIES OF THE SECRETARY.—The Secretary of Housing and Urban Development shall assess the energy performance of manufactured housing and make recommendations to the National Commission on Manufactured Housing established under section 943 of the Cranston-Gonzalez National Affordable Housing Act regarding any thermal insulation and energy efficiency improvements applicable to manufactured housing which are technologically feasible and economically justified. The Secretary shall also test the performance and determine the cost effectiveness of manufactured housing constructed in compliance with the standards established under such section.

(c) EXCEPTION TO FEDERAL PREEMPTION.—If the Secretary of Housing and Urban Development has not issued, within 1 year after the date of the enactment of this Act, final regulations pursuant to section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) that establish thermal insulation and energy efficiency standards for manufactured housing that take effect before January 1, 1995, then States may establish thermal insulation and energy efficiency standards for manufactured housing if such standards are at least as stringent as thermal performance standards for manufactured housing contained in the Second Public Review Draft of BSR/ASHRAE 90.2P entitled "Energy Efficient Design of Low-Rise Residential Buildings" and all public reviews of Independent Substantive Changes to such document that have been approved on or before the date of the enactment of this Act.

SEC. 105. ENERGY EFFICIENT MORTGAGES.

(a) DEFINITION OF ENERGY EFFICIENT MORTGAGE.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended by adding at the end the following new paragraph:

"(24) The term 'energy efficient mortgage' means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.".

(b) UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.—Section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is amended—

(1) in subsection (a), by striking "mortgage financing incentives for energy efficiency" and inserting "energy efficient mortgages (as such term is defined in section 104 of this Act)"; and

(2) in subsection (b)—

(A) in the second sentence, by inserting ", but not be limited to," after "include"; and

(B) by inserting after the period at the end of the following new sentence: "The Task Force shall determine

whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.".

SEC. 106. ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) ORIGINATION.—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COST OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

(i) 5 percent of the property value (not to exceed $8,000); or

(ii) $4,000.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

(b) EXPANSION OF PROGRAM.—Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable, in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

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

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or im-

provements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(d) RULE OF CONSTRUCTION.—This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

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

Subtitle B—Utilities

SEC. 111. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY BY ELECTRIC UTILITIES.

(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (P.L. 95-617; 92 Stat. 3117; 16 U.S.C. 2601 and following) is amended by adding the following at the end of section 111(d):

"(7) INTEGRATED RESOURCE PLANNING.—Each electric utility shall employ integrated resource planning. All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

"(8) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

"(9) ENERGY EFFICIENCY INVESTMENTS IN POWER GENERATION AND SUPPLY.—The rates charged by any electric utility shall be such that the utility is encouraged to make investments

in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission and distribution. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall consider the disincentives caused by existing ratemaking policies, and practices, and consider incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution equipment.".

(b) PROTECTION FOR SMALL BUSINESS.—The Public Utility Regulatory Policies Act of 1978 (P.L. 95-617; 92 Stat. 3117; 16 U.S.C. 2601 and following) is amended by inserting the following new paragraph at the end of subsection 111(c):

"(3) If a State regulatory authority implements a standard established by subsection (d)(7) or (8), such authority shall—

"(A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and

"(B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) EFFECTIVE DATE.—Section 112(b) of such Act is amended by inserting "(or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (7), (8), and (9) of section 111(d)" after "Act" in both places such word appears in paragraphs (1) and (2).

(d) DEFINITIONS.—Section 3 of such Act is amended by adding the following new paragraphs at the end thereof:

"(19) The term 'integrated resource planning' means, in the case of an electric utility, a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(20) The term 'system cost' means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, distribution, transportation, utilization, waste management, and environmental compliance.

"(21) The term 'demand side management' includes load management techniques.".

(e) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (7), (8), and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978;

(2) an evaluation by the Secretary of whether and to what extent, integrated resource planning is likely to result in—

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) a survey of practices and policies under which electric cooperatives prepare integrated resource plans, submit such plans to the Rural Electrification Administration and the extent to which such integrated resource planning is reflected in rates charged to customers.

The report shall include an analysis prepared in conjunction with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts exist, or are likely to exist, from implementation of such programs.

SEC. 112. ENERGY EFFICIENCY GRANTS TO STATE REGULATORY AUTHORITIES.

(a) ENERGY EFFICIENCY GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $250,000 per authority, for purposes of encouraging demand-side management including energy conservation, energy efficiency and load management techniques and for meeting the requirements of paragraphs (7), (8), and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 and as a means of meeting gas supply needs and to meet the requirements of paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978. Such grants may be utilized by a State regulatory authority to provide financial assistance to nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in order to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine energy conservation, energy efficiency, or other demand-side management programs.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c) SECRETARIAL ACTION.—(1) In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory au-

thority to achieve the purposes of this section and to consider implementation of the ratemaking standards established in—

(A) paragraphs (7), (8) and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978; or

(B) paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978.

(2) Such actions—

(A) shall include procedures to facilitate the participation of grantees and nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authorities examining demand-side management programs; and

(B) shall provide for coverage of the cost of such grantee and subgrantees' participation in such proceedings.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) DEFINITION.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as provided by section 3 of the Public Utility Regulatory Policies Act of 1978 in the case of electric utilities, and such term shall have the same meaning as provided by section 302 of the Public Utility Regulatory Policies Act of 1978 in the case of gas utilities, except that in the case of any State without a statewide ratemaking authority, such term shall mean the State energy office.

(g) AUTHORIZATION.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1994, 1995 and 1996 to carry out the purposes of this section.

SEC. 113. TENNESSEE VALLEY AUTHORITY LEAST-COST PLANNING PROGRAM.

(a) IN GENERAL.—The Tennessee Valley Authority shall conduct a least-cost planning program in accordance with this section.

(b) CONDUCT OF PROGRAM.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall employ and implement a planning and selection process for new energy resources which evaluates the full range of existing and incremental resources (including new power supplies, energy conservation and efficiency, and renewable energy resources) in order to provide adequate and reliable service to electric customers of the Tennessee Valley Authority at the lowest system cost.

(2) PLANNING AND SELECTION PROCESS.—The planning and selection process referred to in paragraph (1) shall—

(A) take into account necessary features for system operation, including diversity, reliability, dispatchability, and other factors of risk;

(B) take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and

(C) treat demand and supply resources on a consistent and integrated basis.

(3) SYSTEM COST DEFINED.—As used in paragraph (1), the term "system cost" means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) PARTICIPATION BY DISTRIBUTORS.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall—

(A) provide an opportunity for distributors of the Tennessee Valley Authority to recommend cost-effective energy efficiency opportunities, rate structure incentives, and renewable energy proposals for inclusion in such program; and

(B) encourage and assist such distributors in the planning and implementation of cost-effective energy efficiency options.

(2) ASSISTANCE.—The Tennessee Valley Authority shall provide appropriate assistance to distributors under paragraph (1)(B). Such assistance shall, where cost effective, be provided by the Tennessee Valley Authority acting through, or in cooperation with, an association of distributors. Such assistance may include publications, workshops, conferences, one-on-one assistance, financial assistance, equipment loans, technology assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers.

(d) PUBLIC REVIEW AND COMMENT.—Before the selection and addition of a major new energy resource on the Tennessee Valley Authority system, the Tennessee Valley Authority shall provide an opportunity for public review and comment and shall include a description of any such action in an annual report to the President and Congress.

(e) EXEMPTION FROM CERTAIN REQUIREMENTS.—The Tennessee Valley Authority shall not be subject to the least-cost planning requirements contained in section 111(d) of the Public Utility Regulatory Policies Act of 1978 or any similar requirement which might arise out of the Tennessee Valley Authority's electric power transactions with the Southeastern Power Administration.

SEC. 114. AMENDMENT OF HOOVER POWER PLANT ACT.

Title II of the Hoover Power Plant Act of 1984 (42 U.S.C. 7275-7276, Public Law 98-381) is amended to read as follows:

"TITLE II—INTEGRATED RESOURCE PLANNING

"SEC. 201. DEFINITIONS.

"As used in this title:

"(1) The term 'Administrator' means the Administrator of the Western Area Power Administration.

"(2) The term 'integrated resource planning' means a planning process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(3) The term 'least cost option' means an option for providing reliable electric services to electric customers which will, to the extent practicable, minimize life-cycle system costs, including adverse environmental effects, of providing such service. To the extent practicable, energy efficiency and renewable resources may be given priority in any least-cost option.

"(4) The term 'long-term firm power service contract' means any contract for the sale by Western Area Power Administration of firm capacity, with or without energy, which is to be delivered over a period of more than one year.

"(5) The terms 'customer' or 'customers' means any entity or entities purchasing firm capacity with or without energy, from the Western Area Power Administration under a long-term firm power service contract. Such terms include parent-type entities and their distribution or user members.

"(6) For any customer, the term 'applicable integrated resource plan' means the integrated resource plan approved by the Administrator under this title for that customer.

"SEC. 202. REGULATIONS TO REQUIRE INTEGRATED RESOURCE PLANNING.

"(a) REGULATIONS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer purchasing electric energy under a long-term firm power service contract with the Western Area Power Administration to implement, within 3 years after the enactment of this section, integrated resource planning in accordance with the requirements of this title.

"(b) CERTAIN SMALL CUSTOMERS.—Notwithstanding subsection (a), for customers with total annual energy sales or usage of 25 Gigawatt Hours or less which are not members of a joint action agency or a generation and transmission cooperative with power supply responsibility, the Administrator may establish different regulations and apply such regulations to customers that the Administrator finds have limited economic, managerial, and resource capability to conduct integrated resource planning. The regulations

under this subsection shall require such customers to consider all reasonable opportunities to meet their future energy service requirements using demand-side techniques, new renewable resources and other programs that will provide retail customers with electricity at the lowest possible cost, and minimize, to the extent practicable, adverse environmental effects.

"SEC. 203. TECHNICAL ASSISTANCE.

"The Administrator may provide technical assistance to customers to, among other things, conduct integrated resource planning, implement applicable integrated resource plans, and otherwise comply with the requirements of this title. Technical assistance may include publications, workshops, conferences, one-to-one assistance, equipment loans, technology and resource assessment studies, marketing studies, and other mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers. The Administrator shall give priority to providing technical assistance to customers that have limited capability to conduct integrated resource planning.

"SEC. 204. INTEGRATED RESOURCE PLANS.

"(a) REVIEW BY WESTERN AREA POWER ADMINISTRATION.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to submit an integrated resource plan to the Administrator within 12 months after such regulations are amended. The regulation shall require a revision of such plan to be submitted every 5 years after the initial submission. The Administrator shall review the initial plan in accordance with a schedule established by the Administrator (which schedule will provide for the review of all initial plans within 24 months after such regulations are amended), and each revision thereof within 120 days after his receipt of the plan or revision and determine whether the customer has in the development of the plan or revision, complied with this title. Plan amendments may be submitted to the Administrator at any time and the Administrator shall review each such amendment within 120 days after receipt thereof to determine whether the customer in amending its plan has complied with this title. If the Administrator determines that the customer, in developing its plan, revision, or amendment, has not complied with the requirements of this title, the customer shall resubmit the plan at any time thereafter. Whenever a plan or revision or amendment is resubmitted the Administrator shall review the plan or revision or amendment within 120 days after his receipt thereof to determine whether the customer has complied with this title.

"(b) CRITERIA FOR APPROVAL OF INTEGRATED RESOURCE PLANS.—The Administrator shall approve an integrated resource plan submitted as required under subsection (a) if, in developing the plan, the customer has:

"(1) Identified and accurately compared all practicable energy efficiency and energy supply resource options available to the customer.

"(2) Included a 2-year action plan and a 5-year action plan which describe specific actions the customer will take to implement its integrated resource plan.

"(3) Designated 'least-cost options' to be utilized by the customer for the purpose of providing reliable electric service to its retail consumers and explained the reasons why such options were selected.

"(4) To the extent practicable, minimized adverse environmental effects of new resource acquisitions.

"(5) In preparation and development of the plan (and each revision or amendment of the plan) has provided for full public participation, including participation by governing boards.

"(6) Included load forecasting.

"(7) Provided methods of validating predicted performance in order to determine whether objectives in the plan are being met.

"(8) Met such other criteria as the Administrator shall require.

"(c) USE OF OTHER INTEGRATED RESOURCE PLANS.—Where a customer or group of customers are implementing integrated resource planning under a program responding to Federal, State, or other initiatives, including integrated resource planning considered and implemented pursuant to section 111(d) of the Public Utility Regulatory Policies Act of 1978, in evaluating that customer's integrated resource plan under this title, the Administrator shall accept such plan as fulfillment of the requirements of this title to the extent such plan substantially complies with the requirements of this title.

"(d) COMPLIANCE WITH INTEGRATED RESOURCE PLANS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to fully comply with the applicable integrated resource plan and submit an annual report to the Administrator (in such form and containing such information as the Administrator may require) describing the customer's progress to the goals established in such plan. After the initial review under subsection (a) the Administrator shall periodically conduct reviews of a representative sample of applicable integrated resource plans and the customer's implementation of the applicable integrated resource plan to determine if the customers are in compliance with their plans. If the Administrator finds a customer out-of-compliance, the Administrator shall impose a surcharge under this section on all electric energy purchased by the customer from the Western Area Power Administration or reduce such customer's power allocation by 10 percent, unless the Administrator finds that a good faith effort has been made to comply with the approved plan.

"(e) ENFORCEMENT.—

"(1) NO APPROVED PLAN.—If an integrated resource plan for any customer is not submitted before the date 12 months after the guidelines are amended as required under this section or if the plan is disapproved by the Administrator and a revised

plan is not resubmitted by the date 9 months after the date of such disapproval, the Administrator shall impose a surcharge of 10 percent of the purchase price on all power obtained by that customer from the Western Area Power Administration after such date. The surcharge shall remain in effect until an integrated resource plan is approved for that customer. If the plan is not submitted for more than one year after the required date, the surcharge shall increase to 20 percent for the second year (or any portion thereof prior to approval of the plan) and to 30 percent thereafter until the plan is submitted or the contract for the purchase of power by such customer from the Western Area Power Administration terminates.

"(2) FAILURE TO COMPLY WITH APPROVED PLAN.—After approval by the Administrator of an applicable integrated resource plan for any customer, the Administrator shall impose a 10 percent surcharge on all power purchased by such customer from the Western Area Power Administration whenever the Administrator determines that such customer's activities are not consistent with the applicable integrated resource plan. The surcharge shall remain in effect until the Administrator determines that the customer's activities are consistent with the applicable integrated resource plan. The surcharge shall be increased to 20 percent if the customer's activities are out of compliance for more than one year and to 30 percent after more than 2 years, except that no surcharge shall be imposed if the customer demonstrates, to the satisfaction of the Administrator, that a good faith effort has been made to comply with the approved plan.

"(3) REDUCTION IN POWER ALLOCATION.—In the case of any customer subject to a surcharge under paragraph (1) or (2), in lieu of imposing such surcharge the Administrator may reduce such customer's power allocation from the Western Area Power Administration by 10 percent. The Administrator shall provide by regulation the terms and conditions under which a power allocation terminated under this subsection may be reinstated.

"(f) INTEGRATED RESOURCE PLANNING COOPERATIVES.—With the approval of the Administrator, customers within any State or region may form integrated resource planning cooperatives for the purposes of complying with this title, and such customers shall be allowed an additional 6 months to submit an initial integrated resource plan to the Administrator.

"(g) CUSTOMERS WITH MORE THAN 1 CONTRACT.—If more than one long-term firm power service contract exists between the Administrator and a customer, only one integrated resource plan shall be required for that customer under this title.

"(h) PROGRAM REVIEW.—Within 1 year after January 1, 1999, and at appropriate intervals thereafter, the Administrator shall initiate a public process to review the program established by this section. The Administrator is authorized at that time to revise the criteria set forth in section 204(b) to reflect changes, if any, in technology, needs, or other developments.

"SEC. 205. MISCELLANEOUS PROVISIONS.

"(a) ENVIRONMENTAL IMPACT STATEMENT.—The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Administrator implementing this title in the same manner and to the same extent as such provisions apply to other major Federal actions significantly affecting the quality of the human environment.

"(b) ANNUAL REPORTS.—The Administrator shall include in the annual report submitted by the Western Area Power Administration (1) a description of the activities undertaken by the Administrator and by customers under this title and (2) an estimate of the energy savings and renewable resource benefits achieved as a result of such activities.

"(c) STATE REGULATED INVESTOR-OWNED UTILITIES.—Any State regulated electric utility (as defined in section 3(18) of the Public Utility Regulatory Policies Act of 1978) shall be exempt from the provisions of this title.

"(d) RURAL ELECTRIFICATION ADMINISTRATION REQUIREMENTS.—Nothing in this title shall require a customer to take any action inconsistent with a requirement imposed by the Rural Electrification Administration".

SEC. 115. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY BY GAS UTILITIES.

(a) DEFINITIONS.—Section 302 of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3202) is amended by adding the following at the end thereof:

"(9) The term 'integrated resource planning' means, in the case of a gas utility, planning by the use of any standard, regulation, practice, or policy to undertake a systematic comparison between demand-side management measures and the supply of gas by a gas utility to minimize life-cycle costs of adequate and reliable utility services to gas consumers. Integrated resource planning shall take into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk and shall treat demand and supply to gas consumers on a consistent and integrated basis.

"(10) The term 'demand-side management' includes energy conservation, energy efficiency, and load management techniques.".

(b) IN GENERAL.—Section 303(b) of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3202) is amended by inserting at the end the following new paragraphs:

"(3) INTEGRATED RESOURCE PLANNING.—Each gas utility shall employ, in order to provide adequate and reliable service to its gas customers at the lowest system cost. All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority. Subsection (c) shall not apply to this paragraph to the extent that it could be construed to require the

State regulatory authority to extend the record of a State proceeding in submitting reports to the Federal Government.

"(4) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates charged by any State regulated gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other demand-side management measures which are consistent with the findings and purposes of the Energy Policy Act of 1992 are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities. This objective requires that (A) regulators link the utility's net revenues, at least in part, to the utility's performance in implementing cost-effective programs promoted by this section; and (B) regulators ensure that, for purposes of recovering fixed costs, including its authorized return, the utility's performance is not affected by reductions in its retail sales volumes.".

(c) IMPACT ON SMALL BUSINESS.—Section 303 of such Act is amended by inserting the following new subsection at the end thereof:

"(d) SMALL BUSINESS IMPACTS.—If a State regulatory authority implements a standard established by subsection (b) (3) or (4), such authority shall—

"(1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand-side management measures, and

"(2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(d) EFFECTIVE DATE.—Section 303(a) of such Act is amended by inserting "(or after the enactment of the Energy Policy Act of 1992 in the case of standards under paragraphs (3), and (4) of subsection (b))" after "Act" and by striking out "standard established by subsection (b)(2)" in paragraph (2) and inserting "standards established by paragraphs (2), (3) and (4) of subsection (b)".

(e) REPORT.—The report under section 111(e) of this Act transmitted by the Secretary of Energy to the President and to the Congress shall contain a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978. The report shall include an analysis, prepared in conjunction, with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by gas utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand-side management measures and whether any unfair, deceptive, or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

Subtitle C—Appliance and Equipment Energy Efficiency Standards

SEC. 121. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial assistance to support a voluntary national window rating program that will develop energy ratings and labels for windows and window systems.

(2) Such rating program shall include—

(A) specifications for testing procedures and labels that will enable window buyers to make more informed purchasing decisions about the energy efficiency of windows and window systems; and

(B) information (which may be disseminated through catalogs, trade publications, labels, or other mechanisms) that will allow window buyers to assess the energy consumption and potential cost savings of alternative window products.

(3) Such rating program shall be developed by the National Fenestration Rating Council according to commonly accepted procedures for the development of national testing procedures and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts of the National Fenestration Rating Council and, not later than one year after the date of the enactment of this Act, make a determination as to whether the program developed by the Council is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national window rating program consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for windows and window systems.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those windows and window systems for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of window or window system (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 122. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (G); and

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

"(B) Small commercial package air conditioning and heating equipment.

"(C) Large commercial package air conditioning and heating equipment.

"(D) Packaged terminal air-conditioners and packaged terminal heat pumps.

"(E) Warm air furnaces and packaged boilers.

"(F) Storage water heaters, instantaneous water heaters, and unfired hot water storage tanks."; and

(2) in paragraph (2)(B)—

(A) by striking out "pumps)" and inserting in lieu thereof "pumps, small and large commercial package air conditioning and heating equipment, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks)"; and

(B) by striking out clauses (v) and (xi) and redesignating clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) as clauses (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively; and

(3) by adding at the end the following:

"(8) The term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity).

"(9) The term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(10)(A) The term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventila-

tion, and heating availability by builder's choice of hot water, steam, or electricity.

"(B) The term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heat source available to builders with the choice of hot water, steam, or electric resistant heat.

"(11)(A) The term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces.

"(B) The term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.

"(12)(A) The term 'storage water heater' means a water heater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. Such term does not include units with an input rating of 4000 Btu per hour or more per gallon of stored water.

"(B) The term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water.

"(C) The term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(13)(A) The term 'electric motor' means any motor which is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Designs A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1–1987.

"(B) The term 'definite purpose motor' means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(C) The term 'special purpose motor' means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

"(D) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

"(E) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed airtight.

"(F) The term 'small electric motor' means a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1–1987.

"(G) The term 'efficiency' when used with respect to an electric motor means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(H) The term 'nominal full load efficiency' means the average efficiency of a population of motors of duplicate design as determined in accordance with NEMA Standards Publication MG1–1987.

"(14) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

"(15) The term 'IES' means the Illuminating Engineering Society of North America.

"(16) The term 'NEMA' means the National Electrical Manufacturers Association.

"(17) The term 'IEEE' means the Institute of Electrical and Electronics Engineers.

"(18) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—(1) Section 343(a) of such Act (42 U.S.C. 6314) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section."; and

(B) by adding at the end the following new paragraphs:

"(4)(A) With respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks to which standards are applicable under section 342, the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers, as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992.

"(B) If such an industry test procedure or rating procedure for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks is amended, the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

"(C) If the Secretary prescribes a rule containing such a determination, the rule may establish an amended test procedure for

such product that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 323(e).

"(5)(A) With respect to electric motors to which standards are applicable under section 342, the test procedures shall be the test procedures specified in NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency, as in effect on the date of the enactment of the Energy Policy Act of 1992.

"(B) If the test procedure requirements of NEMA Standards Publication MG-1987 and IEEE Standard 112 Test Method B for motor efficiency are amended, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such amended test procedure requirements unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

"(C) If the Secretary prescribes a rule containing such a determination, the rule may establish amended test procedures for such electric motors that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 323(e).".

(2) The second subsection designated as subsection (d) of section 343 of such Act (42 U.S.C. 6314(d)(1)) is amended in paragraph (1) in the material preceding subparagraph (A), by inserting after "180 days" the following: "(or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days)".

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended—

(1) in subsection (a), by striking out "may" and inserting in lieu thereof "shall";

(2) in subsection (c), by striking out "may" in the material preceding paragraph (1) and inserting in lieu thereof "shall";

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), (j), and (k), respectively; and

(4) by inserting after subsection (c), the following new subsections:

"(d) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for electric motors under section 343, the Secretary shall prescribe labeling rules under this section applicable to electric motors taking into consideration NEMA Standards Publication MG1-1987. Such rules shall provide that the labeling of any electric motor manufactured after the 12-month period beginning on the date the Secretary prescribes such labeling rules, shall—

"(1) indicate the energy efficiency of the motor on the permanent nameplate attached to such motor;

"(2) prominently display the energy efficiency of the motor in equipment catalogs and other material used to market the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for electric motors under section 342.

"(e) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks under section 343, the Secretary shall prescribe labeling rules under this section for such equipment. Such rules shall provide that the labeling of any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, and unfired hot water storage tank manufactured after the 12-month period beginning on the date the Secretary prescribes such rules shall—

"(1) indicate the energy efficiency of the equipment on the permanent nameplate attached to such equipment or other nearby permanent marking;

"(2) prominently display the energy efficiency of the equipment in new equipment catalogs used by the manufacturer to advertise the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for such equipment under section 342.".

(d) STANDARDS.—Section 342 of such Act is amended to read as follows:

"STANDARDS

"SEC. 342. (a) SMALL AND LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT, PACKAGED TERMINAL AIR CONDITIONERS AND HEAT PUMPS, WARM-AIR FURNACES, PACKAGED BOILERS, STORAGE WATER HEATERS, INSTANTANEOUS WATER HEATERS, AND UNFIRED HOT WATER STORAGE TANKS.—(1) Each small commercial package air conditioning and heating equipment manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0.

"(B) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7.

"(C) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps

at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees F db).

"(D) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8.

"(E) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6.

"(F) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db).

"(G) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

"(H) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water source and water-cooled equipment).

"(I) The minimum coefficient of performance in the heating mode of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water).

"(2) Each large commercial package air conditioning and heating equipment manufactured on or after January 1, 1995, shall meet the following standard levels:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db).

"(B) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9.

"(C) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360-86).

"(3) Each packaged terminal air conditioner and packaged terminal heat pump manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum energy efficiency ratio (EER) of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0 — (0.16 x Capacity [in thousands of Btu per hour at a standard rating of 95 degrees F db, outdoor temperature]). If a unit has a capacity of less than 7,000 Btu per hour, then 7,000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(B) The minimum coefficient of performance (COP) of packaged terminal heat pumps in the heating mode shall be 1.3 + (0.16 x the minimum cooling EER as specified in subparagraph (A)) (at a standard rating of 47 degrees F db).

"(4) Each warm air furnace and packaged boiler manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent.

"(B) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent.

"(C) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent.

"(D) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent.

"(5) Each storage water heater, instantaneous water heater, and unfired water storage tank manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]).

"(B) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(C) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(D) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent.

"(E) Except as provided in subparagraph (G), the minimum thermal efficiency of instantaneous water heaters with a storage

volume of 10 gallons or more shall be 77 percent. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/ Measured Storage Volume [in gallons]).

"(F) Except as provided in subparagraph (G), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area.

"(G) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (A) through (C) and subparagraphs (E) and (F) if the tank surface area is thermally insulated to R-12.5 and if a standing pilot light is not used.

"(6)(A) If ASHRAE/IES Standard 90.1, as in effect on the date of enactment of the Energy Policy Act of 1992, is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, the Secretary shall establish an amended uniform national standard for that product at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1, unless the Secretary determines, by rule published in the Federal Register and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than such amended ASHRAE/IES Standard 90.1 for such product would result in significant additional conservation of energy and is technologically feasible and economically justified.

"(B)(i) If the Secretary issues a rule containing such a determination, the rule shall establish such amended standard. In determining whether a standard is economically justified for the purposes of subparagraph (A), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

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

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

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

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

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

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

"(VII) other factors the Secretary considers relevant.

"(ii) The Secretary may not prescribe any amended standard under this paragraph which increases the maximum allowable

energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types or classes.

"(C) A standard amended by the Secretary under this paragraph shall become effective for products manufactured—

"(i) with respect to small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, on or after a date which is two years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A); and

"(ii) with respect to large commercial package air conditioning and heating equipment, on or after a date which is three years after the effective date of the applicable minimum energy efficiency requirement in the amended ASHRAE/IES standard referred to in subparagraph (A);

except that an energy conservation standard amended by the Secretary pursuant to a rule under subparagraph (B) shall become effective for products manufactured on or after a date which is four years after the date such rule is published in the Federal Register.

"(b) ELECTRIC MOTORS.—(1) Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (2), each electric motor manufactured (alone or as a component of another piece of equipment) after the 60-month period beginning on the date of the enactment of this subsection, or in the case of an electric motor which requires listing or certification by a nationally recognized safety testing laboratory, after the 84-month period beginning on such date, shall have a nominal full load efficiency of not less than the following:

"Number of poles	"Nominal Full-Load Efficiency					
	Open Motors			Closed Motors		
	6	4	2	6	4	2
Motor Horsepower						
1	80.0	82.5		80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	84.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2

"Number of poles	"Nominal Full-Load Efficiency					
	Open Motors			Closed Motors		
	6	4	2	6	4	2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary may, by rule, provide that the standards specified in paragraph (1) shall not apply to certain types or classes of electric motors if—

"(i) compliance with such standards would not result in significant energy savings because such motors cannot be used in most general purpose applications or are very unlikely to be used in most general purpose applications; and

"(ii) standards for such motors would not be technologically feasible or economically justified.

"(B) Not later than one year after the date of the enactment of this subsection, a manufacturer seeking an exemption under this paragraph with respect to a type or class of electric motor developed on or before the date of the enactment of such subsection shall submit a petition to the Secretary requesting such exemption. Such petition shall include evidence that the type or class of motor meets the criteria for exemption specified in subparagraph (A).

"(C) Not later than two years after the date of the enactment of this subsection, the Secretary shall rule on each petition for exemption submitted pursuant to subparagraph (B). In making such ruling, the Secretary shall afford an opportunity for public comment.

"(D) Manufacturers of types or classes of motors developed after the date of the enactment of this subsection to which standards under paragraph (1) would be applicable may petition the Secretary for exemptions from compliance with such standards based on the criteria specified in subparagraph (A).

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is five years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—(1) Section 345(a) of such Act (42 U.S.C. 6316(a)) is amended—

(A) in the material preceding paragraph (1)—

(i) by inserting after "to this part" the following: "(other than the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1))"; and

(ii) by striking out "and sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (s) of section 325, and sections 327";

(B) in paragraph (1)—

(i) by striking out "and 324" and inserting in lieu thereof ", 324, and 325"; and

(ii) by striking out "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(C) in paragraph (3), by striking out "and" at the end thereof;

(D) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(E) by adding after paragraph (4) the following new paragraphs:

"(5) section 327(a) shall be applied, in the case of electric motors, as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 1992;

"(6) section 327(b)(1) shall be applied as if electric motors were fluorescent lamp ballasts and as if the National Appliance Energy Conservation Amendments of 1988 were the Energy Policy Act of 1992;

"(7) section 327(b)(4) shall be applied as if electric motors were fluorescent lamp ballasts and as if paragraph (5) of section 325(g) were section 342; and

"(8) notwithstanding any other provision of law, a regulation or other requirement adopted by a State or subdivision of a State contained in a State or local building code for new construction concerning the energy efficiency or energy use of an electric motor covered under this part is not superseded by the standards for such electric motor established or prescribed under section 342(b) if such regulation or requirement is identical to the standards established or prescribed under such section.".

(2) Section 345 of such Act (42 U.S.C. 6316) is amended by adding at the end the following new subsections:

"(b)(1) The provisions of section 326(a), (b), and (d), section 327(a), and sections 328 through 336 shall apply with respect to the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1) to the same extent and in the same manner as they apply in part B. In applying such provisions for the purposes of such equipment, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

"(2)(A) A standard prescribed or established under section 342(a) shall, beginning on the effective date of such standard, super-

sede any State or local regulation concerning the energy efficiency or energy use of a product for which a standard is prescribed or established pursuant to such section.

"(B) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a standard for such a product contained in a State or local building code for new construction if—

"(i) the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1; and

"(ii) the standard in the building code does not take effect prior to the effective date of the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede the standards established by the State of California set forth in Table C-6, California Code of Regulations, Title 24, Part 2, Chapter 2-53, for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993.

"(D) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures, and other requirements specified in section 327(d) of this Act.

"(c) With respect to any electric motor to which standards are applicable under section 342(b), the Secretary shall require manufacturers to certify, through an independent testing or certification program nationally recognized in the United States, that such motor meets the applicable.".

(3) Section 345 of such Act (42 U.S.C. 6316) is amended by striking out the section heading and inserting in lieu thereof "ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION".

(f) TECHNICAL AMENDMENTS.—(1) Section 340(3) of such Act is amended by striking out "(3) the" and inserting in lieu thereof the following: "(3) The".

(2) Section 343 of such Act (42 U.S.C. 6314) is amended by redesignating the first subsection designated as subsection (d) as subsection (c).

(3) The table of contents of such Act is amended—

(A) by striking out the item relating to section 342 and inserting in lieu thereof the following new item:

"Sec. 342. Standards.";

and

(B) by striking the item for section 345 and inserting in lieu thereof the following new item:

"Sec. 345. Administration, penalties, enforcement, and preemption.".

SEC. 123. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN LAMPS AND PLUMBING PRODUCTS.

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

(1) in paragraph (6), by striking out "and" at the end;

(2) in paragraph (7), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to conserve water by improving the water efficiency of certain plumbing products and appliances.".

(b) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1) by striking out the subsection designation;

(2) in paragraph (1)—

(A) in subparagraph (A), by inserting before the semicolon the following: "or, with respect to showerheads, faucets, water closets, and urinals, water"; and

(B) in subparagraph (B), by striking out "ballasts" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals";

(3) in paragraph (6)—

(A) in subparagraph (A), by inserting ", or, in the case of showerheads, faucets, water closets, and urinals, water use," after "energy use"; and

(B) in subparagraph (B)—

(i) by striking out "and (14)" and inserting in lieu thereof "(15), (16), (17), and (19)"; and

(ii) by striking out "325(o)" and inserting in lieu thereof "325(r)";

(4) in paragraph (7), by inserting after "to be consumed annually" the following: ", and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost of water and wastewater treatment services likely to be incurred annually,"; and

(5) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 (R1984) and related supplement ANSI C78.3a–1985.

"(B) The term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but does not include any lamp designed and marketed for the following nongeneral lighting applications:

"(i) Fluorescent lamps designed to promote plant growth.

"(ii) Fluorescent lamps specifically designed for cold temperature installations.

"(iii) Colored fluorescent lamps.

"(iv) Impact-resistant fluorescent lamps.

"(v) Reflectorized or aperture lamps.

"(vi) Fluorescent lamps designed for use in reprographic equipment.

"(vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.

"(viii) Lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding ER or BR) with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceed 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts.

"(iii) Any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) The term 'general service incandescent lamp' means any incandescent lamp (other than a miniature or photographic lamp) that has an E26 medium screw base, a rated voltage range at least partially within 115 and 130 volts, and which can be used to satisfy the majority of lighting applications, but does not include any lamps specifically designed for—

"(i) traffic signal, or street lighting service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The terms 'fluorescent lamp' and 'incandescent lamp' do not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'incandescent reflector lamp' means a lamp described in subparagraph (C)(ii).

"(G) The term 'average lamp efficacy' means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

"(H) The term 'base' means the portion of the lamp which connects with the socket as described in ANSI C81.61-1990.

"(I) The term 'bulb shape' means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1-1980 (R1984).

"(J) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(K) The term 'correlated color temperature' means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

"(L) The term 'IES' means the Illuminating Engineering Society of North America.

"(M) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(N) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(O) The term 'lamp wattage' means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test proce-

dure and including, for fluorescent, arc watts plus cathode watts.

"(P) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures described in the IES Lighting Handbook-Reference Volume.

"(Q) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(R) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(S) The term 'medium base compact fluorescent lamp' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp.

"(31)(A) The term 'water use' means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 323.

"(B) The term 'ASME' means the American Society of Mechanical Engineers.

"(C) The term 'ANSI' means the American National Standards Institute.

"(D) The term 'showerhead' means any showerhead (including a handheld showerhead), except a safety shower showerhead.

"(E) The term 'faucet' means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

"(F) The term 'water closet' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(G) The term 'urinal' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(H) The terms 'blowout', 'flushometer tank', 'low consumption', and 'flushometer valve' have the meaning given such terms in ASME A112.19.2M–1990.".

(c) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (19); and

(2) by inserting after paragraph (13) the following new paragraphs:

"(14) General service fluorescent lamps and incandescent reflector lamps.

"(15) Showerheads, except safety shower showerheads.

"(16) Faucets.

"(17) Water closets.

"(18) Urinals.".

(d) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by inserting after "energy use," the following "water use (in the case of showerheads, faucets, water closets and urinals),";

(B) in paragraph (4)—

(i) by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use" after "energy use";

(ii) by inserting after "such cycle" the following: ", or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle"; and

(iii) by inserting ", water, and wastewater treatment" before the period at the end of the second sentence; and

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

"(6) With respect to fluorescent lamps and incandescent reflector lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be carried out by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

"(7)(A) Test procedures for showerheads and faucets to which standards are applicable under subsection (j) of section 325 shall be the test procedures specified in ASME A112.18.1M–1989 for such products.

"(B) If the test procedure requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

"(8)(A) Test procedures for water closets and urinals to which standards are applicable under subsection (k) of section 325 shall be the test procedures specified in ASME A112.19.6–1990 for such products.

"(B) If the test procedure requirements of ASME A112.19.6–1990 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).";

(2) in paragraphs (1) and (2) of subsection (c), by inserting "or, in the case of showerheads, faucets, water closets, and urinals, water use" after "efficiency" each place it appears;

(3) in subsection (c)(2), in the material preceding subparagraph (A), by inserting "or established" after "prescribed"; and

(4) in subsection (e)—

(A) in paragraph (1), by striking out "or measured energy use" and inserting in lieu thereof ", measured energy use, or measured water use";

(B) in paragraph (2), by striking out "energy efficiency or energy use" each place it appears and inserting in lieu thereof "energy efficiency, energy use, or water use"; and

(C) in paragraph (3), by striking out "energy efficiency or energy use" and inserting in lieu thereof "energy efficiency, energy use, or water use".

(e) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraphs:

"(C)(i) Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Except as provided in clause (ii), such rules shall provide that the labeling of any general service fluorescent lamp, medium base compact fluorescent lamp, and general service incandescent lamp manufactured after the 12-month period beginning on the date of the publication of such rule shall indicate conspicuously on the packaging of the lamp, in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements. Labeling information for incandescent lamps shall be based on performance when operated at 120 volts input, regardless of the rated lamp voltage.

"(ii) If the Secretary determines that compliance with the standards specified in section 325(j) for any lamp will result in the discontinuance of the manufacture of such lamp, the Commission may exempt such lamp from the labeling rules prescribed under clause (i).

"(D)(i) Not later than one year after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section for showerheads and faucets to which standards are applicable under subsection (j) of section 325. Such rules shall provide that the labeling of any showerhead or faucet manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.18.1M-1989, except that each showerhead and flow restricting or controlling spout-end device shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each showerhead and flow restricting or controlling spout-end device to bear a permanent legible marking indicating the flow rate of such product.

"(E)(i) Not later than one year after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section for water closets and urinals to

which standards are applicable under subsection (k) of section 325. Such rules shall provide that the labeling of any water closet or urinal manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.19.2M–1990, except that each fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the water use, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.19.2M–1990 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each fixture and flushometer valve to bear a permanent legible marking indicating the water use of such fixture or flushometer valve.

"(iii) Any labeling rules prescribed under this subparagraph before January 1, 1997, shall provide that, with respect to any gravity tank-type white 2-piece toilet which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection with such product (including packaging and point of sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words 'For Commercial Use Only'.";

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(19)";

(3) in subsection (b)(1)(B), by striking out "(14)" and inserting in lieu thereof "(13), and paragraphs (15) through (19)";

(4) in paragraphs (3) and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(5) in subsection (c)—

(A) in paragraph (7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13), (14), (15), (16), (17), and (18) of section 322(a)"; and

(B) by adding at the end the following:

"(8) If a manufacturer of a covered product specified in paragraph (15) or (17) of section 322(a) elects to provide a label for such covered product conveying the estimated annual operating cost of such product or the range of estimated annual operating costs for the type or class of such product—

"(A) such estimated cost or range of costs shall be determined in accordance with test procedures prescribed under section 323;

"(B) the format of such label shall be in accordance with a format prescribed by the Commission; and

"(C) such label shall be displayed in a manner, prescribed by the Commission, to be likely to assist consumers in making purchasing decisions and appropriate to carry out the purposes of this Act.".

(f) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating subsections (i) through (q) as subsections (l) through (t);

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

"(i) GENERAL SERVICE FLUORESCENT LAMPS AND INCANDESCENT REFLECTOR LAMPS.—(1)(A) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

"FLUORESCENT LAMPS

"Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	<35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	<35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	<65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	<100 W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(B) For the purposes of the tables set forth in subparagraph (A), the term 'effective date' means the last day of the month set forth in the table which follows the date of the enactment of the Energy Policy Act of 1992.

"(2) Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp which is in compliance with the law at the time such lamp was manufactured.

"(3) Not less than 36 months after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on the date of the enactment of this subsection to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Not less than eight years after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure

and shall publish a final rule not later than nine years and six months after the date of the enactment of this subsection to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(5) Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall initiate a rulemaking procedure to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended so that they would be applicable to additional general service fluorescent and general service incandescent lamps and shall publish, not later than 18 months after initiating such rulemaking, a final rule including such amended standards, if any. Such rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date such rule is published.

"(6)(A) With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of such lamp of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"(B) Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if such action is warranted as a result of other Federal action (including restrictions on materials or processes) which would have the effect of either increasing the energy use or decreasing the energy efficiency of such product.

"(7) Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to such section, each manufacturer of a product to which such standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type. Such report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period. With respect to lamp types which are not manufactured during the 12-month period preceding the date such standards become effective, such report shall be filed with the Secretary not later than the date which is 12 months after the date manufacturing is commenced and shall include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during such 12-month period.

"(j) STANDARDS FOR SHOWERHEADS AND FAUCETS.—(1) The maximum water use allowed for any showerhead manufactured after January 1, 1994, is 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch. Any such shower-

head shall also meet the requirements of ASME/ANSI A112.18.1M-1989, 7.4.3(a).

"(2) The maximum water use allowed for any of the following faucets manufactured after January 1, 1994, when measured at a flowing water pressure of 80 pounds per square inch, is as follows:

"Lavatory faucets	*2.5 gallons per minute*
"Lavatory replacement aerators	*2.5 gallons per minute*
"Kitchen faucets	*2.5 gallons per minute*
"Kitchen replacement aerators	*2.5 gallons per minute*
"Metering faucets	*0.25 gallons per cycle*

"(3)(A) If the maximum flow rate requirements or the design requirements of ASME/ANSI Standard A112.18.1M-1989 are amended to improve the efficiency of water use of any type or class of showerhead or faucet and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in the amended ASME/ANSI Standard A112.18.1M and providing that such standard shall apply to products manufactured after a date which is 12 months after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.18.1M—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of showerhead or faucet more stringent than such amended ASME/ANSI Standard A112.18.1M—

"(I) would result in additional conservation of energy or water;

"(II) would be technologically feasible and economically justified under subsection (o); and

"(III) would be consistent with the maintenance of public health and safety.

"(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(I) is more stringent than amended ASME/ANSI Standard A-112.18.1M for such type or class of showerhead or faucet and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and

"(II) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(C) If, after any period of five consecutive years, the maximum flow rate requirements of the ASME/ANSI standard for showerheads are not amended to improve the efficiency of water use of such products, or after any such period such requirements for fau-

cets are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(i) is more stringent than the standards in effect for such type of class of showerhead or faucet; and

"(ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(k) STANDARDS FOR WATER CLOSETS AND URINALS.—(1)(A) Except as provided in subparagraph (B), the maximum water use allowed in gallons per flush for any of the following water closets manufactured after January 1, 1994, is the following:

"Gravity tank-type toilets	*1.6 gpf.*
"Flushometer tank toilets	*1.6 gpf.*
"Electromechanical hydraulic toilets	*1.6 gpf.*
"Blowout toilets	*3.5 gpf.*

"(B) The maximum water use allowed for any gravity tank-type white 2-piece toilet which bears an adhesive label conspicuous upon installation consisting of the words 'Commercial Use Only' manufactured after January 1, 1994, and before January 1, 1997, is 3.5 gallons per flush.

"(C) The maximum water use allowed for flushometer valve toilets, other than blowout toilets, manufactured after January 1, 1997, is 1.6 gallons per flush.

"(2) The maximum water use allowed for any urinal manufactured after January 1, 1994, is 1.0 gallons per flush.

"(3)(A) If the maximum flush volume requirements of ASME Standard A112.19.6–1990 are amended to improve the efficiency of water use of any low consumption water closet or low consumption urinal and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in amended ASME/ANSI Standard A112.19.6 and providing that such standard shall apply to products manufactured after a date which is one year after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.19.6—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of low consumption water closet or low consumption urinal more stringent than such amended ASME/ANSI Standard A112.19.6 for such product—

"(I) would result in additional conservation of energy or water;

"(II) would be technologically feasible and economically justified under subsection (o); and

"(III) would be consistent with the maintenance of public health and safety.

"(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of low consumption water closet or low consumption urinal if such State regulation—

"(I) is more stringent than amended ASME/ANSI Standard A–112.19.6 for such type or class of low consumption water closet or low consumption urinal and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and

"(II) is applicable to any sale or installation of all products in such type or class of low consumption water closet or low consumption urinal.

"(C) If, after any period of five consecutive years, the maximum flush volume requirements of the ASME/ANSI standard for low consumption water closets are not amended to improve the efficiency of water use of such products, or after any such period such requirements for low consumption urinals are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of water closet or urinal if such State regulation—

"(i) is more stringent than the standards in effect for such type or class of water closet or urinal; and

"(ii) is applicable to any sale or installation of all products in such type or class of water closet or urinal.";

(3) in subsection (l) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraphs (1) and (2), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(B) in paragraphs (1) and (3), by striking out "(l) and (m)" and inserting in lieu thereof "(o) and (p)";

(4) in subsection (m) (as redesignated by paragraph (1) of this subsection), by striking out "(h)" and inserting in lieu thereof "(i)";

(5) in subsection (n) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1)—

(i) by striking out "and in paragraph (13)" and inserting in lieu thereof ", and in paragraphs (13) and (14)"; and

(ii) by striking out "(h)" and inserting in lieu thereof "(i)";

(B) in paragraph (2)(C), by striking out "(l)(2)(B)(i)(II)" and inserting in lieu thereof "(o)(2)(B)(i)(II)"; and

(C) in paragraph (3)(B), by inserting "general service fluorescent lamps, incandescent reflector lamps," after "fluorescent lamp ballasts,";

(6) in subsection (o) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1), by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use," after "energy use,";

(B) in paragraph (2)(A), by inserting ", or, in the case of showerheads, faucets, water closets, or urinals, water efficiency," after "energy efficiency";

(C) in paragraph (2)(B)(i)(III), by inserting ", or as applicable, water," after "energy";

(D) in paragraph (2)(B)(i)(VI), by inserting "and water" after "energy";

(E) in paragraph (2)(B)(iii), by striking out "energy savings" and inserting "energy, and as applicable water, savings"; and

(F) in paragraph (3)(B), by inserting ", in the case of showerheads, faucets, water closets, or urinals, water, or" after "energy or"; and

(7) in subsection (p)(3)(A) (as redesignated by paragraph (1) of this subsection)—

(A) by striking out "(l)(2)" and inserting in lieu thereof "(o)(2)"; and

(B) by striking out "(l)(4)" and inserting in lieu thereof "(o)(4)".

(g) REQUIREMENTS OF MANUFACTURERS.—Section 326 of such Act (42 U.S.C. 6296) is amended—

(1) in subsection (b)(4), by inserting "or water use" after "consumption"; and

(2) in subsection (d)(1), by striking out "or energy use" and inserting in lieu thereof ", energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use".

(h) EFFECT ON OTHER LAW.—Section 327 of such Act (42 U.S.C. 6297) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the material preceding subparagraph (A), by inserting "or water use" after "energy consumption";

(B) in paragraph (1)(A), by inserting ", water use," after "energy consumption";

(C) in paragraph (1)(B), by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use"; and

(D) by amending paragraph (2) to read as follows:

"(2) For purposes of this section, the following definitions apply:

"(A) The term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions. With respect to showerheads, faucets, water closets, and urinals, such term shall also mean a law, regulation, or other requirement of a river basin commission that has jurisdiction within a State.

"(B) The term 'river basin commission' means—

"(i) a commission established by interstate compact to apportion, store, regulate, or otherwise manage or coordinate the management of the waters of a river basin; and

"(ii) a commission established under section 201(a) of the Water Resources Planning Act (42 U.S.C. 1962b(a)).";

(2) in subsection (b)—

(A) in the material preceding paragraph (1), by striking out "or energy use of the covered product" and inserting in lieu thereof ", energy use, or water use of the covered product";

(B) by inserting before the semicolon at the end of paragraph (1) the following: ", or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before the date of the enactment of the Energy Policy Act of 1992";

(C) in paragraph (4), by inserting before the semicolon at the end the following: ", or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 325(i) is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 325(j) is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 325(k) is applicable";

(D) in paragraph (5), by striking out "or";

(E) in paragraph (6), by striking out the period at the end and inserting "; or"; and

(F) by adding at the end the following new paragraph:

"(7) is a regulation (or portion thereof) concerning the water efficiency or water use of low consumption flushometer valve water closets.";

(3) in subsection (c)—

(A) in the material preceding paragraph (1)—

(i) by inserting ", subparagraphs (B) and (C) of section 325(j)(3), and subparagraphs (B) and (C) of section 325(k)(3)" after "section 325(b)(3)(A)(ii)"; and

(ii) by striking out "or energy use" and inserting in lieu thereof the following: ", energy use, or water use";

(B) in paragraph (1), by inserting before the semicolon at the end the following: ", except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 325(i) is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary and is applicable to such lamps";

(C) in paragraph (2), by striking out "or";

(D) in paragraph (3), by striking out the period at the end and inserting a semicolon; and

(E) by adding at the end the following new paragraphs:

"(4) is a regulation concerning the water use of lavatory faucets adopted by the State of New York or the State of Geor-

gia before the date of the enactment of the Energy Policy Act of 1992;

"(5) is a regulation concerning the water use of lavatory or kitchen faucets adopted by the State of Rhode Island prior to the date of the enactment of the Energy Policy Act of 1992; or

"(6) is a regulation (or portion thereof) concerning the water efficiency or water use of gravity tank-type low consumption water closets for installation in public places, except that such a regulation shall be effective only until January 1, 1997.";

(4) in subsection (d)(1)—

(A) in subparagraph (A)—

(i) by inserting "or river basin commission" after "Any State"; and

(ii) by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use";

(B) in subparagraph (B)—

(i) by striking out "State has" and inserting "State or river basin commission has"; and

(ii) by inserting "or water" after "energy";

(C) in subparagraph (C)—

(i) in the material preceding clause (i) and in clause (ii), by inserting "or water" after "energy" each place it appears; and

(ii) by inserting before the period at the end the following: ", and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development"; and

(5) in subsection (d)(5)(B), by striking clause (i) and inserting the following:

"(i) there exists within the State an energy emergency condition or, if the State regulation provides for an energy conservation standard or other requirement with respect to the water use of a covered product for which there is a Federal energy conservation standard under subsection (j) or (k) of section 325, a water emergency condition, which—

"(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy or, in the case of a water emergency condition, water or wastewater treatment, to its residents at less than prohibitive costs; and

"(II) cannot be substantially alleviated by the importation of energy or, in the case of a water emergency condition, by the importation of water, or by the use of interconnection agreements; and".

(i) INCENTIVE PROGRAMS.—Section 337 of such Act (42 U.S.C. 6307) is amended—

(1) by striking out "337." and inserting "337. (a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) STATE AND LOCAL INCENTIVE PROGRAMS.—(1) The Secretary shall, not later than one year after the date of the enactment of this subsection, issue recommendations to the States for establishing State and local incentive programs designed to encourage the acceleration of voluntary replacement, by consumers, of existing showerheads, faucets, water closets, and urinals with those products that meet the standards established for such products pursuant to subsections (j) and (k) of section 325.

"(2) In developing such recommendations, the Secretary shall consult with the heads of other federal agencies, including the Administrator of the Environmental Protection Agency; State officials; manufacturers, suppliers, and installers of plumbing products; and other interested parties.".

SEC. 124. HIGH-INTENSITY DISCHARGE LAMPS, DISTRIBUTION TRANSFORMERS, AND SMALL ELECTRIC MOTORS.

(a) STANDARDS.—Section 346 of the Energy Policy and Conservation Act (42 U.S.C. 6317) is amended to read as follows:

"ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS, DISTRIBUTION TRANSFORMERS, AND SMALL ELECTRIC MOTORS

"SEC. 346. (a)(1) The Secretary shall, within 30 months after the date of the enactment of the Energy Policy Act of 1992, prescribe testing requirements for those high-intensity discharge lamps and distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

"(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those high-intensity discharge lamps and distribution transformers for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) with respect to high-intensity discharge lamps shall apply to such lamps manufactured 36 months after the date such rule is published.

"(b)(1) The Secretary shall, within 30 months after the date of the enactment of the Energy Policy Act of 1992, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

"(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) shall apply to small electric motors manufactured 60 months after the date such rule is published or, in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory, 84 months after such date. Such standards shall not apply to any small electric motor which is a component of a covered product under section 322(a) or a covered equipment under section 340.

"(c) In establishing any standard under this section, the Secretary shall take into consideration the criteria contained in section 325(n).

"(d) The Secretary shall, within six months after the date on which energy conservation standards are prescribed by the Secretary for high-intensity discharge lamps and distribution transformers pursuant to subsection (a)(2) and small electric motors pursuant to subsection (b)(2), prescribe labeling requirements for such lamps, transformers, and small electric motors.

"(e) Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (d), each manufacturer of a product to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(f)(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a), a new covered product to which a rule under section 324 applies; and

"(B) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product for which an energy conservation standard is prescribed under subsection (a)(2) or (b)(2) which is not in conformity with the applicable energy conservation standard.

"(2) For purposes of section 333(a), paragraph (1) of this subsection shall be considered to be a part of section 332.".

(b) TECHNICAL AMENDMENT.—The table of contents of such Act is amended by striking out the item for section 346 and inserting in lieu thereof the following new item:

"Sec. 346. Energy conservation standards for high-intensity discharge lamps, distribution transformers, and small electric motors.".

(c) STUDY OF UTILITY DISTRIBUTION TRANSFORMERS.—The Secretary shall evaluate the practicability, cost-effectiveness, and potential energy savings of replacing, or upgrading components of, existing utility distribution transformers during routine maintenance and, not later than 18 months after the date of the enactment of this Act, report the findings of such evaluation to the Congress with recommendations on how such energy savings, if any, could be achieved.

SEC. 125. ENERGY EFFICIENCY INFORMATION FOR COMMERCIAL OFFICE EQUIPMENT.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the Computer and Business Equipment Manufacturers Association and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of commercial office equipment that are

widely used and for which there is a potential for significant energy savings as a result of such program.

(2) Such program shall—

(A) consistent with the objectives of paragraph (1), determine the commercial office equipment to be covered under such program;

(B) include specifications for testing procedures that will enable purchasers of such commercial office equipment to make more informed decisions about the energy efficiency and costs of alternative products; and

(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedure and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act, shall make a determination as to whether such program is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for commercial office equipment consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such commercial office equipment.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for commercial office equipment for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of commercial office equipment (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 126. ENERGY EFFICIENCY INFORMATION FOR LUMINAIRES.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Electric Manufacturers Association, the American

Lighting Association, and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of luminaires that are widely used and for which there is a potential for significant energy savings as a result of such program.

(2) Such program shall—

(A) consistent with the objectives of paragraph (1), determine the luminaires to be covered under such program;

(B) include specifications for testing procedures that will enable purchasers of such luminaires to make more informed decisions about the energy efficiency and costs of alternative products; and

(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mechanisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedures and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act, shall make a determination as to whether the program developed is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for luminaires consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such luminaires.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those luminaires for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of luminaire (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 127. REPORT ON THE POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, prepare and submit to the Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

(b) IDENTIFICATION OF HIGH-EFFICIENCY APPLIANCES.—The report submitted under subsection (a) shall identify candidate high-efficiency appliances which meet the following criteria:

(1) The potential exists for substantial improvement in the appliance's energy efficiency, beyond the minimum established in Federal and State law.

(2) There is the potential for significant energy savings at the national or regional level.

(3) Such appliances are likely to be cost-effective for consumers.

(4) Electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances.

(5) Manufacturers are unlikely to undertake development and commercialization of such appliances on their own, or development and production would be substantially accelerated by support to manufacturers.

(c) RECOMMENDATIONS AND PROPOSALS.—The report submitted under subsection (a) shall also—

(1) describe the general actions the Secretary or the Administrator of the Environmental Protection Agency could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

(2) describe specific proposals for Department of Energy or Environmental Protection Agency assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

(3) identify methods by which Federal purchase of highly efficient appliances could assist in the development and commercialization of such appliances; and

(4) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.

SEC. 128. EVALUATION OF UTILITY EARLY REPLACEMENT PROGRAMS FOR APPLIANCES.

Within 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, shall evaluate and report to the Congress on the energy savings and environmental benefits of programs which are directed to the early replacement of older, less efficient appliances presently in use by consumers with existing products which are more efficient than required by Federal law. For the purposes of this section, the term "appliance" means those consumer products specified in section 322(a).

Subtitle D—Industrial

SEC. 131. ENERGY EFFICIENCY IN INDUSTRIAL FACILITIES.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall make grants to industry associations to support programs to improve energy efficiency in industry. In order to be eligible for a grant under this subsection, an industry association shall establish a voluntary energy efficiency improvement target program.

(2) AWARDING OF GRANTS.—The Secretary shall request project proposals and provide annual grants on a competitive basis. In evaluating grant proposals under this subsection, the Secretary shall consider—

(A) potential energy savings;

(B) potential environmental benefits;

(C) the degree of cost sharing;

(D) the degree to which new and innovative technologies will be encouraged;

(E) the level of industry involvement;

(F) estimated project cost-effectiveness; and

(G) the degree to which progress toward the energy improvement targets can be monitored.

(3) ELIGIBLE PROJECTS.—Projects eligible for grants under this subsection may include the following:

(A) Workshops.

(B) Training seminars.

(C) Handbooks.

(D) Newsletters.

(E) Data bases.

(F) Other activities approved by the Secretary.

(4) LIMITATION ON COST SHARING.—Grants provided under this subsection shall not exceed $250,000 and each grant shall not exceed 75 percent of the total cost of the project for which the grant is made.

(5) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(b) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize those industry associations or individual industrial companies that have significantly improved their energy efficiency.

(c) REPORT ON INDUSTRIAL REPORTING AND VOLUNTARY TARGETS.—Not later than one year after the date of the enactment of this Act, the Secretary shall, in consultation with affected industries, evaluate and report to the Congress regarding the establishment of Federally mandated energy efficiency reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries. Such report shall include an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and recommendations regarding the role of such activities in improving energy efficiency in energy intensive industries.

SEC. 132. PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing industries specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "process-oriented industrial assessment" means—

(A) the identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental impact; and

(iii) designing technological improvements to increase competitiveness and achieve cost-effective product quality enhancement;

(B) the identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and the associated building envelope; and

(C) the identification of cost-effective opportunities for using renewable energy technology in the production process and in the systems described in subparagraph (B); and

(3) the term "utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy to retail customers.

(b) GRANT PROGRAM.—

(1) USE OF FUNDS.—The Secretary shall, to the extent funds are made available for such purpose, make grants to States which, consistent with State law, shall be used for the following purposes:

(A) To promote, through appropriate institutions such as universities, nonprofit organizations, State and local government entities, technical centers, utilities, and trade organizations, the use of energy-efficient technologies in covered industries.

(B) To establish programs to train individuals (on an industry-by-industry basis) in conducting process-oriented industrial assessments and to encourage the use of such trained assessors.

(C) To assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers in covered industries.

(2) CONSULTATION.—States receiving grants under this subsection shall consult with utilities and representatives of affected industries, as appropriate, in determining the most effective use of such funds consistent with the requirements of paragraph (1).

(3) ELIGIBILITY CRITERIA.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants made pursuant to this subsection. Such criteria shall require a State applying for a grant to demonstrate that such State—

(A) pursuant to section 111(a) of the Public Utility and Regulatory Policies Act of 1978 (16 U.S.C. 2621(a)), has considered and made a determination regarding the implementation of the standards specified in paragraphs (7) and (8) of section 111(d) of such Act (with respect to integrated resources planning and investments in conservation and demand management); and

(B) by legislation or regulation—

(i) allows utilities to recover the costs prudently incurred in providing process-oriented industrial assessments; and

(ii) encourages utilities to provide to covered industries—

(I) process-oriented industrial assessments; and

(II) financial incentives for implementing energy efficiency improvements.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this subsection shall be allocated each fiscal year among States meeting the criteria specified in paragraph (3) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

(5) RENEWAL OF GRANTS.—A grant under this subsection may continue to be renewed after 2 consecutive fiscal years during which a State receives a grant under this subsection, subject to the availability of funds, if—

(A) the Secretary determines that the funds made available to the State during the previous 2 years were used in a manner required under paragraph (1); and

(B) such State demonstrates, in a manner prescribed by the Secretary, utility participation in programs established pursuant to this subsection.

(6) COORDINATION WITH OTHER FEDERAL PROGRAMS.—In carrying out the functions described in paragraph (1), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

(c) OTHER FEDERAL ASSISTANCE.—

(1) ASSESSMENT CRITERIA.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall, by contract with nonprofit organizations with expertise in process-oriented industrial energy efficiency technologies, establish and, as appropriate, update criteria for conducting process-oriented industrial assessments on an industry-by-industry basis. Such criteria shall be made available to State and local government, public utility commissions, utilities, representatives of affected process-oriented industries, and other interested parties.

(2) DIRECTORY.—The Secretary shall establish a nationwide directory of organizations offering industrial energy efficiency assessments, technologies, and services consistent with the pur-

poses of this section. Such directory shall be made available to State governments, public utility commissions, utilities, industry representatives, and other interested parties.

(3) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize utilities operating outstanding or innovative industrial energy efficiency technology assistance programs.

(4) MEETINGS.—In order to further the purposes of this section, the Secretary shall convene annual meetings of parties interested in process-oriented industrial assessments, including representatives of State government, public utility commissions, utilities, and affected process-oriented industries.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(1) identifies barriers encountered in implementing this section;

(2) makes recommendations for overcoming such barriers;

(3) documents the results achieved by the programs established and grants awarded pursuant to this section;

(4) reviews any difficulties encountered by industry in securing and implementing energy efficiency technologies recommended in process-oriented industrial assessments or otherwise identified as a result of programs established pursuant to this section; and

(5) recommends methods for further promoting the distribution and implementation of energy efficiency technologies consistent with the purposes of this section.

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

SEC. 133. INDUSTRIAL INSULATION AND AUDIT GUIDELINES.

(a) VOLUNTARY GUIDELINES FOR ENERGY EFFICIENCY AUDITING AND INSULATING.—Not later than 18 months after the date of the enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers, and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATIONAL AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of educational and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, and biennially thereafter, the Secretary shall report to the Congress on activities conducted pursuant to this section, including—

(1) a review of the status of industrial energy auditing procedures; and

(2) an evaluation of the effectiveness of the guidelines established under subsection (a) and the responsiveness of the industrial sector to such guidelines.

Subtitle E—State and Local Assistance

SEC. 141. AMENDMENTS TO STATE ENERGY CONSERVATION PROGRAM.

(a) STATE BUILDINGS ENERGY INCENTIVE FUND.—

(1) IN GENERAL.—Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding at the end the following new subsection:

"(f) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within such State, the Secretary may, beginning in fiscal year 1994, provide up to $1,000,000 to such State for deposit into a revolving fund established by such State for the purpose of financing energy efficiency improvements in State and local government buildings. In making such determination the Secretary shall consider whether—

"(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, has adopted codes for energy efficiency in new buildings that are at least as stringent as American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-1989 (with respect to commercial buildings) and Council of American Building Officials Model Energy Code, 1992 (with respect to residential buildings);

"(2) such State has established a program, including a revolving fund, to finance energy efficiency improvement projects in State and local government facilities and buildings; and

"(3) such State has obtained funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions (including rebates) equal to or greater than three times the amount provided by the Secretary under this subsection for deposit into such revolving fund.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of such Act (42 U.S.C. 6325(f)) is amended—

(A) by striking "(f) For the purpose" and inserting the following: "(f)(1) Except as provided in paragraph (2), for the purpose"; and

(B) by inserting at the end the following:

"(2) For the purposes of carrying out section 363(f), there is authorized to be appropriated for fiscal year 1994 and each fiscal year thereafter such sums as may be necessary, to remain available until expended.".

(b) TRAINING OF BUILDING DESIGNERS AND CONTRACTORS; BUILDING RETROFIT STANDARDS; FEASIBILITY; RURAL RENEWABLE ENERGY.—Subsection 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) in paragraph (12) by striking "and";

(2) by redesignating paragraph (13) as paragraph (17); and

(3) by inserting after paragraph (12) the following new paragraphs:

"(13) programs (enlisting appropriate trade and professional organizations in the development and financing of such programs) to provide training and education (including, if appropriate, training workshops, practice manuals, and testing for each area of energy efficiency technology) to building designers and contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency improvements;

"(14) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of a building;

"(15) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

"(16) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Federal agency programs, including the Rural Electrification Administration and the Farmers Home Administration; and"

(c) STATE ENERGY CONSERVATION PLAN REQUIREMENT.—

(1) IN GENERAL.—Section 362(c)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)(5)) is amended by striking "; and" and by inserting the following: "and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect January 1, 1995.

(d) STUDY REGARDING IMPACT OF PERMITTING RIGHT AND LEFT TURNS ON RED LIGHTS.—

(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration, in consultation with State agencies with jurisdiction over traffic safety issues, shall conduct a study on the safety impact of the requirement specified in section 362(c)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)(5)), particularly with respect to the impact on pedestrian safety.

(2) REPORT.—The Administrator shall report the findings of the study conducted under paragraph (1) to the Congress and the Secretary not later than 2 years after the date of the enactment of this Act.

SEC. 142. AMENDMENTS TO LOW-INCOME WEATHERIZATION PROGRAM.

(a) PRIVATE SECTOR INVESTMENTS IN LOW-INCOME WEATHERIZATION.—Part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) is amended by inserting after section 414 the following new sections:

"SEC. 414A. PRIVATE SECTOR INVESTMENTS.

"(a) IN GENERAL.—The Secretary shall, to the extent funds are made available for such purpose, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 for the development and initial implementation of partnerships, agreements, or other arrangements with utilities,

private sector interests, or other institutions, under which non-Federal financial assistance would be made available to support programs which install energy efficiency improvements in low-income housing.

"(b) USE OF FUNDS.—Financial assistance provided under this section may be used for—

"(1) the negotiation of such partnerships, agreements and other arrangements;

"(2) the presentation of arguments before State or local agencies;

"(3) expert advice on the development of such partnerships, agreements, and other arrangements; or

"(4) other activities reasonably associated with the development and initial implementation of such arrangements.

"(c) CONDITIONS.—(1) Financial assistance provided under this section to entities other than States shall, to the extent practicable, coincide with the timing of financial assistance provided to such entities under section 413 or section 414.

"(2) Not less than 80 percent of amounts provided under this section shall be provided to entities other than States.

"(3) A recipient of financial assistance under this section shall have up to three years to complete projects undertaken with such assistance.

"SEC. 414B. TECHNICAL TRANSFER GRANTS.

"(a) IN GENERAL.—The Secretary may, to the extent funds are made available, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 for—

"(1) evaluating technical and management measures which increase program and/or private entity performance in weatherizing low-income housing;

"(2) producing technical information for use by persons involved in weatherizing low-income housing;

"(3) exchanging information; and

"(4) conducting training programs for persons involved in weatherizing low-income housing.

"(b) CONDITIONS.—(1) Not less than 50 percent of amounts provided under this section shall be awarded to entities other than States.

"(2) A recipient of financial assistance under this section may contract with nonprofit entities to carry out all or part of the activities for which such financial assistance is provided.".

(b) USE OF SOLAR THERMAL WATER HEATERS AND WOOD-BURNING HEATING APPLIANCES FOR LOW-INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) by moving subparagraph (G) 2-ems to the right and by striking "and";

(2) by redesignating subparagraph (H) as subparagraph (J); and

(3) by inserting after subparagraph (G), the following:

"(H) solar thermal water heaters;

"(I) wood-heating appliances; and".

(c) CLERICAL AMENDMENT.—The table of contents for part A of title IV of the Energy Conservation and Production Act is amended by inserting after the item related to section 414 the following items:
"Sec. 414A. Private sector investments.
"Sec. 414B. Technical transfer grants.".

SEC. 143. ENERGY EXTENSION SERVICE PROGRAM.

(a) REPEAL.—The National Energy Extension Service Act, title V of Public Law 95-39, is repealed.

(b) CONFORMING AMENDMENT.—Section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5813(7)) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), (10), (11), and (12) as paragraphs (7), (8), (9), (10), and (11), respectively.

Subtitle F—Federal Agency Energy Management

SEC. 151. DEFINITIONS.

For purposes of this subtitle—

(1) the term "agency" means has the meaning given such term in section 551(1) of title 5, United States Code, except that such term does not include the United States Postal Service;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation, and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of fundamentals of building energy systems, building energy codes and applicable professional standards, energy accounting and analysis, life-cycle cost methodology, fuel supply and pricing, and instrumentation for energy surveys and audits;

(4) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257); and

(5) the term "energy conservation measures" has the meaning given such term in section 551(4) of the National Energy Conservation Policy Act.

SEC. 152. FEDERAL ENERGY MANAGEMENT AMENDMENTS.

(a) PURPOSE.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting after "use of energy" the following: "and water, and the use of renewable energy sources,".

(b) REQUIREMENTS FOR FEDERAL AGENCIES.—Section 543 of such Act (42 U.S.C. 8253(a)) is amended—

*(1) in the section heading by striking "**GOALS**" and inserting "**REQUIREMENTS**";*

(2) in subsection (a) by striking "GOAL" and inserting "REQUIREMENT";

(3) in subsection (a)(1), by striking the period at the end and inserting the following: "and so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 2000 is at least 20 percent less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985."; and

(4) by redesignating subsection (b) as subsection (d) and inserting after subsection (a) the following:

"(b) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL AGENCIES.—(1) Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544.

"(2) The Secretary may waive the requirements of this subsection for any agency for such periods as the Secretary may determine if the Secretary finds that the agency is taking all practicable steps to meet the requirements and that the requirements of this subsection will pose an unacceptable burden upon the agency. If the Secretary waives the requirements of this subsection, the Secretary shall notify the Congress promptly in writing with an explanation and a justification of the reasons for such waiver.

"(3) This subsection shall not apply to an agency's facilities that generate or transmit electric energy or to the uranium enrichment facilities operated by the Department of Energy.

"(4) An agency may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of receiving technical assistance in complying with the requirements of this section.

"(c) EXCLUSIONS.—(1) An agency may exclude, from the energy consumption requirements for the year 2000 established under subsection (a) and the requirements of subsection (b)(1), any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with such requirements would be impractical. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, and, in the cases of the Departments of Defense and Energy, the unique character of certain facilities operated by such Departments.

"(2) Each agency shall identify and list, in each report made under section 548(a), the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth in paragraph (1), and may within 90 days after receipt of the findings, reverse a finding of impracticability. In the case of any such reversal, the agency shall comply with the energy consumption requirements for the building concerned.".

(c) IMPLEMENTATION.—Section 543(d) of such Act (as redesignated by subsection (b)(4) of this section) is amended—

(1) in the material preceding paragraph (1), by striking out "To achieve the goal established in subsection (a)," and inserting in lieu thereof the following: "The Secretary shall consult with the Secretary of Defense and the Administrator of General

Services in developing guidelines for the implementation of this part. To meet the requirements of this section,";

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) prepare and submit to the Secretary, not later than December 31, 1993, a plan describing how the agency intends to meet such requirements, including how it will—

"(A) designate personnel primarily responsible for achieving such requirements;

"(B) identify high priority projects through calculation of payback periods;

"(C) take maximum advantage of contracts authorized under title VIII of this Act, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs to the Government; and

"(D) otherwise implement this part;";

(3) in paragraph (2), by inserting before the semicolon at the end the following: "and update such surveys as needed, incorporating any relevant information obtained from the survey conducted pursuant to section 550";

(4) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) using such surveys, determine the cost and payback period of energy and water conservation measures likely to achieve the requirements of this section;

"(4) install energy and water conservation measures that will achieve the requirements of this section through the methods and procedures established pursuant to section 544; and"; and

(5) by redesignating paragraph (4) as paragraph (5).

(d) LIFE CYCLE COST METHODS AND PROCEDURES.—Section 544 of such Act (42 U.S.C. 8254) is amended—

(1) in subsection (a), in the material preceding paragraph (1), by striking out "National Bureau of Standards," and inserting in lieu thereof "National Institute of Standards and Technology,"; and

(2) in subsection (b)(2), by striking "agency shall" and all that follows through the period at the end and inserting the following: "agency shall, after January 1, 1994, fully consider the efficiency of all potential building space at the time of renewing or entering into a new lease.".

(e) IDENTIFICATION OF FUNDS.—Section 545 of such Act (42 U.S.C. 8255) is amended to read as follows:

"SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"The President shall transmit to the Congress, along with each budget that is submitted to the Congress under section 1105 of title 31, United States Code, a statement of the amount of appropriations requested in such budget, if any, on an individual agency basis, for—

"(1) electric and other energy costs to be incurred in operating and maintaining agency facilities; and

"(2) compliance with the provisions of this part, the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), and all applicable Executive orders, including Executive Order 12003 (42 U.S.C. 6201 note) and Executive Order 12759 (56 Fed. Reg. 16257).".

(f) INCENTIVE PROGRAM.—Section 546 of such Act (42 U.S.C. 8256) is amended—

(1) by striking "(a) IN GENERAL.—" and inserting in lieu thereof "(a) CONTRACTS.—(1)";

(2) by redesignating subsection (b) as paragraph (2) and amending it to read as follows:

"(2) The Secretary shall, not later than 18 months after the date of the enactment of the Energy Policy Act of 1992 and after consultation with the Director of the Office of Management and Budget, the Secretary of Defense, and the Administrator of General Services, develop appropriate procedures and methods for use by agencies to implement the incentives referred to in paragraph (1).";

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

(4) by adding at the end the following new subsections:

"(b) FEDERAL ENERGY EFFICIENCY FUND.—(1) The Secretary shall establish a Federal Energy Efficiency Fund to provide grants to agencies to assist them in meeting the requirements of section 543.

"(2) Not later than June 30, 1993, the Secretary shall issue guidelines to be followed by agencies submitting proposals for such grants. All agencies shall be eligible to submit proposals for grants under the Fund.

"(3) The Secretary shall award grants from the Fund after a competitive assessment of the technical and economic effectiveness of each agency proposal. The Secretary shall consider the following factors in determining whether to provide funding under this subsection:

"(A) The cost-effectiveness of the project.

"(B) The amount of energy and cost savings anticipated to the Federal Government.

"(C) The amount of funding committed to the project by the agency requesting financial assistance.

"(D) The extent that a proposal leverages financing from other non-Federal sources.

"(E) Any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(4) There are authorized to be appropriated, to remain available to be expended, to carry out this subsection not more than $10,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years thereafter.

"(c) UTILITY INCENTIVE PROGRAMS.—(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

"(2) Each agency may accept any financial incentive, goods, or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

"(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

"(4) If an agency satisfies the criteria which generally apply to other customers of a utility incentive program, such agency may not be denied collection of rebates or other incentives.

"(5)(A) An amount equal to fifty percent of the energy and water cost savings realized by an agency (other than the Department of Defense) with respect to funds appropriated for any fiscal year beginning after fiscal year 1992 (including financial benefits resulting from energy savings performance contracts under title VIII and utility energy efficiency rebates) shall, subject to appropriation, remain available for expenditure by such agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

"(B) Agencies shall establish a fund and maintain strict financial accounting and controls for savings realized and expenditures made under this subsection. Records maintained pursuant to this subparagraph shall be made available for public inspection upon request.

"(d) FINANCIAL INCENTIVE PROGRAM FOR FACILITY ENERGY MANAGERS.—(1) The Secretary shall, in consultation with the Task Force established pursuant to section 547, establish a financial bonus program to reward, with funds made available for such purpose, outstanding Federal facility energy managers in agencies and the United States Postal Service.

"(2) Not later than June 1, 1993, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors who have—

"(A) improved energy performance through increased energy efficiency;

"(B) implemented proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

"(C) developed and implemented training programs for facility energy managers, operators, and maintenance personnel;

"(D) developed and implemented employee awareness programs;

"(E) succeeded in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

"(F) made successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543; and

"(G) succeeded in the implementation of the guidelines established under section 159.

"(3) There is authorized to be appropriated to carry out this subsection not more than $250,000 for each of the fiscal years 1993, 1994, and 1995."

(g) REPORTS.—Section 548 of such Act (42 U.S.C. 8258) is amended—

(1) in subsection (b)(1), by striking "including" and all that follows through the semicolon and inserting the following: "including—

"(A) a copy of the list of the exclusions made under sections 543(a)(2) and 543(c)(3); and

"(B) a statement detailing the amount of funds awarded to each agency under section 546(b), the energy and water conservation measures installed with such funds, the projected energy and water savings to be realized from installed measures, and, for each installed measure for which the projected energy and water savings reported in the previous year were not realized, the percentage of such projected savings that was not realized, the reasons such savings were not realized, and proposals for, and projected costs of, achieving such projected savings in the future;"; and

(2) by adding at the end the following new subsection:

"(c) OTHER REPORT.—The Secretary, in consultation with the Administrator of General Services, shall—

"(1) conduct a study and evaluate legal, institutional, and other constraints to connecting buildings owned or leased by the Federal Government to district heating and district cooling systems; and

"(2) not later than 18 months after the date of the enactment of this subsection, transmit to the Congress a report containing the findings and conclusions of such study, including recommendations for the development of streamlined processes for the consideration of connecting buildings owned or leased by the Federal Government to district heating and cooling systems.".

(h) DEMONSTRATION OF NEW TECHNOLOGY; SURVEY OF ENERGY SAVING POTENTIAL.—Such Act is amended—

(1) by redesignating section 549 as section 551; and

(2) by inserting the following new sections after section 548:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1994, the Secretary, in cooperation with the Administrator of General Services, shall establish a demonstration program to install, in federally owned facilities or federally assisted housing, energy conservation measures for which the Secretary has determined that such installation would accelerate commercial viability. In those cases where technologies are determined to be equivalent, priority shall be given to those technologies that have received or are receiving Federal financial assistance.

"(b) SELECTION CRITERIA.—In addition to the determination under subsection (a), the Secretary shall select, in cooperation with the Administrator of General Services, proposals to be funded under this section on the basis of—

"(1) cost-effectiveness;

"(2) technical feasibility and system reliability in a working environment;

"(3) lack of market penetration in the Federal sector;

"(4) the potential needs of the proposing Federal agency for the technology, projected over 5 to 10 years;

"(5) the potential Federal sector market, projected over 5 to 10 years;

"(6) energy efficiency; and

"(7) other environmental benefits, including the projected reduction of greenhouse gas emissions and indoor air pollution.

"(c) PROPOSALS.—Federal agencies may submit to the Secretary, for each fiscal year, proposals for projects to be funded by the Secretary under this section. Each such proposal shall include—

"(1) a description of the proposed project emphasizing the innovative use of technology in the Federal sector;

"(2) a description of the technical reliability and cost-effectiveness data expected to be acquired;

"(3) an identification of the potential needs of the Federal agency for the technology;

"(4) a commitment to adopt the technology, if the project establishes its technical reliability and life cycle cost-effectiveness, to supply at least 10 percent of the Federal agency's potential needs identified under paragraph (3);

"(5) schedules and milestones for installing additional units; and

"(6) a technology transfer plan to publicize the results of the project.

"(d) PARTICIPATION BY GSA.—The Secretary may only select a project for funding under this section which is proposed to be carried out in a building under the jurisdiction of the General Services Administration if the project will be carried out by the Administrator of General Services. If such project involves a total expenditure in excess of $1,600,000, no appropriation shall be made for such project unless such project has been approved by a resolution adopted by the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

"(e) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency. The Secretary shall report to the Congress on the results of the study not later than two years after the date of the enactment of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for each of the fiscal years 1993, 1994, and 1995.

"SEC. 550. SURVEY OF ENERGY SAVING POTENTIAL.

"(a) IN GENERAL.—The Secretary shall, in consultation with the Interagency Energy Management Task Force established under section 547, carry out an energy survey for the purposes of—

"(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample

of buildings owned or leased by the Federal Government in different areas of the country;

"(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar Federal buildings; and

"(3) identifying barriers which may prevent an agency's ability to comply with section 543 and other energy management goals.

"(b) IMPLEMENTATION.—(1) The Secretary shall transmit to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, within 180 days after the date of the enactment of the Energy Policy Act of 1992, a plan for implementing this section.

"(2) The Secretary shall designate buildings to be surveyed in the project so as to obtain a sample of the buildings of the types and in the climates that is representative of buildings owned or leased by Federal agencies in the United States that consume the major portion of the energy consumed in Federal buildings. Such sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing.
"(B) Storage.
"(C) Office.
"(D) Services.
"(E) Schools.
"(F) Research and Development.
"(G) Industrial.
"(H) Prisons.
"(I) Hospitals.

"(3) For purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of a Federal building or the remaining term of a lease of a building leased by the Federal Government as determined by the life cycle costing methodology developed under section 544.

"(c) PERSONNEL.—(1) In carrying out this section, the Secretary shall utilize personnel who are—

"(A) employees of the Department of Energy; or

"(B) selected by the agencies utilizing the buildings which are being surveyed under this section.

"(2) Such personnel shall be detailed for the purpose of carrying out this section without any reduction of salary or benefits.

"(d) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Secretary shall transmit a report of the findings and conclusions of the project to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, and the agencies who own the buildings involved in such project. Such report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal established

under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).".

(i) TECHNICAL AMENDMENTS.—(1) Section 548 of such Act (42 U.S.C. 8258) is amended—

(A) in subsection (a)(2), by striking "546(b)" and inserting in lieu thereof "546(a)(2)"; and

(B) in subsection (b), in the material preceding paragraph (1), by striking "annually," and insert the following: ", not later than April 2 of each year,".

(2) The table of contents of such Act is amended by striking the item for section 549 and inserting in lieu thereof the following new items:

"Sec. 549. Demonstration of new technology.
"Sec. 550. Survey of energy saving potential.
"Sec. 551. Definitions.".

(3) Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note) is hereby repealed.

SEC. 153. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.

Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D).

"(B) The Administrator may accept, from a utility, goods or services which enhance the energy efficiency of Federal facilities.

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property if the payback period for such improvement is at least 2 years less than the remainder of the term of the lease.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care.".

SEC. 154. REPORT BY GENERAL SERVICES ADMINISTRATION.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle.

SEC. 155. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) IN GENERAL.—Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended—

(1) by striking "The head" and inserting the following:

"(a) IN GENERAL.—(1) The head"; and

(2) by inserting at the end the following:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Any such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by an agency to both utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency would have paid for utilities without an energy savings performance contract (as estimated through the procedures developed pursuant to this section) during contract years. The contract shall provide for a guarantee of savings to the agency, and shall establish payment schedules reflecting such guarantee, taking into account any capital costs under the contract.

"(C) Federal agencies may incur obligations pursuant to such contracts to finance energy conservation measures provided guaranteed savings exceed the debt service requirements.

"(D) A federal agency may enter into a multiyear contract under this title for a period not to exceed 25 years, without funding of cancellation charges before cancellation, if—

"(i) such contract was awarded in a competitive manner pursuant to subsection (b)(2), using procedures and methods established under this title;

"(ii) funds are available and adequate for payment of the costs of such contract for the first fiscal year;

"(iii) 30 days before the award of any such contract that contains a clause setting forth a cancellation ceiling in excess of $750,000, the head of such agency gives written notification of such proposed contract and of the proposed cancellation ceiling for such contract to the appropriate authorizing and appropriating committees of the Congress; and

"(iv) such contract is governed by part 17.1 of the Federal Acquisition Regulation promulgated under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) or the applicable rules promulgated under this title.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, with the concurrence of the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act, not later than 180 days after the date of the enactment of the Energy Policy Act of 1992, shall, by rule, establish appropriate procedures and methods for use by Federal agencies to select, monitor, and terminate contracts with energy service contractors in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner. In developing such procedures and methods, the Secretary, with the concurrence of the Federal Acquisition Regulatory Council, shall determine which existing regulations are inconsistent with the intent of this section and shall formulate substitute regulations consistent with laws governing Federal procurement.

"(B) The procedures and methods established pursuant to subparagraph (A) shall be the procedures and contracting methods for selection, by an agency, of a contractor to provide energy savings performance services. Such procedures and methods shall provide for the calculation of energy savings based on sound engineering and financial practices.

"(2) The procedures and methods established pursuant to paragraph (1)(A) shall—

"(A) allow the Secretary to—

"(i) request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information, from firms engaged in providing energy savings services; and

"(ii) from the statements received, designate and prepare a list, with an update at least annually, of those firms that are qualified to provide energy savings services;

"(B) require each agency to use the list prepared by the Secretary pursuant to subparagraph (A)(ii) unless the agency elects to develop an agency list of firms qualified to provide energy savings performance services using the same selection procedures and methods as are required of the Secretary in preparing such lists; and

"(C) allow the head of each agency to—

"(i) select firms from the list prepared pursuant to subparagraph (A)(ii) or the list prepared by the agency pursuant to subparagraph (B) to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project;

"(ii) select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information;

"(iii) permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that such agency has determined is qualified to provide such

services under the procedures established pursuant to paragraph (1)(A), and require agency facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals; and

"(iv) enter into an energy savings performance contract with a firm qualified under clause (iii), consistent with the procedures and methods established pursuant to paragraph (1)(A).

"(3) A firm not designated as qualified to provide energy savings services under paragraph (2)(A)(i) or paragraph (2)(B) may request a review of such decision to be conducted in accordance with procedures to be developed by the board of contract appeals of the General Services Administration. Procedures developed by the board of contract appeals under this paragraph shall be substantially equivalent to procedures established under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).

"(c) SUNSET AND REPORTING REQUIREMENTS.—(1) The authority to enter into new contracts under this section shall cease to be effective five years after the date procedures and methods are established under subsection (b).

"(2) Beginning one year after the date procedures and methods are established under subsection (b), and annually thereafter, for a period of five years after such date, the Comptroller General of the United States shall report on the implementation of this section. Such reports shall include, but not be limited to, an assessment of the following issues:

"(A) The quality of the energy audits conducted for the agencies.

"(B) The government's ability to maximize energy savings.

"(C) The total energy cost savings accrued by the agencies that have entered into such contracts.

"(D) The total costs associated with entering into and performing such contracts.

"(E) A comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector.

"(F) The number of firms selected as qualified firms under this section and their respective shares of awarded contracts.

"(G) The number of firms engaged in similar activity in the private sector and their respective market shares.

"(H) The number of applicant firms not selected as qualified firms under this section and the reason for their nonselection.

"(I) The frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(J) With the respect to the final report submitted pursuant to this paragraph, an assessment of whether the contracting procedures developed pursuant to this section and utilized by agencies have been effective and whether continued use of such procedures, as opposed to the procedures provided by existing

public contract law, is necessary for implementation of successful energy savings performance contracts.".

(b) DEFINITION.—Section 804 of such Act (42 U.S.C. 8287c) is amended—

(1) in the material preceding paragraph (1), by striking "title—" and inserting "title, the following definitions apply:";

(2) in paragraph (1), by striking "the" and inserting "The" and by striking ", and" and inserting a period;

(3) in paragraph (2), by striking "the term" and inserting "The term"; and

(4) by adding at the end the following:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations. Such contracts—

"(A) may provide for appropriate software licensing agreements; and

"(B) shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606).

"(4) The term "energy conservation measures" has the meaning given such term in section 551(4).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The title heading for title VIII of such Act is amended to read as follows:

"TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(2) The table of contents of such Act is amended by striking the item relating to title VIII and inserting the following: "ENERGY SAVINGS PERFORMANCE CONTRACTS".

SEC. 156. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

(a) CONFERENCE WORKSHOPS.—The Administrator of General Services, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The Administrator shall work and consult with the Department of Energy and other Federal agencies to plan for particular regional conferences. The Administrator shall invite Department of Energy, State, local, tribal, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such officials in the planning and organization of such workshops.

(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following (but may include other topics):

(1) Developing strategies among Federal, State, tribal, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region regarding the use of governmental facilities and buildings.

(2) The design, construction, maintenance, and retrofitting of governmental facilities to incorporate energy efficient techniques.

(3) Procurement and use of energy efficient products.

(4) Dissemination of energy information on innovative programs, technologies, and methods which have proven successful in government.

(5) Technical assistance to design and incorporate effective energy management strategies.

(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—As a part of the first report to be submitted pursuant to section 154, the Administrator shall set forth the schedule for the regional energy management workshops to be conducted under this section. Not less than five such workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

SEC. 157. FEDERAL AGENCY ENERGY MANAGEMENT TRAINING.

(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers. Such programs shall be managed—

(A) by the department or agency representative on the Task Force; or

(B) if a department or agency is not represented on the Task Force, by the designee of the head of such department or agency.

(2) Departments and agencies described in paragraph (1) shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study in the areas described in section 151(3) including, but not limited to, courses offered by—

(A) private or public educational institutions;

(B) Federal agencies; or

(C) professional associations.

(b) REPORT TO TASK FORCE.—(1) Each department and agency described in subsection (a)(1) shall, not later than 60 days following the date of the enactment of this Act, report to the Task Force the following information:

(A) Those individuals employed by such department or agency on the date of the enactment of this Act who qualify as trained energy managers.

(B) The General Schedule (GS) or grade level at which each of the individuals described in subparagraph (A) is employed.

(C) The facility or facilities for which such individuals are responsible or otherwise stationed.

(2) The Secretary shall provide a summary of the reports described in paragraph (1) to the Congress as part of the first report submitted under section 548 of the National Energy Conservation Policy Act (42 U.S.C. 8258) after the date of the enactment of this Act.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1) Not later than one year after the date of the enactment of this Act, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by—

(A) designating facility energy supervisors;

(B) encouraging facility energy supervisors to become trained energy managers; and

(C) increasing the overall number of trained energy managers within such department or agency to a sufficient level to ensure effective implementation of this Act.

(2) Departments and agencies described in subsection (a)(1) may hire trained energy managers to be facility energy supervisors. Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities—

(A) department or agency facilities identified as most costly to operate or most energy inefficient; or

(B) other facilities identified by the department or agency head as having significant energy savings potential.

(d) ANNUAL REPORT TO SECRETARY AND CONGRESS.—Each department and agency listed in subsection (a)(1) shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each such report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 158. ENERGY AUDIT TEAMS.

(a) ESTABLISHMENT.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities.

(b) MONITORING PROGRAMS.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 159. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.

(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in cooperation with the Secretary, the Administrator of General Services, and the Secretary of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reports required under sec-

tion 548 of the National Energy Conservation Policy Act (42 U.S.C. 8258). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, the Congress, and the general public.

(b) CONTENTS OF GUIDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.—The Administrator of General Services shall include, in each report submitted under section 154, the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

SEC. 160. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.

(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.), and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100-504) shall—

(1) identify agency compliance activities to meet the requirements of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and any other matters relevant to implementing the goals of such Act; and

(2) determine if the agency has the internal accounting mechanisms necessary to assess the accuracy and reliability of energy consumption and energy cost figures required under such section.

(b) PRESIDENTS COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, on the review conducted by the Inspector General of each agency under this section.

(c) INSPECTOR GENERAL REVIEW.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with part 3 of title V of the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent

with the performance of the required duties of the Inspector General's office.

SEC. 161. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) PROCUREMENT.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, each shall undertake a program to include energy efficient products in carrying out their procurement and supply functions.

(b) IDENTIFICATION PROGRAM.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, in consultation with the Secretary of Energy, each shall implement, in conjunction with carrying out their procurement and supply functions, a program to identify and designate those energy efficient products that offer significant potential savings, using, to the extent practicable, the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254). The Secretary of Energy shall, to the extent necessary to carry out this section and after consultation with the aforementioned agency heads, provide estimates of the degree of relative energy efficiency of products.

(c) GUIDELINES.—The Administrator for Federal Procurement Policy, in consultation with the Administrator of General Services, the Secretary of Energy, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Secretary of Defense and the Director of the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) REPORT TO CONGRESS.—Not later than December 31 of 1993 and of each year thereafter, the Secretary of Energy, in consultation with the Administrator for Federal Procurement Policy, the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall report on the progress, status, activities, and results of the programs under subsections (a), (b), and (c). The report shall include—

(1) the types and functions of each product identified under subsection (b), and efforts undertaken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to encourage the acquisition and use of such products;

(2) the actions taken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(3) progress on the development and issuance of guidelines under subsection (c);

(4) an indication of whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C.

1701j-2), have been used in the identification of products under subsection (b);

(5) an estimate of the potential cost savings to the Federal Government from acquiring products identified under subsection (b) with respect to which energy is a significant component of life cycle cost, based on the quantities of such products that could be utilized throughout the Government; and

(6) the actual quantities acquired of products described in paragraph (5).

SEC. 162. FEDERAL ENERGY EFFICIENCY FUNDING STUDY.

(a) STUDY.—The Secretary shall, in consultation with the Secretary of the Treasury, the Director of the Office of Management and Budget, the Administrator of General Services, and such other individuals and organizations as the Secretary deems appropriate, conduct a detailed study of options for the financing of energy and water conservation measures required under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) and all applicable Executive orders. Such study shall, taking into account the unique characteristics of Federal agencies, consider and analyze—

(1) the Federal financial investment necessary to comply with such requirements;

(2) the use of revolving funds and other funding mechanisms which offer stable, long-term financing of energy and water conservation measures; and

(3) the means for capitalizing such funds.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing the results of the study required under subsection (a).

SEC. 163. UNITED STATES POSTAL SERVICE ENERGY REGULATIONS.

(a) IN GENERAL.—The Postmaster General shall issue regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates, or manages. Such regulations shall—

(1) establish a monitoring system to determine which facilities are the most costly to operate on an energy consumption per square foot basis or other relevant analytical basis;

(2) identify unusual or abnormal changes in energy consumption; and

(3) check the accuracy of utility charges for electricity and gas consumption.

(b) IDENTIFICATION OF ENERGY EFFICIENCY PRODUCTS.—The Postmaster General shall actively undertake a program to identify and procure energy efficiency products for use in its facilities. In carrying out this subsection, the Postmaster General shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by the General Services Administration and the Defense Logistics Agency.

SEC. 164. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.

(a) IN GENERAL.—The Postmaster General shall conduct an energy survey, as defined in section 551(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the United States Postal Service in different areas of the country;

(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar United States Postal Service buildings; and

(3) identifying barriers which may prevent the United States Postal Service from complying with energy management goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives, within 180 days after the date of the enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of United States Postal Service facilities of the types and in the climates that consume the major portion of the energy consumed by the United States Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the facility or the remaining term of a lease of a building leased by the United States Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the survey to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives.

SEC. 165. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.

Not later than one year after the date of the enactment of this Act, and not later than January 1 of each year thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives on the United States Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to—

(1) a description of actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) a statement of energy costs incurred in operating and maintaining all United States Postal Service facilities; and

(5) the status of the energy efficient procurement program established under section 163.

SEC. 166. ENERGY MANAGEMENT REQUIREMENTS FOR THE UNITED STATES POSTAL SERVICE.

(a) ENERGY MANAGEMENT REQUIREMENTS FOR POSTAL FACILITIES.—(1) The Postmaster General shall, to the maximum extent practicable, ensure that each United States Postal Service facility meets the energy management requirements for Federal buildings and agencies specified in section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(2) The Postmaster General may exclude from the requirements of such section any facility or collection of facilities, and the associated energy consumption and gross square footage if the Postmaster General finds that compliance with the requirements of such section would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The Postmaster General shall identify and list in the report required under section 165 the facilities designated by it for such exclusion.

(b) IMPLEMENTATION STEPS—In carrying subsection (a), the Postmaster General shall—

(1) not later than 1 year after the date of the enactment of this Act, prepare or update, as appropriate, a plan (which may be submitted as part of the first report submitted under section 165)—

(A) describing how this section will be implemented;

(B) designating personnel primarily responsible for achieving the requirements of this section; and

(C) identifying high priority projects;

(2) perform energy surveys of United States Postal Service facilities as necessary to achieve the requirements of this section;

(3) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254); and

(4) ensure that the operation and maintenance procedures applied under this section are continued.

SEC. 167. GOVERNMENT CONTRACT INCENTIVES.

(a) ESTABLISHMENT OF CRITERIA.—Each agency, in consultation with the Federal Acquisition Regulatory Council, shall establish criteria for the improvement of energy efficiency in Federal facilities operated by Federal Government contractors or subcontractors.

(b) PURPOSE OF CRITERIA.—The criteria established under subsection (a) shall be used to encourage Federal contractors, and their subcontractors, which manage and operate federally-owned facilities, to adopt and utilize energy conservation measures designed to reduce energy costs in Government-owned and contractor-operated

facilities and which are ultimately borne by the Federal Government.

SEC. 168. ENERGY MANAGEMENT REQUIREMENTS FOR CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—The Architect of the Capitol (hereafter in this section referred to as the "Architect") shall undertake a program of analysis and, as necessary, retrofit of the Capitol Building, the Senate Office Buildings, the House Office Buildings, and the Capitol Grounds, in accordance with subsection (b).

(b) PROGRAM.—

(1) LIGHTING.—

(A) IMPLEMENTATION.—

(i) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act and subject to the availability of funds to carry out this section, the Architect shall begin implementing a program to replace in each building described in subsection (a) all inefficient office and general use area fluorescent lighting systems with systems that incorporate the best available design and technology and that have payback periods of 10 years or less, as determined by using methods and procedures established under section 544(a) of the National Energy and Conservation Policy Act (42 U.S.C. 8254(a)).

(ii) REPLACEMENT OF INCANDESCENT LIGHTING.—Whenever practicable in office and general use areas, the Architect shall replace incandescent lighting with efficient fluorescent lighting.

(B) COMPLETION.—Subject to the availability of funds to carry out this section, the program described in subparagraph (A) shall be completed not later than 5 years after the date of the enactment of this Act.

(2) EVALUATION AND REPORT.—

(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Architect shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report evaluating potential energy conservation measures for each building described in subsection (a) in the areas of heating, ventilation, air conditioning equipment, insulation, windows, domestic hot water, food service equipment, and automatic control equipment.

(B) COSTS.—The report submitted under subparagraph (A) shall detail the projected installation cost, energy and cost savings, and payback period of each energy conservation measure, as determined by using methods and procedures established under section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).

(3) REVIEW AND APPROVAL OF ENERGY CONSERVATION MEASURES.—The Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate shall review the energy conserva-

tion measures identified in accordance with paragraph (2) and shall approve any such measure before it may be implemented.

(4) UTILITY INCENTIVE PROGRAMS.—In carrying out this section, the Architect is authorized and encouraged to—

(A) accept any rebate or other financial incentive offered through a program for energy conservation or demand management of electricity, water, or gas that—

(i) is conducted by an electric, natural gas, or water utility;

(ii) is generally available to customers of the utility; and

(iii) provides for the adoption of energy efficiency technologies or practices that the Architect determines are cost-effective for the buildings described in subsection (a); and

(B) enter into negotiations with electric and natural gas utilities to design a special demand management and conservation incentive program to address the unique needs of the buildings described in subsection (a).

(5) USE OF SAVINGS.—The Architect shall use an amount equal to the rebate or other savings from the financial incentive programs under paragraph (4)(A), without additional authorization or appropriation, for the implementation of additional energy and water conservation measures in the buildings under the jurisdiction of the Architect.

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

Subtitle G—Miscellaneous

SEC. 171. ENERGY INFORMATION.

(a) ENERGY INFORMATION ADMINISTRATION.—Section 205(i)(1) of the Department of Energy Organization Act (42 U.S.C. 7135(i)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "on at least a triennial basis" and inserting in lieu thereof the following: "at least once every two years"; and

(2) by amending subparagraph (D) to read as follows:

"(D) use of nonpurchased sources of energy, such as solar, wind, biomass, geothermal, waste by-products, and cogeneration.".

(b) RENEWABLE ENERGY INFORMATION.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following new subsections:

"(j)(1) The Administrator shall annually collect and publish the results of a survey of electricity production from domestic renewable energy resources, including production in kilowatt hours, total installed capacity, capacity factor, and any other measure of production efficiency. Such results shall distinguish between various renewable energy resources.

"(2) In carrying out this subsection, the Administrator shall—

"(A) utilize, to the maximum extent practicable and consistent with the faithful execution of his responsibilities under this Act, reliable statistical sampling techniques; and

"(B) otherwise take into account the reporting burdens of energy information by small businesses.

"(3) As used in this subsection, the term 'renewable energy resources' includes energy derived from solar thermal, geothermal, biomass, wind, and photovoltaic resources.

"(k) Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a(a)), the Administrator shall—

"(1) conduct surveys of residential and commercial energy use at least once every 3 years, and make such information available to the public;

"(2) when surveying electric utilities, collect information on demand-side management programs conducted by such utilities, including information regarding the types of demand-side management programs being operated, the quantity of measures installed, expenditures on demand-side management programs, estimates of energy savings resulting from such programs, and whether the savings estimates were verified; and

"(3) in carrying out this subsection, take into account reporting burdens and the protection of proprietary information as required by law.

"(l) In order to improve the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs, the Administrator shall, in carrying out the data collection provisions of subsections (i) and (k), consider—

"(1) expanding the survey instruments to include questions regarding participation in government and utility conservation programs;

"(2) expanding fuel-use surveys in order to provide greater detail on energy use by user subgroups; and

"(3) expanding the scope of data collection on energy efficiency and load-management programs, including the effects of building construction practices such as those designed to obtain peak load shifting.".

SEC. 172. DISTRICT HEATING AND COOLING PROGRAMS.

(a) IN GENERAL.—The Secretary, in consultation with appropriate industry organizations, shall conduct a study to—

(1) assess existing district heating and cooling technologies to determine cost-effectiveness, technical performance, energy efficiency, and environmental impacts as compared to alternative methods for heating and cooling buildings;

(2) estimate the economic value of benefits that may result from implementation of district heating and cooling systems but that are not currently recognized, such as reduced emissions of air pollutants, local economic development, and energy security;

(3) evaluate the cost-effectiveness, including the economic value referred to in paragraph (2), of cogenerated district heating and cooling technologies compared to other alternatives for generating or conserving electricity; and

(4) assess and make recommendations for reducing institutional and other constraints on the implementation of district heating and cooling systems.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report containing the findings, conclusions and recommendations, if any, of the Secretary for carrying out Federal, State, and local programs as a result of the study conducted under subsection (a).

SEC. 173. STUDY AND REPORT ON VIBRATION REDUCTION TECHNOLOGIES.

(a) IN GENERAL.—The Secretary shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) PROCEDURE.—In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand side management; and

(2) evaluate the cost-effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) REPORT.—The Secretary shall transmit to the Congress, not later than 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this section.

(d) DEMONSTRATION.—The Secretary may, based on the findings and conclusions of the study carried out under this section, conduct at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

TITLE II—NATURAL GAS

SEC. 201. FEWER RESTRICTIONS ON CERTAIN NATURAL GAS IMPORTS AND EXPORTS.

Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting "(a)" before "After six months"; and by adding at the end the following new subsections:

"(b) With respect to natural gas which is imported into the United States from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and with respect to liquefied natural gas—

"(1) the importation of such natural gas shall be treated as a 'first sale' within the meaning of section 2(21) of the Natural Gas Policy Act of 1978; and

"(2) the Commission shall not, on the basis of national origin, treat any such imported natural gas on an unjust, unreasonable, unduly discriminatory, or preferential basis.

"(c) For purposes of subsection (a), the importation of the natural gas referred to in subsection (b), or the exportation of natural

gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.".

SEC. 202. SENSE OF CONGRESS.

It is the sense of the Congress that natural gas consumers and producers, and the national economy, are best served by a competitive natural gas wellhead market.

TITLE III—ALTERNATIVE FUELS—GENERAL

SEC. 301. DEFINITIONS.

For purposes of this title, title IV, and title V (unless otherwise specified)—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(3) the term "alternative fueled vehicle" means a dedicated vehicle or a dual fueled vehicle;

(4) the term "comparable conventionally fueled motor vehicle" means a motor vehicle which is, as determined by the Secretary—

(A) commercially available at the time the comparability of the vehicle is being assessed;

(B) powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source; and

(C) provides passenger capacity or payload capacity the same or similar to the alternative fueled vehicle to which it is being compared;

(5) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more; and

(B) at least 50 motor vehicles within the United States;

(6) the term "dedicated vehicle" means—

(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

(7) the term "domestic" means derived from resources within the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, America Samoa, the Commonwealth of the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States, including the outer Continental Shelf, as such term is defined in the Outer Continental Shelf Lands Act, or from resources within a Nation with which there is in effect a free trade agreement requiring national treatment for trade;

(8) the term "dual fueled vehicle" means—

(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel;

(9) the term "fleet" means a group of 20 or more light duty motor vehicles, used primarily in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a governmental entity or other person who owns, operates, leases, or otherwise controls 50 or more such vehicles, by any person who controls such person, by any person controlled by such person, and by any person under common control with such person, except that such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration motor vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement motor vehicles;

(E) emergency motor vehicles;

(F) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) nonroad vehicles, including farm and construction motor vehicles; or

(H) motor vehicles which under normal operations are garaged at personal residences at night;

(10) the term "fuel supplier" means—

(A) any person engaged in the importing, refining, or processing of crude oil to produce motor fuel;

(B) any person engaged in the importation, production, storage, transportation, distribution, or sale of motor fuel; and

(C) any person engaged in generating, transmitting, importing, or selling at wholesale or retail electricity;

(11) the term "light duty motor vehicle" means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. 7550(7)), of less than or equal to 8,500 pounds gross vehicle weight rating;

(12) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle;

(13) the term "motor vehicle" has the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2)); and

(14) the term "replacement fuel" means the portion of any motor fuel that is methanol, ethanol, or other alcohols, natural gas, liquefied petroleum gas, hydrogen, coal derived liquid fuels, fuels (other than alcohol) derived from biological materials, electricity (including electricity from solar energy), ethers, or any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

SEC. 302. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENTS.—Section 400AA of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amended—

(1) in subsection (a)(1)—

(A) by striking "passenger automobiles and light duty trucks" and inserting in lieu thereof "vehicles"; and

(B) by striking "alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles." and inserting in lieu thereof "alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under section 303 of the Energy Policy Act of 1992.";

(2) by amending subsection (a)(3) to read as follows:

"(3)(A) To the extent practicable, the Secretary shall acquire both dedicated and dual fueled vehicles, and shall ensure that each type of alternative fueled vehicle is used by the Federal Government.

"(B) Vehicles acquired under this section shall be acquired from original equipment manufacturers. If such vehicles are not available from original equipment manufacturers, vehicles converted to use alternative fuels may be acquired if, after conversion, the original equipment manufacturer's warranty continues to apply to such vehicles, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion. This subparagraph shall not apply to vehicles acquired by the United States Postal Service pursuant to a contract entered into by the United States Postal Service before the date of enactment of this subparagraph and which terminates on or before December 31, 1997.

"(C) Alternative fueled vehicles, other than those described in subparagraph (B), may be acquired solely for the purposes of studies under subsection (b), whether or not original equipment manufacturer warranties still apply.

"(D) In deciding which types of alternative fueled vehicles to acquire in implementing this part, the Secretary shall consider as a factor—

"(i) which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent; and

"(ii) the source of the fuel to supply the vehicles, giving preference to vehicles that operate on alternative fuels derived from domestic sources.

"(E) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that operation on such alternative fuels is not feasible.

"(F) At least 50 percent of the alternative fuels used in vehicles acquired pursuant to this section shall be derived from domestic feedstocks, except to the extent inconsistent with the General Agreement on Tariffs and Trade. The Secretary shall issue regulations to implement this requirement. For purposes of this subparagraph, the term 'domestic' has the meaning given such term in section 301(7) of the Energy Policy Act of 1992.

"(G) Except to the extent inconsistent with the General Agreement on Tariffs and Trade, vehicles acquired under this section shall be motor vehicles manufactured in the United States or Canada.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(4) Acquisitions of vehicles under this section shall, to the extent practicable, be coordinated with acquisitions of alternative fueled vehicles by State and local governments.";

(4) in subsection (b), by inserting after paragraph (2) the following new paragraphs:

"(3)(A) The Secretary, in cooperation with the Environmental Protection Agency and the Department of Transportation, shall collect data and conduct a study of heavy duty vehicles acquired under subsection (a), which shall at a minimum address—

"(i) the performance of such vehicles, including reliability, durability, and performance in cold weather and at high altitude;

"(ii) the fuel economy, safety, and emissions of such vehicles; and

"(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of conventionally fueled heavy duty vehicles.

"(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation, Governmental Affairs, and Energy and Natural Resources of the Senate, and the Committees on Energy and Commerce and Government Operations of the House of Representatives, within one year after the first such vehicles are acquired, and annually thereafter.

"(4)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of heavy duty vehicles acquired under subsection (a) and any problems with such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge.

"(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted

under subparagraph (A) to the Committees on Commerce, Science, and Transportation, Governmental Affairs, and Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Government Operations of the House of Representatives, within one year after funds are appropriated for carrying out this paragraph.

"(5) Studies undertaken under this subsection shall be coordinated with relevant testing activities of the Environmental Protection Agency and the Department of Transportation.";

(5) in subsection (c)—

(A) by striking "alcohol or natural gas, alcohol or natural gas" and inserting in lieu thereof "alternative fuels, such fuels"; and

(B) by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel" in paragraph (1);

(6) in subsection (d)(2)(B), by striking "The Secretary" and inserting in lieu thereof "To the extent that appropriations are available for such purposes, the Secretary";

(7) in subsection (g), by striking paragraphs (2) through (6) and inserting in lieu thereof the following:

"(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(3) the term 'alternative fueled vehicle' means a dedicated vehicle or a dual fueled vehicle;

"(4) the term 'dedicated vehicle' means—

"(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

"(5) the term 'dual fueled vehicle' means—

"(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel; and

"(6) the term 'heavy duty vehicle' means a vehicle of greater than 8,500 pounds gross vehicle weight rating."; and

(8) by amending subsection (i)(1) to read as follows: "(1) For the purposes of this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.".

(b) REPEAL OF TERMINATION DATE.—Section 4(b) of the Alternative Motor Fuels Act of 1988 is repealed.

SEC. 303. MINIMUM FEDERAL FLEET REQUIREMENT.

(a) GENERAL REQUIREMENTS.—(1) The Federal Government shall acquire at least—

(A) 5,000 light duty alternative fueled vehicles in fiscal year 1993;

(B) 7,500 light duty alternative fueled vehicles in fiscal year 1994; and

(C) 10,000 light duty alternative fueled vehicles in fiscal year 1995.

(2) The Secretary shall allocate the acquisitions necessary to meet the requirements under paragraph (1).

(b) PERCENTAGE REQUIREMENTS.—(1) Of the total number of vehicles acquired by a Federal fleet, at least—

(A) 25 percent in fiscal year 1996;

(B) 33 percent in fiscal year 1997;

(C) 50 percent in fiscal year 1998; and

(D) 75 percent in fiscal year 1999 and thereafter,

shall be alternative fueled vehicles.

(2) The Secretary, in consultation with the Administrator of General Services where appropriate, may permit a Federal fleet to acquire a smaller percentage than is required in paragraph (1), so long as the aggregate percentage acquired by all Federal fleets is at least equal to the required percentage.

(3) For purposes of this subsection, the term "Federal fleet" means 20 or more light duty motor vehicles, located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by or assigned to any Federal executive department, military department, Government corporation, independent establishment, or executive agency, the United States Postal Service, the Congress, the courts of the United States, or the Executive Office of the President. Such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(C) law enforcement vehicles;

(D) emergency vehicles;

(E) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons; or

(F) nonroad vehicles, including farm and construction vehicles.

(c) ALLOCATION OF INCREMENTAL COSTS.—The General Services Administration and any other Federal agency that procures motor vehicles for distribution to other Federal agencies may allocate the incremental cost of alternative fueled vehicles over the cost of comparable gasoline vehicles across the entire fleet of motor vehicles distributed by such agency.

(d) APPLICATION OF REQUIREMENTS.—The provisions of section 400AA of the Energy Policy and Conservation Act relating to the Federal acquisition of alternative fueled vehicles shall apply to the acquisition of vehicles pursuant to this section.

(e) RESALE.—The Administrator of General Services shall take all feasible steps to ensure that all alternative fueled vehicles sold by the Federal Government shall remain alternative fueled vehicles at time of sale.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

SEC. 304. REFUELING.

(a) IN GENERAL.—Federal agencies shall, to the maximum extent practicable, arrange for the fueling of alternative fueled vehicles acquired under section 303 at commercial fueling facilities that offer alternative fuels for sale to the public. If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fueled vehicles purchased under section 303, Federal agencies are authorized to enter into commercial arrangements for the purposes of fueling Federal alternative fueled vehicles, including, as appropriate, purchase, lease, contract, construction, or other arrangements in which the Federal Government is a participant.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

SEC. 305. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.

(a) PROMOTION AND EDUCATION.—The Secretary, in cooperation with the Administrator of General Services, shall promote programs and educate officials and employees of Federal agencies on the merits of alternative fueled vehicles. The Secretary, in cooperation with the Administrator of General Services, shall provide and disseminate information to Federal agencies on—

(1) the location of refueling and maintenance facilities available to alternative fueled vehicles in the Federal fleet;

(2) the range and performance capabilities of alternative fueled vehicles;

(3) State and local government and commercial alternative fueled vehicle programs;

(4) Federal alternative fueled vehicle purchases and placements;

(5) the operation and maintenance of alternative fueled vehicles in accordance with the manufacturer's standards and recommendations; and

(6) incentive programs established pursuant to sections 306 and 307 of this Act.

(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Secretary, in cooperation with the Administrator of General Services, shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fueled vehicles purchased through the Administrator of

General Services. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 303 of this Act.

SEC. 306. AGENCY INCENTIVES PROGRAM.

(a) REDUCTION IN RATES.—To encourage and promote use of alternative fueled vehicles in Federal agencies, the Administrator of General Services may offer a reduction in fees charged to agencies for the lease of alternative fueled vehicles below those fees charged for the lease of comparable conventionally fueled motor vehicles.

(b) SUNSET PROVISION.—This section shall cease to be effective 3 years after the date of the enactment of this Act.

SEC. 307. RECOGNITION AND INCENTIVE AWARDS PROGRAM.

(a) AWARDS PROGRAM.—The Administrator of General Services shall establish annual awards program to recognize those Federal employees who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

(b) CRITERIA.—The Administrator of General Services shall provide annual awards to Federal employees who best demonstrate a commitment—

(1) to the success of the Federal alternative fueled vehicle program through—

(A) exemplary promotion of alternative fueled vehicle use within Federal agencies;

(B) proper alternative fueled vehicle care and maintenance;

(C) coordination with Federal, State, and local efforts;

(D) innovative alternative fueled vehicle procurement, refueling, and maintenance arrangements with commercial entities;

(E) making regular requests for alternative fueled vehicles for agency use; and

(F) maintaining a high number of alternative fueled vehicles used relative to comparable conventionally fueled motor vehicles used; and

(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance, and other conservation and awareness measures.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out this section not more than $35,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 and 1996.

SEC. 308. MEASUREMENT OF ALTERNATIVE FUEL USE.

The Administrator of General Services shall use such means as may be necessary to measure the percentage of alternative fuel use in dual-fueled vehicles procured by the Administrator of General Services. Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of General Services, shall issue guidelines to Federal agencies for use in measuring the aggregate percentage of alternative fuel use in dual-fueled vehicles in their fleets.

SEC. 309. INFORMATION COLLECTION.

Section 400AA(b)(1)(A) of the Energy Policy and Conservation Act is amended by striking "the vehicles acquired under subsection (a)" and inserting in lieu thereof "a representative sample of alternative fueled vehicles in Federal fleets".

SEC. 310. GENERAL SERVICES ADMINISTRATION REPORT.

Not later than one year after the date of the enactment of this Act, and biennially thereafter, the Administrator of General Services shall report to the Congress on the General Services Administration's alternative fueled vehicle program under this Act. The report shall contain information on—

(1) the number and type of alternative fueled vehicles procured;

(2) the location of alternative fueled vehicles by standard Federal region;

(3) the total number of alternative fueled vehicles used by each Federal agency;

(4) arrangements with commercial entities for refueling and maintenance of alternative fueled vehicles;

(5) future alternative fueled vehicle procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance, and operation of alternative fueled vehicles and the purchase, maintenance, and operation of comparable conventionally fueled motor vehicles;

(7) coordination among Federal, State, and local governments for alternative fueled vehicle procurement and placement;

(8) the percentage of alternative fuel use in dual-fueled vehicles procured by the Administrator of General Services as measured under section 308;

(9) a description of the representative sample of alternative fueled vehicles as determined under section 400AA(b)(1)(A) of the Energy Policy and Conservation Act; and

(10) award recipients under this title.

SEC. 311. UNITED STATES POSTAL SERVICE.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, and biennially thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fueled vehicle program. The report shall contain information on—

(1) the total number and type of alternative fueled vehicles procured prior to the date of the enactment of this Act (first report only);

(2) the number and type of alternative fueled vehicles procured in the preceding year;

(3) the location of alternative fueled vehicles by region;

(4) arrangements with commercial entities for purposes of refueling and maintenance;

(5) future alternative fuel procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance, and operation of alternative fueled vehicles and the pur-

chase, maintenance, and operation of comparable conventionally fueled motor vehicles;

(7) the percentage of alternative fuel use in dual-fueled vehicles procured by the Postmaster General;

(8) promotions and incentives to encourage the use of alternative fuels in dual-fueled vehicles; and

(9) an assessment of the program's relative success and policy recommendations for strengthening the program.

(b) COORDINATION.—To the maximum extent practicable, the Postmaster General shall coordinate the Postal Service's alternative fueled vehicle procurement, placement, refueling, and maintenance programs with those at the Federal, State, and local level. The Postmaster General shall communicate, share, and disseminate, on a regular basis, information on such programs with the Secretary, the Administrator of General Services, and heads of appropriate Federal agencies.

(c) PROGRAM CRITERIA.—The Postmaster General shall consider the following criteria in the procurement and placement of alternative fueled vehicles:

(1) The procurement plans of State and local governments and other public and private institutions.

(2) The current and future availability of refueling and repair facilities.

(3) The reduction in emissions of the Postal fleet.

(4) Whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act Amendments of 1990.

(5) The operational requirements of the Postal fleet.

(6) The contribution to the reduction in the consumption of oil in the transportation sector.

TITLE IV—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

SEC. 401. TRUCK COMMERCIAL APPLICATION PROGRAM.

(a) ALTERNATIVE FUELED TRUCKS.—Section 400BB(a) of the Energy Policy and Conservation Act (42 U.S.C. 6374a(a)) is amended by striking "alcohol and natural gas" and inserting in lieu thereof "alternative fuels".

(b) FUNDING.—Section 400BB(b)(1) of such Act (42 U.S.C. 6374a(b)(1)) is amended to read as follows: "(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1995, to remain available until expended.".

SEC. 402. CONFORMING AMENDMENTS.

Part J of title III of the Energy Policy and Conservation Act is amended—

(1) in section 400CC(a)—

(A) by striking "alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "alternative fuels"; and

(B) by striking "both buses capable of operating on alcohol and buses capable of operating on natural gas" and

inserting in lieu thereof "each of the various types of alternative fuel buses";

(2) in section 400DD(d), by striking "alcohols, natural gas, and other potential alternative motor" and inserting in lieu thereof "alternative"; and

(3) in section 400DD(d) and (e), by striking "motor" each place it appears.

SEC. 403. ALTERNATIVE MOTOR FUELS AMENDMENTS.

Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended—

(1) in section 501(1), by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel";

(2) in section 502(e)—

(A) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(B) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(3) in section 506(a)(4)—

(A) in subparagraph (A)—

(i) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels"; and

(B) in subparagraph (B)—

(i) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled"; and

(ii) by striking "energy automobile or natural gas dual energy automobile, as the case may be" and inserting in lieu thereof "fueled automobile"; and

(4) in section 506(b)(3)—

(A) in subparagraph (A)—

(i) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (i); and

(iii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (ii); and

(B) in subparagraph (B)—

(i) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(ii) by striking "alcohol" and inserting in lieu thereof "alternative fuels" in clauses (i) and (ii); and

(5) in section 513—

(A) in subsection (a)—

(i) by striking "ALCOHOL POWERED" and inserting in lieu thereof "DEDICATED";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (c) or in section 503(a)(3), if";

(iii) by striking "alcohol powered" and inserting in lieu thereof "dedicated";

(iv) by striking "content of the alcohol" and inserting in lieu thereof "content of the alternative fuel"; and

(v) by striking "gallon of alcohol" and inserting in lieu thereof "gallon of a liquid alternative fuel";

(B) in subsection (b)—

(i) by striking "ENERGY" and inserting in lieu thereof "FUELED";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (d) or in section 503(a)(3), if";

(iii) by striking "energy" and inserting in lieu thereof "fueled"; and

(iv) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in paragraph (2);

(C) in subsection (c)—

(i) by striking "NATURAL GAS POWERED" and inserting in lieu thereof "GASEOUS FUEL DEDICATED";

(ii) by striking "powered" and inserting in lieu thereof "dedicated";

(iii) by striking "natural gas" each place it appears in the first sentence and inserting in lieu thereof "gaseous fuel"; and

(iv) by adding at the end the following new sentence: "For purposes of this section, the Secretary shall determine the appropriate gallons equivalent measurement for gaseous fuels other than natural gas, and a gallon equivalent of such gaseous fuel shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.";

(D) in subsection (d)—

(i) by striking "NATURAL GAS DUAL ENERGY" and inserting in lieu thereof "GASEOUS FUEL DUAL FUELED";

(ii) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(iii) by striking "natural gas" each place it appears and inserting in lieu thereof "gaseous fuel";

(E) in subsection (e), by striking "alcohol powered automobile, dual energy automobile, natural gas powered automobile, or natural gas dual energy" and inserting in lieu thereof "dedicated automobile or dual fueled";

(F) in subsection (f)(2)(A)(i), by striking "alcohol powered automobiles, natural gas powered automobiles," and inserting in lieu thereof "alternative fueled automobiles";

(G) in subsection (g)—

(i) in paragraph (1)—

(I) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (A);

(II) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(III) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (B);

(IV) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(V) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (C); and

(VI) by striking "energy automobile or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (C); and

(ii) in paragraph (2)—

(I) by striking "energy passenger automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(II) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated" in subparagraph (B); and

(III) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(H) in subsection (h)(1)—

(i) by striking subparagraphs (D) and (E) and redesignating subparagraph (C) as subparagraph (D);

(ii) by striking subparagraphs (A) and (B) and inserting in lieu thereof the following new subparagraphs:

"(A) the term 'alternative fuel' means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(B) the term 'alternative fueled automobile' means an automobile that—

"(i) is a dedicated automobile; or

"(ii) is a dual fueled automobile;

"(C) the term 'dedicated automobile' means an automobile that operates solely on alternative fuels; and"; and

(iii) in subparagraph (D), as so redesignated by clause (i) of this subparagraph—

(I) by striking "dual energy" and inserting in lieu thereof "dual fueled";

(II) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in clauses (i), (ii), and (iii);

(III) by inserting "in the case of an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel," before "which, for model years" in clause (iii); and

(IV) by striking the semicolon at the end of clause (iv) and inserting in lieu thereof a period; and

(I) in subsection (h)(2)—

(i) by striking "paragraphs (1)(C) and (D)" and inserting in lieu thereof "paragraph (1)(D)" in subparagraph (A);

(ii) by striking "energy automobiles when operating on alcohol, and by natural gas dual energy automobiles when operating on natural gas" and inserting in lieu thereof "fueled automobiles when operating on alternative fuels" in subparagraph (A);

(iii) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (A);

(iv) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(v) by striking "energy" and inserting in lieu thereof "fueled" each place it appears in subparagraphs (B) and (C); and

(vi) by inserting "other than electric automobiles" after "automobiles" each place it appears in subparagraphs (B) and (C).

SEC. 404. VEHICULAR NATURAL GAS JURISDICTION.

(a) NATURAL GAS ACT AMENDMENTS.—(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended by inserting after subsection (c) the following new subsection:

"(d) The provisions of this Act shall not apply to any person solely by reason of, or with respect to, any sale or transportation of vehicular natural gas if such person is—

"(1) not otherwise a natural-gas company; or

"(2) subject primarily to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of vehicular natural gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by inserting after paragraph (9) the following new paragraph:

"(10) 'Vehicular natural gas' means natural gas that is ultimately used as a fuel in a self-propelled vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation or sale of natural gas by any person who is not otherwise a public utility, within the meaning of State law—

(1) in closed containers; or

(2) otherwise to any person for use by such person as a fuel in a self-propelled vehicle,

shall not be considered to be a transportation or sale of natural gas within the meaning of any State law, regulation, or order in effect before January 1, 1989. This subsection shall not apply to any provision of any State law, regulation, or order to the extent that such provision has as its primary purpose the protection of public safety.

(c) NONAPPLICABILITY OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(4)) solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(b)(1)), a holding company registered under such Act solely by reason of the application of section 2(a)(7)(A) or (B) of such Act with respect to control of a gas utility company or subsidiary thereof, may acquire or retain, in any geographic area, any interest in a company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, transport, installation, servicing, or financing of equipment related to the sale for consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79c) such company is exempt from registration.

(4) For purposes of this subsection, terms that are defined under the Public Utility Holding Company Act of 1935 shall have the meaning given such terms in such Act.

(5) For purposes of this subsection, the term "vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a self-propelled vehicle.

SEC. 405. PUBLIC INFORMATION PROGRAM.

The Secretary, in consultation with appropriate Federal agencies and individuals and organizations with practical experience in the production and use of alternative fuels and alternative fueled vehicles, shall, for the purposes of promoting the use of alternative fuels and alternative fueled vehicles, establish a public information program on the benefits and costs of the use of alternative fuels in motor vehicles. Within 18 months after the date of enactment of this Act, the Secretary shall produce and make available an information package for consumers to assist them in choosing among alternative fuels and alternative fueled vehicles. Such information package shall provide relevant and objective information on motor vehicle characteristics and fuel characteristics as compared to gasoline, on a life cycle basis, including environmental performance, energy efficiency, domestic content, cost, maintenance requirements,

reliability, and safety. Such information package shall also include information with respect to the conversion of conventional motor vehicles to alternative fueled vehicles. The Secretary shall include such other information as the Secretary determines is reasonable and necessary to help promote the use of alternative fuels in motor vehicles. Such information package shall be updated annually to reflect the most recent available information.

SEC. 406. LABELING REQUIREMENTS.

(a) ESTABLISHMENT OF REQUIREMENTS.—The Federal Trade Commission, in consultation with the Secretary, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, shall, within 18 months after the date of enactment of this Act, issue a notice of proposed rulemaking for a rule to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and alternative fueled vehicles, including requirements for appropriate information with respect to costs and benefits, so as to reasonably enable the consumer to make choices and comparisons. Required labeling under the rule shall be simple and, where appropriate, consolidated with other labels providing information to the consumer. In formulating the rule, the Federal Trade Commission shall give consideration to the problems associated with developing and publishing useful and timely cost and benefit information, taking into account lead time, costs, the frequency of changes in costs and benefits that may occur, and other relevant factors. The Commission shall obtain the views of affected industries, consumer organizations, Federal and State agencies, and others in formulating the rule. A final rule shall be issued within 1 year after the notice of proposed rulemaking is issued. Such rule shall be updated periodically to reflect the most recent available information.

(b) TECHNICAL ASSISTANCE AND COORDINATION.—The Secretary shall provide technical assistance to the Federal Trade Commission in developing labeling requirements under subsection (a). The Secretary shall coordinate activities under this section with activities under section 405.

SEC. 407. DATA ACQUISITION PROGRAM.

(a) Not later than one year after the date of enactment of this Act, the Secretary, through the Energy Information Administration, and in cooperation with appropriate State, regional, and local authorities, shall establish a data collection program to be conducted in at least 5 geographically and climatically diverse regions of the United States for the purpose of collecting data which would be useful to persons seeking to manufacture, convert, sell, own, or operate alternative fueled vehicles or alternative fueling facilities. Such data shall include—

(1) identification of the number and types of motor vehicle trips made daily and miles driven per trip, including commuting, business, and recreational trips;

(2) the projections of the Secretary as to the most likely combination of alternative fueled vehicle use and other forms of transit, including rail and other forms of mass transit;

(3) cost, performance, environmental, energy, and safety data on alternative fuels and alternative fueled vehicles; and

(4) other appropriate demographic information and consumer preferences.

(b) The Secretary shall consult with interested parties, including other appropriate Federal agencies, manufacturers, public utilities, owners and operators of fleets of light duty motor vehicles, and State or local governmental entities, to determine the types of data to be collected and analyzed under subsection (a).

SEC. 408. FEDERAL ENERGY REGULATORY COMMISSION AUTHORITY TO APPROVE RECOVERY OF CERTAIN EXPENSES IN ADVANCE.

(a) NATURAL GAS MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 4 of the Natural Gas Act, allow recovery of expenses in advance by natural-gas companies for research, development, and demonstration activities by the Gas Research Institute for projects on the use of natural gas, including fuels derived from natural gas, for transportation, and projects on the use of natural gas to control pollutants and to control emissions from the combustion of other fuels, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to such projects, the Commission shall ensure that the costs of such activities shall be provided in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(b) ELECTRIC MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 205 of the Federal Power Act, allow recovery of expenses in advance by electric utilities for research, development, and demonstration activities by the Electric Power Research Institute for projects on electric motor vehicles, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to each project, the costs of such activities shall be provided, in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(c) REPEAL.—The second paragraph of the matter under the heading "FEDERAL ENERGY REGULATORY COMMISSION, SALARIES AND EXPENSES" in title III of the Energy and Water Development Appropriations Act, 1992, is repealed.

SEC. 409. STATE AND LOCAL INCENTIVES PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary shall, within one year after the date of enactment of this Act, issue regulations establishing guidelines for comprehensive State alternative fuels and alternative fueled vehicle incentives and program plans designed to accelerate the introduction and use of such fuels and vehicles. Such guideline shall address the development, modification, and implementation of such State plans and shall describe those program elements, as described in paragraph (3), to be addressed in such plans.

(2) The Secretary, after consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall invite the Governor of each State to submit to the Secretary a State plan within one year after the effective date of the regulations issued under paragraph (1). Such plan shall include—

(A) provisions designed to result in scheduled progress toward, and achievement of, the goal of introducing substantial numbers of alternative fueled vehicles in such State by the year 2000; and

(B) a detailed description of the requirements, including the estimated cost of implementation, of such plan.

(3) Each proposed State plan, in order to be eligible for Federal assistance under this section, shall describe the manner in which coordination shall be achieved with Federal and local governmental entities in implementing such plan, and shall include an examination of—

(A) exemption from State sales tax or other State or local taxes or surcharges (other than such taxes or surcharges which are dedicated for transportation purposes) with respect to alternative fueled vehicles, alternative fuels, or alternative fueling facilities;

(B) the introduction of alternative fueled vehicles into State-owned or operated motor vehicle fleets;

(C) special parking at public buildings and airport and transportation facilities;

(D) programs of public education to promote the use of alternative fueled vehicles;

(E) the treatment of sales of alternative fuels for use in alternative fueled vehicles;

(F) methods by which State and local governments might facilitate—

(i) the availability of alternative fuels; and

(ii) the ability to recharge electric motor vehicles at public locations;

(G) allowing public utilities to include in rates the incremental cost of—

(i) new alternative fueled vehicles;

(ii) converting conventional vehicles to operate on alternative fuels; and

(iii) installing alternative fuel fueling facilities,

but only to the extent that the inclusion of such costs in rates would not create competitive disadvantages for other market participants, and taking into consideration the effect inclusion of such costs would have on rates, service, and reliability to other utility customers;

(H) such other programs and incentives as the State may describe;

(I) whether accomplishing any of the goals in this subsection would require amendment to State law or regulation, including traffic safety prohibitions;

(J) services provided by municipal, county, and regional transit authorities; and

(K) effects of such plan on programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 and amendments made by that Act.

(b) FEDERAL ASSISTANCE TO STATES.—(1) Upon request of the Governor of any State with a plan approved under this section, the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to alternative fueled vehicles;

(B) grants of Federal financial assistance for the purpose of assisting such State in the implementation of such plan or any part thereof; and

(C) grants of Federal financial assistance for the acquisition of alternative fueled vehicles.

(2) In determining whether to approve a State plan submitted under subsection (a), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this subsection, the Secretary shall take into account—

(A) the energy-related and environmental-related impacts, on a life cycle basis, of the introduction and use of alternative fueled vehicles included in the plan compared to conventional motor vehicles;

(B) the number of alternative fueled vehicles likely to be introduced by the year 2000, as a result of successful implementation of the plan; and

(C) such other factors as the Secretary considers appropriate.

(3) The Secretary, in consultation with the Administrator of General Services, shall provide assistance to States in procuring alternative fueled vehicles, including coordination with Federal procurements of such vehicles.

(4) The Secretary may not approve a State plan submitted under subsection (a) unless the State agrees to provide at least 20 percent of the cost of activities for which assistance is provided under paragraph (1).

(c) GENERAL PROVISIONS.—(1) In carrying out this section, the Secretary shall consult with the Secretary of Transportation on matters relating to transportation and with other appropriate Federal and State departments and agencies.

(2) The Secretary shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this section. Such report shall include—

(A) an estimate of the number of alternative fueled vehicles in use in each State;

(B) the degree of each State's participation in the program;

(C) a description of Federal, State, and local programs undertaken in the various States, whether pursuant to a State plan under this section or not, to provide incentives for introduction of alternative fueled vehicles;

(D) an estimate of the energy and environmental benefits of the program; and

(E) the recommendations of the Secretary, if any, for additional action by the Federal Government.

(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) GOVERNOR.—The term "Governor" means the chief executive of a State.

(2) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, $10,000,000 for each of the 5 fiscal years beginning after the date of enactment of this Act.

SEC. 410. ALTERNATIVE FUEL BUS PROGRAM.

(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary of Transportation, in consultation with the Secretary, may enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility of commercial application, including safety of specific vehicle design, of using alternative fuels for urban buses and other motor vehicles used for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(3) Federal assistance provided under cooperative agreements and joint ventures entered into under paragraph (1) to demonstrate the feasibility of commercial application of using alternative fuels for urban buses shall be in addition to Federal assistance provided under any other law for such purpose.

(b) LIMITATIONS.—(1) The Secretary of Transportation may not enter into cooperative agreement or joint venture under subsection (a) with any municipal, county, or regional transit authority, unless such government body agrees to provide 20 percent of the costs of such demonstration.

(2) The Secretary of Transportation may grant such priority under this section to any entity that demonstrates that the use of alternative fuels for transportation would have a significant beneficial effect on the environment.

(c) SCHOOL BUSES.—The Secretary of Transportation may also provide, in accordance with such rules as he may prescribe, financial assistance to any agency, municipality, or political subdivision in an urban area referred to in subsection (a), of any State or the District of Columbia for the purpose of meeting the incremental costs of school buses that are dedicated vehicles and used regularly for such transportation during the school term. Such costs may include the purchase and installation of alternative fuel refueling facilities to be used for school bus refueling, and the conversion of school buses to dedicated vehicles. The Secretary of Transportation may provide such assistance directly to a person who is a contractor of such agency, municipality, or political subdivision, upon the re-

quest of the agency, municipality, or political subdivision, and who, under such contract, provides for such transportation. Any conversion under this subsection shall comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

(d) FUNDING AUTHORIZATION.—There are authorized to be appropriated not more than $30,000,000 for each of the fiscal years 1993, 1994, and 1995 for purposes of this section.

SEC. 411. CERTIFICATION OF TRAINING PROGRAMS.

The Secretary shall ensure that the Federal Government establishes and carries out a program for the certification of training programs for technicians who are responsible for motor vehicle installation of equipment that converts gasoline or diesel-fueled motor vehicles into dedicated vehicles or dual fueled vehicles, and for the maintenance of such converted motor vehicles. A training program shall not be certified under the program established under this section unless it provides technicians with instruction on the proper and safe installation procedures and techniques, adherence to specifications (including original equipment manufacturer specifications), motor vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these motor vehicle conversions. The Secretary shall ensure that, in the development of the program required under this section, original equipment manufacturers, fuel suppliers, companies that convert conventional vehicles to use alternative fuels, and other affected persons are consulted.

SEC. 412. ALTERNATIVE FUEL USE IN NONROAD VEHICLES AND ENGINES.

(a) NONROAD VEHICLES AND ENGINES.—(1) The Secretary shall conduct a study to determine whether the use of alternative fuels in nonroad vehicles and engines would contribute substantially to reduced reliance on imported energy sources. Such study shall be completed, and the results thereof reported to Congress, within 2 years after the date of enactment of this Act.

(2) The study shall assess the potential of nonroad vehicles and engines to run on alternative fuels. Taking into account the nonroad vehicles and engines for which running on alternative fuels is feasible, the study shall assess the potential reduction in reliance on foreign energy sources that could be achieved if such vehicles were to run on alternative fuels.

(3) The report required under paragraph (1) may include the Secretary's recommendations for encouraging or requiring nonroad vehicles and engines which can feasibly be run on alternative fuels, to utilize such alternative fuels.

(b) DEFINITION OF NONROAD VEHICLES AND ENGINES.—Nonroad vehicles and engines, for purposes of this section, shall include nonroad vehicles and engines used for surface transportation or principally for industrial or commercial purposes, vehicles used for rail transportation, vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines at the discretion of the Secretary.

(c) DESIGNATION.—Upon completion of the study required pursuant to subsection (a) of this section, the Secretary may designate

such vehicles and engines as qualifying for loans pursuant to section 414 of this title.

SEC. 413. REPORTS TO CONGRESS.

Within 6 months after the date of enactment of this Act, the Secretary shall—

(1) identify and report to Congress on purchasing policies of the Federal Government which inhibit or prevent the purchase by the Federal Government of alternative fueled vehicles; and

(2) report to Congress on Federal, State, and local traffic control measures and policies and how the use of alternative fueled vehicles could be promoted by granting such vehicles exemptions or preferential treatment under such measures.

SEC. 414. LOW INTEREST LOAN PROGRAM.

(a) ESTABLISHMENT.—Within 1 year after the date of enactment of this Act, the Secretary shall establish a program for making low interest loans, giving preference to small businesses that own or operate fleets, for—

(1) the conversion of motor vehicles to operation on alternative fuels;

(2) covering the incremental costs of the purchase of motor vehicles which operate on alternative fuels, when compared with purchase costs of comparable conventionally fueled motor vehicles; or

(3) covering the incremental costs of purchase of non-road vehicles and engines designated by the Secretary pursuant to section 412(c) of this title.

(b) LOAN TERMS.—The Secretary, to the extent practicable, shall establish reasonable terms for loans made under this subsection, with preference given to repayment schedules that enable such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the motor vehicle operates.

(c) CRITERIA.—In deciding to whom loans shall be made under this subsection, the Secretary shall consider—

(1) the financial need of the applicant;

(2) the goal of assisting the greatest number of applicants; and

(3) the ability of an applicant to repay the loan, taking into account the fuel cost savings likely to accrue to the applicant.

(d) PRIORITIES.—Priority shall be given under this section to fleets where the use of alternative fuels would have a significant beneficial effect on energy security and the environment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, $25,000,000 for each of the fiscal years 1993, 1994, and 1995.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

SEC. 501. MANDATE FOR ALTERNATIVE FUEL PROVIDERS.

(a) IN GENERAL.—(1) The Secretary shall, before January 1, 1994, issue regulations requiring that of the new light duty motor vehicles acquired by a covered person described in paragraph (2), the following percentages shall be alternative fueled vehicles for the following model years:

(A) 30 percent for model year 1996.

(B) 50 percent for model year 1997.

(C) 70 percent for model year 1998.

(D) 90 percent for model year 1999 and thereafter.

(2) For purposes of this section, a person referred to in paragraph (1) is—

(A) a covered person whose principal business is producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity;

(B) a non-Federal covered person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity; or

(C) a covered person—

(i) who produces, imports, or produces and imports in combination, an average of 50,000 barrels per day or more of petroleum; and

(ii) a substantial portion of whose business is producing alternative fuels.

(3)(A) In the case of a covered person described in paragraph (2) with more than one affiliate, division, or other business unit, only an affiliate, division, or business unit which is substantially engaged in the alternative fuels business (as determined by the Secretary by rule) shall be subject to this subsection.

(B) No covered person or affiliate, division, or other business unit of such person whose principal business is—

(i) transforming alternative fuels into a product that is not an alternative fuel; or

(ii) consuming alternative fuels as a feedstock or fuel in the manufacture of a product that is not an alternative fuel,

shall be subject to this subsection.

(4) The vehicles purchased pursuant to this section shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(5) Regulations issued under paragraph (1) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, from the requirements of paragraph (1) of any covered person, in whole or in part, if such person demonstrates to the satisfaction of the Secretary that—

(A) alternative fueled vehicles that meet the normal requirements and practices of the principal business of that person are not reasonably available for acquisition; or

(B) alternative fuels that meet the normal requirements and practices of the principal business of that person are not available in the area in which the vehicles are to be operated.

(b) REVISIONS AND EXTENSIONS.—With respect to model years 1997 and thereafter, the Secretary may—

(1) revise the percentage requirements under subsection (a)(1) downward, except that under no circumstances shall the percentage requirement for a model year be less than 20 percent; and

(2) extend the time under subsection (a)(1) for up to 2 model years.

(c) OPTION FOR ELECTRIC UTILITIES.—The Secretary shall, within 1 year after the date of enactment of this Act, issue regulations requiring that, in the case of a covered person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity, the requirements of subsection (a)(1) shall not apply until after December 31, 1997, with respect to electric motor vehicles. Any covered person described in this subsection which plans to acquire electric motor vehicles to comply with the requirements of this section shall so notify the Secretary before January 1, 1996.

(d) REPORT TO CONGRESS.—The Secretary shall, before January 1, 1998, submit a report to the Congress providing detailed information on actions taken to carry out this section, and the progress made and problems encountered thereunder.

SEC. 502. REPLACEMENT FUEL SUPPLY AND DEMAND PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use in light duty motor vehicles of domestic replacement fuels. Such program shall promote the replacement of petroleum motor fuels with replacement fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels that will have the greatest impact in reducing oil imports, improving the health of our Nation's economy and reducing greenhouse gas emissions.

(b) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (a), the Secretary, before October 1, 1993, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—

(1) estimate the domestic and nondomestic production capacity for replacement fuels and alternative fueled vehicles needed to implement this section;

(2) determine the technical and economic feasibility of achieving the goals of producing sufficient replacement fuels to replace, on an energy equivalent basis—

(A) at least 10 percent by the year 2000; and

(B) at least 30 percent by the year 2010,

of the projected consumption of motor fuel in the United States for each such year, with at least one half of such replacement fuels being domestic fuels;

(3) determine the most suitable means and methods of developing and encouraging the production, distribution, and use of replacement fuels and alternative fueled vehicles in a manner that would meet the program goals described in subsection (a);

(4) identify ways to encourage the development of reliable replacement fuels and alternative fueled vehicle industries in the United States, and the technical, economic, and institutional barriers to such development; and

(5) determine the greenhouse gas emission implications of increasing the use of replacement fuels, including an estimate of the maximum feasible reduction in such emissions from the use of replacement fuels.

The Secretary shall publish in the Federal Register the results of actions taken under this subsection, and provide for an opportunity for public comment.

SEC. 503. REPLACEMENT FUEL DEMAND ESTIMATES AND SUPPLY INFORMATION.

(a) ESTIMATES.—Not later than October 1, 1993, and annually thereafter, the Secretary, in consultation with the Administrator, the Secretary of Transportation, and other appropriate State and Federal officials, shall estimate for the following calendar year—

(1) the number of each type of alternative fueled vehicle likely to be in use in the United States;

(2) the probable geographic distribution of such vehicles;

(3) the amount and distribution of each type of replacement fuel; and

(4) the greenhouse gas emissions likely to result from replacement fuel use.

(b) INFORMATION.—Beginning on October 1, 1994, the Secretary shall annually require—

(1) fuel suppliers to report to the Secretary on the amount of each type of replacement fuel that such supplier—

(A) has supplied in the previous calendar year; and

(B) plans to supply for the following calendar year;

(2) suppliers of alternative fueled vehicles to report to the Secretary on the number of each type of alternative fueled vehicle that such supplier—

(A) has made available in the previous calendar year; and

(B) plans to make available for the following calendar year; and

(3) such fuel suppliers to provide the Secretary information necessary to determine the greenhouse gas emissions from the replacement fuels used, taking into account the entire fuel cycle.

(c) PROTECTION OF INFORMATION.—Information provided to the Secretary under subsection (b) shall be subject to applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 504. MODIFICATION OF GOALS; ADDITIONAL RULEMAKING AUTHORITY.

(a) EXAMINATION OF GOALS.—Within 3 years after the date of enactment of this Act, and periodically thereafter, the Secretary shall examine the goals established under section 502(b)(2), in the context of the program goals stated under section 502(a), to determine if the goals under section 502(b)(2), including the applicable percentage requirements and dates, should be modified under this section. The Secretary shall publish in the Federal Register the results of each examination under this subsection and provide an opportunity for public comment.

(b) MODIFICATION OF GOALS.—If, after analysis of information obtained in connection with carrying out subsection (a) or section 502, or other information, and taking into account the determination of technical and economic feasibility made under section 502(b)(2), the Secretary determines that goals described in section 502(b)(2), including the percentage requirements or dates, are not achievable, the Secretary, in consultation with appropriate Federal agencies, shall, by rule, establish goals that are achievable, for purposes of this title. The modification of goals under this section may include changing the target dates specified in section 502(b)(2).

(c) ADDITIONAL RULEMAKING AUTHORITY.—If the Secretary determines that the achievement of goals described in section 502(b)(2) would result in a significant and correctable failure to meet the program goals described in section 502(a), the Secretary shall issue such additional regulations as are necessary to remedy such failure. The Secretary shall have no authority under this Act to mandate the production of alternative fueled vehicles or to specify, as applicable, the models, lines, or types of, or marketing or pricing practices, policies, or strategies for, vehicles subject to this Act. Nothing in this Act shall be construed to give the Secretary authority to mandate marketing or pricing practices, policies, or strategies for alternative fuels or to mandate the production or delivery of such fuels.

SEC. 505. VOLUNTARY SUPPLY COMMITMENTS.

The Secretary shall, by January 1, 1994, and thereafter, undertake to obtain voluntary commitments in geographically diverse regions of the United States—

(1) from fuel suppliers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) from owners of 10 or more motor vehicles to acquire and use alternative fueled vehicles and alternative fuels; and

(3) from suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services,

in sufficient volume to achieve the goals described in section 502(b)(2) or as modified under section 504, and in order to meet any fleet requirement program established by rule under this title. The Secretary shall periodically report to the Congress on the results of efforts under this section. All voluntary commitments obtained pursuant to this section shall be available to the public, except to the extent provided in applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 506. TECHNICAL AND POLICY ANALYSIS.

(a) REQUIREMENT.—Not later than March 1, 1995, and March 1, 1997, the Secretary shall prepare and transmit to the President and the Congress a technical and policy analysis under this section. The Secretary shall utilize the analytical capability and authorities of the Energy Information Administration and such other offices of the Department of Energy as the Secretary considers appropriate.

(b) PURPOSES.—The technical and policy analysis prepared under this section shall be based on the best available data and information obtainable by the Secretary under section 503, or otherwise, and on experience under this title and other provisions of law in the development and use of replacement fuels and alternative fueled vehicles, and shall evaluate—

(1) progress made in achieving the goals described in section 502(b)(2), as modified under section 504;

(2) the actual and potential role of replacement fuels and alternative fueled vehicles in significantly reducing United States reliance on imported oil to the extent of the goals referred to in paragraph (1); and

(3) the actual and potential availability of various domestic replacement fuels and dedicated vehicles and dual fueled vehicles.

(c) PUBLICATION.—The Secretary shall publish a proposed version of each analysis under this section in the Federal Register for public comment before transmittal to the President and the Congress. Public comment received in response to such publication shall be preserved for use in rulemaking proceedings under section 507.

SEC. 507. FLEET REQUIREMENT PROGRAM.

(a) FLEET PROGRAM PURCHASE GOALS.—(1) Except as provided in paragraph (2), the following percentages of new light duty motor vehicles acquired in each model year for a fleet, other than a Federal fleet, State fleet, or fleet owned, operated, leased, or otherwise controlled by a covered person subject to section 501, shall be alternative fueled vehicles:

(A) 20 percent of the motor vehicles acquired in model years 1999, 2000, and 2001;

(B) 30 percent of the motor vehicles acquired in model year 2002;

(C) 40 percent of the motor vehicles acquired in model year 2003;

(D) 50 percent of the motor vehicles acquired in model year 2004;

(E) 60 percent of the motor vehicles acquired in model year 2005; and

(F) 70 percent of the motor vehicles acquired in model year 2006 and thereafter.

(2) The Secretary may not establish percentage requirements higher than those described in paragraph (1). The Secretary may, if appropriate, and pursuant to a rule under subsection (b), establish a lesser percentage requirement for any model year. The Secretary may, by rule, establish a date later than 1998 (or model year 1999) for initiating the fleet requirements under paragraph (1).

(3) The Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(A) evaluating the progress toward achieving the goals of replacement fuel use described in section 502(b)(2), as modified under section 504;

(B) identifying the problems associated with achieving those goals;

(C) assessing the adequacy and practicability of those goals; and

(D) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

(4) After the completion of such advance notice of proposed rulemaking, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (b), and shall provide for a public comment period, with hearings, of not less than 90 days.

(b) EARLY RULEMAKING.—(1) Not earlier than 1 year after the date of the enactment of this Act, and after carrying out the requirements of subsection (a), the Secretary shall initiate a rulemaking to determine whether a fleet requirement program to begin in calendar year 1998 (when model year 1999 begins), or such other later date as he may select pursuant to subsection (a), is necessary under this section. Such rule, consistent with subsection (a)(1), shall establish the annual applicable model year percentage. No rule under this subsection may be promulgated after December 15, 1996, and be enforceable. A fleet requirement program shall be considered necessary and a rule therefor shall be promulgated if the Secretary finds that—

(A) the goal of replacement fuel use described in section 502(b)(2)(B), as modified under section 504, is not expected to be actually achieved by 2010, or such other date as is established under section 504, by voluntary means or pursuant to this title or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 502(b)(2)(A), as modified under section 504;

(B) such goal is practicable and actually achievable within periods specified in section 502(b)(2), as modified under section 504, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals; and

(C) by 1998 (when model year 1999 begins) or the date specified by the Secretary in such rule for initiating a fleet requirement program—

(i) there exists sufficient evidence to ensure that the fuel and the needed infrastructure, including the supply and deliverability systems, will be installed and located at convenient places in the fleet areas subject to the rule and will be fully operational when the rule is effective to offer a reliable and timely supply of the applicable alternative fuel

at reasonable costs (as compared to conventional fuels) to meet the fleet requirement program, as demonstrated through use of the provisions of section 505(1) of this title regarding voluntary commitments or other adequate, reliable, and convincing forms of agreements, arrangements, or representations that such fuels and infrastructure are in existence or will exist when the rule is effective and will be expanded as the percentages increase annually;

(ii) there will be a sufficient number of new alternative fueled vehicles from original equipment manufacturers that comply with all applicable requirements of the Clean Air Act and the National Traffic and Motor Vehicle Safety Act of 1966;

(iii) such new vehicles will meet the applicable non-Federal and non-State fleet performance requirements of such fleets (including range, passenger or cargo-carrying capacity, reliability, refueling capability, vehicle mix, and economical operation and maintenance); and

(iv) establishment of a fleet requirement program by rule under this subsection will not result in unfair competitive advantages or disadvantages, or result in undue economic hardship, to the affected fleets.

(2) The Secretary shall not promulgate a rule under this subsection if he is unable to make affirmative findings in the case of each of the subparagraphs under paragraph (1), and each of the clauses under subparagraph (C) of paragraph (1).

(3) If the Secretary does not determine that such program is necessary under this subsection, the provisions of subsection (e) shall apply to the consideration in the future of any fleet requirement program. The record of this rulemaking, including the Secretary's findings, shall be incorporated into a rulemaking under that subsection. If the Secretary determines under this subsection that such program is necessary, the Secretary shall not initiate the later rulemaking under subsection (e).

(c) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than April 1, 1998, the Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(1) evaluating the progress toward achieving the goals of replacement fuel use described in section 502(b)(2), as modified under section 504;

(2) identifying the problems associated with achieving those goals;

(3) assessing the adequacy and practicability of those goals; and

(4) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

(d) PROPOSED RULE.—Before May 1, 1999, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (g), and shall provide for a public comment period, with hearings, of not less than 90 days.

(e) DETERMINATION.—(1) Not later than January 1, 2000, the Secretary shall, through the rule required under subsection (g), determine whether a fleet requirement program is necessary under this section. Such a program shall be considered necessary and a rule therefor shall be promulgated if the Secretary finds that—

(A) the goal of replacement fuel use described in section 502(b)(2)(B), as modified under section 504, is not expected to be actually achieved by 2010, or such other date as is established under section 504, by voluntary means or pursuant to this title or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 502(b)(2)(A), as modified under section 504; and

(B) such goal is practicable and actually achievable within periods specified in section 502(b)(2), as modified under section 504, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals.

(2) The rule under subsection (b) or (g) shall also modify the goal described in section 502(b)(2)(B) and establish a revised goal pursuant to section 504 if the Secretary determines, based on the proceeding required under subsection (a) or (c), that the goal in effect at the time of that proceeding is inadequate or impracticable, and not expected to be achievable. Such goal as modified and established shall be applicable in making the findings described in paragraph (1). If the Secretary modifies the goal under this paragraph, he may also modify the percentages stated in subsection (a)(1) or (g)(1) and the minimum percentage stated in subsection (a)(2) or (g)(2) shall be not less than 10 percent.

(f) EXPLANATION OF DETERMINATION THAT FLEET REQUIREMENT PROGRAM IS NOT NECESSARY.—If the Secretary determines, based on findings under subsection (b) or (e), that a fleet requirement program under this section is not necessary, the Secretary shall—

(1) by December 15, 1996, with respect to a rulemaking under subsection (b); and

(2) by January 1, 2000, with respect to a rulemaking under subsection (e),

publish such determination in the Federal Register as a final agency action, including an explanation of the findings on which such determination is made and the basis for the determination.

(g) FLEET REQUIREMENT PROGRAM.—(1) If the Secretary determines under subsection (e) that a fleet requirement program is necessary, the Secretary shall, by January 1, 2000, by rule require that, except as provided in paragraph (2), of the total number of new light duty motor vehicles acquired for a fleet, other than a Federal fleet, State fleet, or fleet owned, operated, leased, or otherwise controlled by a covered person under section 501—

(A) 20 percent of the motor vehicles acquired in model year 2002;

(B) 40 percent of the motor vehicles acquired in model year 2003;

(C) 60 percent of the motor vehicles acquired in model year 2004; and

(D) 70 percent of the motor vehicles acquired in model year 2005 and thereafter,

shall be alternative fueled vehicles.

(2) The Secretary may not establish percentage requirements higher than those described in paragraph (1). The Secretary may, if appropriate, and pursuant to a rule under subsection (g), establish a lesser percentage requirement for any model year. The Secretary may, by rule, establish a date later than 2002 (when model year 2003 begins) for initiating the fleet requirements under paragraph (1).

(3) Nothing in this title shall be construed as requiring any fleet to acquire alternative fueled vehicles or alternative fuels that do not meet the normal business requirements and practices and needs of that fleet.

(4) A vehicle operating only on gasoline that complies with applicable requirements of the Clean Air Act shall not be considered an alternative fueled vehicle under subsection (b) or this subsection, except that the Secretary, as part of the rule under subsection (b) or this subsection, may determine that such vehicle should be treated as an alternative fueled vehicle for purposes of this section, for fleets subject to part C of title II of the Clean Air Act, taking into consideration the impact on energy security and the goals stated in section 502(a).

(h) EXTENSION OF DEADLINES.—The Secretary may, by notice published in the Federal Register, extend the deadlines established under subsections (e), (f)(2), and (g) for an additional 90 days if the Secretary is unable to meet such deadlines. Such extension shall not be reviewable.

(i) EXEMPTIONS.—(1) A rule issued under subsection (b), (g), or (o) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, of any fleet from the requirements of subsection (b), (g), or (o), in whole or in part, if it is demonstrated to the satisfaction of the Secretary that—

(A) alternative fueled vehicles that meet the normal requirements and practices of the principal business of the fleet owner are not reasonably available for acquisition;

(B) alternative fuels that meet the normal requirements and practices of the principal business of the fleet owner are not available in the area in which the vehicles are to be operated; or

(C) in the case of State and local government entities, the application of such requirements would pose an unreasonable financial hardship.

(2) In the case of private fleets, if the motor vehicles, when under normal operations, are garaged at personal residences at night, such motor vehicles shall be exempt from the requirements of subsections (b) and (g).

(j) CONVERSIONS.—Nothing in this title or the amendments made by this title shall require a fleet owner to acquire conversion vehicles.

(k) INCLUSION OF LAW ENFORCEMENT VEHICLES AND URBAN BUSES.—(1) If the Secretary determines, by rule, that the inclusion of fleets of law enforcement motor vehicles in the fleet requirement

program established under subsection (g) would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, and the Secretary finds that such inclusion would not hinder the use of the motor vehicles for law enforcement purposes, the Secretary may include such fleets in such program. The Secretary may only initiate one rulemaking under this paragraph.

(2) If the Secretary determines, by rule, that the inclusion of new urban buses, as defined by the Administrator under title II of the Clean Air Act, in a fleet requirement program established under subsection (g) would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, the Secretary may include such urban buses in such program, if the Secretary finds that such application will be consistent with energy security goals and the needs and objectives of encouraging and facilitating the greater use of such urban buses by the public, taking into consideration the impact of such application on public transit entities. The Secretary may only initiate one rulemaking under this paragraph.

(3) Rulemakings under paragraph (1) or (2) shall be separate from a rulemaking under subsection (g), but may not occur unless a rulemaking is carried out under subsection (g).

(l) CONSIDERATION OF FACTORS.—In carrying out this section, the Secretary shall take into consideration energy security, costs, safety, lead time requirements, vehicle miles traveled annually, effect on greenhouse gases, technological feasibility, energy requirements, economic impacts, including impacts on workers and the impact on consumers (including users of the alternative fuel for purposes such as for residences, agriculture, process use, and non-fuel purposes) and fleets, the availability of alternative fuels and alternative fueled vehicles, and other relevant factors.

(m) CONSULTATION AND PARTICIPATION OF OTHER FEDERAL AGENCIES.—In carrying out this section and section 506, the Secretary shall consult with the Secretary of Transportation, the Administrator, and other appropriate Federal agencies. The Secretary shall provide for the participation of the Secretary of Transportation and the Administrator in the development and issuance of the rule under this section, including the public process concerning such rule.

(n) PETITIONS.—As part of the rule promulgated either pursuant to subsection (b) or (g) of this section, the Secretary shall establish procedures for any fleet owner or operator or motor vehicle manufacturer to request that the Secretary modify or suspend a fleet requirement program established under either subsection nationally, by region, or in an applicable fleet area because, as demonstrated by the petitioner, the infrastructure or fuel supply or distribution system for an applicable alternative fuel is inadequate to meet the needs of a fleet. In the event that the Secretary determines that a modification or suspension of the fleet requirement program on a regional basis would detract from the nationwide character of any fleet requirement program established by rule or would sufficiently diminish the economies of scale for the production of alternative fueled vehicles or alternative fuels and thereafter the practicability and effectiveness of such program, the Secretary may only modify or suspend the program nationally. The procedures shall include provi-

sions for notice and public hearings. The Secretary shall deny or grant the petition within 180 days after filing.

(o) MANDATORY STATE FLEET PROGRAMS.—(1) Pursuant to a rule promulgated by the Secretary, beginning in calendar year 1995 (when model year 1996 begins), the following percentages of new light duty motor vehicles acquired annually for State government fleets, including agencies thereof, but not municipal fleets, shall be alternative fueled vehicles:

(A) 10 percent of the motor vehicles acquired in model year 1996;

(B) 15 percent of the motor vehicles acquired in model year 1997;

(C) 25 percent of the motor vehicles acquired in model year 1998;

(D) 50 percent of the motor vehicles acquired in model year 1999;

(E) 75 percent of the motor vehicles acquired in model year 2000 and thereafter.

(2)(A) The Secretary shall within 18 months after the date of the enactment of this Act promulgate a rule providing that a State may submit a plan within 12 months after such promulgation containing a light duty alternative fueled vehicle plan for State fleets to meet the annual percentages established under paragraph (1) for the acquisition of light duty motor vehicles. The plan shall provide for the voluntary conversion or acquisition or combination thereof, beyond any acquisition required by this title, of such motor vehicles by State, local, or private fleets, in numbers greater than or equal to the number of State alternative fueled vehicles required pursuant to paragraph (1).

(B) The plan, if approved by the Secretary, would be in lieu of the State meeting such annual percentages solely through purchases of new State-owned vehicles. All conversions or acquisitions or combinations thereof of any alternative fueled vehicles under the plan must be voluntary and must conform with the requirements of section 247 of the Clean Air Act and must comply with applicable safety requirements. The Secretary of Transportation shall within 3 years after enactment promulgate rules setting forth safety standards in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 applicable to all conversions.

SEC. 508. CREDITS.

(a) IN GENERAL.—The Secretary shall allocate a credit to a fleet or covered person that is required to acquire an alternative fueled vehicle under this title, if that fleet or person acquires an alternative fueled vehicle in excess of the number that fleet or person is required to acquire under this title or acquires an alternative fueled vehicle before the date that fleet or person is required to acquire an alternative fueled vehicle under such title.

(b) ALLOCATION.—In allocating credits under subsection (a), the Secretary shall allocate one credit for each alternative fueled vehicle the fleet or covered person acquires that exceeds the number of alternative fueled vehicles that fleet or person is required to acquire under this title or that is acquired before the date that fleet or person is required to acquire an alternative fueled vehicle under

such title. In the event that a vehicle is acquired before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is acquired before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier acquired vehicle.

(c) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this section, the Secretary shall treat the credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by that fleet or person when determining whether that fleet or person has complied with this title in the year designated. A credit may be counted toward compliance for only one year.

(d) TRANSFERABILITY.—A fleet or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another fleet or person who is required to comply with this title. At the request of the fleet or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by the fleet or person to whom the credit is transferred when determining whether that fleet or person has complied with this title in the year designated. A transferred credit may be counted toward compliance for only one year. In the case of the alternative fuel provider program under section 501, a transferred credit may be counted toward compliance only if the requirement of section 501(a)(4) is met.

SEC. 509. SECRETARY'S RECOMMENDATIONS TO CONGRESS.

(a) RECOMMENDATIONS TO REQUIRE AVAILABILITY OR ACQUISITION.—If the Secretary determines, under section 507(f), that a fleet requirement program under section 507 is not necessary, the Secretary shall so notify the Congress. If the Secretary so notifies the Congress, the Secretary shall, within 2 years after such notification and by rule, prepare and submit to the Congress recommendations for requirements or incentives for—

(1) fuel suppliers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services; and

(3) motor vehicle drivers to use replacement fuels,

to the extent necessary to achieve such goals of replacement fuel use and to ensure that the availability of alternative fuels and of alternative fueled vehicles are consistent with each other.

(b) FAIR AND EQUITABLE APPLICATION.—In carrying out this section, the Secretary shall recommend the imposition of requirements proportionately on all appropriate fuel suppliers and purchasers of motor fuels and suppliers and purchasers of motor vehicles in a fair and equitable manner.

SEC. 510. EFFECT ON OTHER LAWS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to alter, affect, or modify the provisions of the Clean Air Act, or regulations issued thereunder.

(b) COMPLIANCE BY ALTERNATIVE FUELED VEHICLES.—Alternative fueled vehicles, whether dedicated vehicles or dual fueled vehicles, and the alternative fuels for operating such vehicles, shall comply with requirements of the Clean Air Act applicable to such vehicles and fuels.

SEC. 511. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of section 501, 503(b), or 507, or any regulation issued under such sections.

SEC. 512. ENFORCEMENT.

(a) Whoever violates section 511 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 511 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 511 after having been subjected to a civil penalty for a prior violation of section 511 shall be fined not more than $50,000.

SEC. 513. POWERS OF THE SECRETARY.

For the purpose of carrying out title III, title IV, this title, and title VI, the Secretary, or the duly designated agent of the Secretary, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary of Transportation is authorized to do under section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(b)(1)).

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this title $10,000,000 for each of the fiscal years 1993 through 1997, and such sums as may be necessary for fiscal years 1998 through 2000.

TITLE VI—ELECTRIC MOTOR VEHICLES

SEC. 601. DEFINITIONS.

For the purposes of this title—

(1) the term "antitrust laws" means the Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12);

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electric energy used to power an electric motor vehicle and, in the case of electric-hybrid vehicles, such term includes nonpetroleum-related equipment necessary for, and solely related to, the demonstration of such vehicles;

(3) the term "discount payment" means the amount determined pursuant to section 613 of this title;

(4) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or

other sources of electric current and may include an electric-hybrid vehicle;

(5) the term "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electric source of power;

(6) the term "eligible metropolitan area" means any Metropolitan Area (as such term is defined by the Office of Management and Budget pursuant to section 3504 of title 44, United States Code) with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this title, except that the Secretary may designate an area with a 1990 population of 50,000 or more as an eligible metropolitan area;

(7) the term "infrastructure and support systems" includes support and maintenance services and facilities, electricity delivery mechanisms and methods, regulatory treatment of investment in electric motor vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling, and disposal, that may be required to enable electric utilities, manufacturers, and others to support the operation and maintenance of electric motor vehicles and associated equipment;

(8) the term "motor vehicle" has the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(9) the term "non-Federal person" means an entity not part of the Federal Government that is either—

(A) organized under the laws of the United States or the laws of a State of the United States; or

(B) a unit of State or local government;

(10) the term "proposer" means a non-Federal person that submits a proposal to conduct a demonstration project under this title;

(11) the term "price differential" means—

(A) in the case of a purchased electric motor vehicle, the difference between the manufacturer's suggested retail price of such electric motor vehicle and the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle; and

(B) in the case of a leased electric motor vehicle, the difference between the monthly lease payment of such electric motor vehicle over the life of the lease and the monthly lease payment of a comparable conventionally fueled motor vehicle over the life of the lease; and

(12) the term "user" means a person or entity that purchases or leases an electric motor vehicle.

Subtitle A—Electric Motor Vehicle Commercial Demonstration Program

SEC. 611. PROGRAM AND SOLICITATION.

(a) PROGRAM.—The Secretary shall conduct a program to demonstrate electric motor vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, manufacturers, the electric utility industry, and such other persons as the Secretary considers appropriate. Such program shall be—

(1) designed to accelerate the development and use of electric motor vehicles; and

(2) structured to evaluate the performance of such electric motor vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure.

(b) SOLICITATION.—(1) Not later than 18 months after the date of enactment of this Act, the Secretary shall solicit proposals to demonstrate electric motor vehicles and associated equipment in one or more eligible metropolitan areas. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this subtitle.

(2)(A) Solicitations for proposals under this subsection shall require the proposer to include a description, including the manufacturer or manufacturers of the electric motor vehicles; the proposed users of the electric motor vehicles; the eligible metropolitan area or areas involved; the number of electric motor vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; the domestic content of the electric motor vehicles and associated equipment; and any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric motor vehicles or associated equipment.

(3) The solicitation for proposals under this subsection shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

SEC. 612. SELECTION OF PROPOSALS.

(a) SELECTION.—(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall, not later than 120 days after the closing date, as established by the Secretary, for receipt of proposals under section 611, select at least one, but not more than 10, proposals to receive financial assistance under section 613.

(2) The Secretary may select more than 10 proposals under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

(3) Any proposal selected under paragraph (1) must satisfy the limitations set forth in section 613(c).

(4) No one project selected under this section shall receive more than 25 percent of the funds authorized under section 616.

(5) A demonstration project may not include electric motor vehicles in more than one eligible metropolitan area, unless the total number of electric motor vehicles in that project is equal to, or greater than, 100.

(b) CRITERIA.—In selecting a proposal and in negotiating financial assistance under this section, the Secretary shall consider—

(1) the ability of the manufacturer, directly, indirectly, or in combination with the proposer, to develop, assist in the demonstration of, manufacture, distribute, sell, provide warranties for, service, and ensure the continued availability of parts for, electric motor vehicles in the demonstration project;

(2) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project is to be undertaken, when considered in combination with other proposals and other selected demonstration projects;

(3) the long-term technical and competitive viability of the electric motor vehicles;

(4) the suitability of the electric motor vehicles for their intended uses;

(5) the environmental effects of the use of the proposed electric motor vehicles;

(6) the price differential and the proposed discount payment;

(7) the extent of involvement of State or local government and other persons in the demonstration project, and whether such involvement will—

(A) permit a reduction of the Federal cost share per vehicle; or

(B) otherwise be used to allow the Federal contribution to be provided for a greater number of electric motor vehicles;

(8) the proportion of domestic content of the electric motor vehicles and associated equipment;

(9) the safety of the electric motor vehicles; and

(10) such other criteria as the Secretary considers appropriate.

(c) CONDITIONS.—The Secretary shall require that—

(1) as a part of a demonstration project, the user or users of the electric motor vehicles will provide to the proposer and the manufacturer information regarding the operation, maintenance, performance, and use of the electric motor vehicles for 5 years after the beginning of the demonstration project;

(2) the proposer shall provide to the Secretary such information regarding the operation, maintenance, performance, and use of the electric motor vehicles as the Secretary may request during the period of the demonstration project;

(3) in the case of a demonstration project including automobiles or light duty trucks, the number of electric motor vehicles to be included in the demonstration project shall be no less than 50, except that the Secretary may select a demonstration

project with fewer than 50 electric motor vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity among the proposals selected and that an adequate demonstration to accelerate the development and use of electric motor vehicles can be undertaken with fewer than 50 electric motor vehicles; and

(4) the procurement practices of the manufacturer do not discriminate against United States producers of vehicle parts.

SEC. 613. DISCOUNT PAYMENTS.

(a) CERTIFICATION.—The Secretary shall provide a discount payment to a proposer of a proposal selected under this subtitle for purposes of reimbursing the proposer for a discount provided to the users if the proposer certifies to the Secretary that—

(1) the electric motor vehicles have been purchased or leased by a user or users in accordance with the requirements of this subtitle; and

(2) the proposer has provided to the user or users a discount payment in accordance with the requirements of this subtitle.

(b) PAYMENT.—Not later than 30 days after receipt from the proposer of certification that the Secretary determines satisfies the requirements of subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment, to the extent provided in advance in appropriations Acts.

(c) CALCULATIONS OF DISCOUNT PAYMENTS.—(1) The discount payment shall be no greater than—

(A) the price differential; or

(B) the price of the comparable conventionally fueled motor vehicle.

(2) The purchase price of the electric motor vehicle, less the discount payment and less any additional reduction in the purchase price of the electric motor vehicle that may result from contributions provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle.

(3) The maximum discount payment shall be no greater than $10,000 per electric motor vehicle.

SEC. 614. COST-SHARING.

(a) REQUIREMENT.—The Secretary shall require at least 50 percent of the costs directly and specifically related to any project under this subtitle to be from non-Federal sources. Such share may be in the form of cash, personnel, services, equipment, and other resources.

(b) REDUCTION.—The Secretary may reduce the amount of costs required to be provided by non-Federal sources under subsection (a) if the Secretary determines that the reduction is necessary and appropriate—

(1) considering the technological risks involved in the project; and

(2) in order to meet the objectives of this subtitle.

SEC. 615. REPORTS TO CONGRESS.

(a) PROGRESS REPORTS.—The Secretary shall report annually to Congress on the progress being made, through demonstration

projects supported under this subtitle, to accelerate the development and use of electric motor vehicles.

(b) REPORT ON ENCOURAGING THE PURCHASE AND USE OF ELECTRIC MOTOR VEHICLES.—Within 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on methods for encouraging the purchase and use of electric motor vehicles. Such report shall—

(1) address the potential cost of purchasing and maintaining electric motor vehicles, including the initial cost of the batteries and the cost of replacement batteries;

(2) identify methods for reducing, subsidizing, or sharing such costs; and

(3) include recommendations for legislative and administrative measures to encourage the purchase and use of electric motor vehicles.

SEC. 616. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for purposes of this subtitle $50,000,000 for the 10-year period beginning with the first full fiscal year after the date of enactment of this Act, to remain available until expended.

Subtitle B—Electric Motor Vehicle Infrastructure and Support Systems Development Program

SEC. 621. GENERAL AUTHORITY.

(a) PROGRAM.—The Secretary shall undertake a program with one or more non-Federal persons, including fleet operators, for cost-shared research, development, demonstration, or commercial application of an infrastructure and support systems program.

(b) ELIGIBILITY.—A non-Federal person shall be eligible to receive financial assistance under this subtitle only if such person demonstrates, to the satisfaction of the Secretary, that the person will conduct a substantial portion of activities under the project in the United States using domestic labor and materials.

(c) COORDINATION.—Activities under this subtitle shall be coordinated with activities under subtitle A.

SEC. 622. PROPOSALS.

(a) SOLICITATION.—Not later than one year after the date of enactment of this Act, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, for projects under this subtitle. Within 240 days after proposals have been solicited, the Secretary shall select proposals.

(b) CRITERIA.—(1) The Secretary shall provide financial assistance to no more than 10 projects under this subtitle, unless the Secretary determines that the total amount of available funds is not likely to be otherwise used.

(2) The proposals selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(3) The aggregate Federal financial assistance for each project under this subtitle may not exceed $4,000,000.

(c) PROJECTS.—The infrastructure and support systems programs for which projects are selected under this subtitle may address—

(1) the ability to service electric motor vehicles and to provide or service associated equipment;

(2) the installation of charging facilities;

(3) rates and cost recovery for electric utilities who invest in infrastructure capital-related expenditures;

(4) the development of safety and health procedures and guidelines related to battery charging, watering, and emissions;

(5) the conduct of information dissemination programs; and

(6) such other subjects as the Secretary considers necessary in order to address the infrastructure and support systems needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric motor vehicles.

SEC. 623. PROTECTION OF PROPRIETARY INFORMATION.

(a) IN GENERAL.—In the case of activities, including joint venture activities, under this title, and in the case of any existing or future activities, including joint venture activities, related primarily to battery technology for electric motor vehicles under other provisions of law, where the knowledge resulting from research and development activities conducted pursuant to such activities, including joint venture activities, is for the benefit of the participants (particularly domestic companies) that provide financial resources to a project under this title, the Secretary, for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under this title; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a participant,

shall, notwithstanding any other provision of law, provide appropriate protections against the dissemination of such information to the public, and the provisions of section 1905 of title 18, United States Code, shall apply to such information. Nothing in this subsection provides protections against the dissemination of such information to Congress.

(b) DEFINITION.—For purposes of subsection (a), the term "domestic companies" means entities which are substantially involved in the United States in the domestic production of motor vehicles for sale in the United States and have a substantial percentage of their production facilities in the United States.

SEC. 624. COMPLIANCE WITH EXISTING LAW.

Nothing in this title shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law.

SEC. 625. ELECTRIC UTILITY PARTICIPATION STUDY.

The Secretary, in consultation with appropriate Federal agencies, representatives of State regulatory commissions and electric utilities, and such other persons as the Secretary considers appropriate, shall undertake or cause to have undertaken a study to determine the means by which electric utilities may invest in, own, sell, lease, service, or recharge batteries used to power electric motor vehicles.

SEC. 626. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for purposes of this subtitle $40,000,000 for the 5-year period beginning with the first full fiscal year after the date of enactment of this Act, to remain available until expended.

TITLE VII—ELECTRICITY

Subtitle A—Exempt Wholesale Generators

SEC. 711. PUBLIC UTILITY HOLDING COMPANY ACT REFORM.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) is amended by redesignating sections 32 and 33 as sections 34 and 35 respectively and by adding the following new section after section 31:

"SEC. 32. EXEMPT WHOLESALE GENERATORS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) EXEMPT WHOLESALE GENERATOR.—The term 'exempt wholesale generator' means any person determined by the Federal Energy Regulatory Commission to be engaged directly, or indirectly through one or more affiliates as defined in section 2(a)(11)(B), and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale. No person shall be deemed to be an exempt wholesale generator under this section unless such person has applied to the Federal Energy Regulatory Commission for a determination under this paragraph. A person applying in good faith for such a determination shall be deemed an exempt wholesale generator under this section, with all of the exemptions provided by this section, until the Federal Energy Regulatory Commission makes such determination. The Federal Energy Regulatory Commission shall make such determination within 60 days of its receipt of such application and shall notify the Commission whenever a determination is made under this paragraph that any person is an exempt wholesale generator. Not later than 12 months after the date of enactment of this section, the Federal Energy Regulatory Commission shall promulgate rules implementing the provisions of this paragraph. Applications for determination filed after the effective date of such rules shall be subject thereto.

"(2) ELIGIBLE FACILITY.—The term 'eligible facility' means a facility, wherever located, which is either—

"(A) used for the generation of electric energy exclusively for sale at wholesale, or

"(B) used for the generation of electric energy and leased to one or more public utility companies; Provided, That any such lease shall be treated as a sale of electric energy at wholesale for purposes of sections 205 and 206 of the Federal Power Act.

Such term shall not include any facility for which consent is required under subsection (c) if such consent has not been obtained. Such term includes interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale. For purposes of this paragraph, the term 'facility' may include a portion of a facility subject to the limitations of subsection (d) and shall include a facility the construction of which has not been commenced or completed.

"(3) SALE OF ELECTRIC ENERGY AT WHOLESALE.—The term 'sale of electric energy at wholesale' shall have the same meaning as provided in section 201(d) of the Federal Power Act (16 U.S.C. 824(d)).

"(4) RETAIL RATES AND CHARGES.—The term 'retail rates and charges' means rates and charges for the sale of electric energy directly to consumers.

"(b) FOREIGN RETAIL SALES.—Notwithstanding paragraphs (1) and (2) of subsection (a), retail sales of electric energy produced by a facility located in a foreign country shall not prevent such facility from being an eligible facility, or prevent a person owning or operating, or both owning and operating, such facility from being an exempt wholesale generator if none of the electric energy generated by such facility is sold to consumers in the United States.

"(c) STATE CONSENT FOR EXISTING RATE-BASED FACILITIES.—If a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State as of the date of enactment of this section, in order for the facility to be considered an eligible facility, every State commission having jurisdiction over any such rate or charge must make a specific determination that allowing such facility to be an eligible facility (1) will benefit consumers, (2) is in the public interest, and (3) does not violate State law; Provided, That in the case of such a rate or charge which is a rate or charge of an affiliate of a registered holding company:

"(A) such determination with respect to the facility in question shall be required from every State commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company; and

"(B) the approval of the Commission under this Act shall not be required for the transfer of the facility to an exempt wholesale generator.

"(d) HYBRIDS.—(1) No exempt wholesale generator may own or operate a portion of any facility if any other portion of the facility is owned or operated by an electric utility company that is an affiliate or associate company of such exempt wholesale generator.

"(2) ELIGIBLE FACILITY.—Notwithstanding paragraph (1), an exempt wholesale generator may own or operate a portion of a facility identified in paragraph (1) if such portion has become an eligible facility as a result of the operation of subsection (c).

"(e) EXEMPTION OF EWGS.—An exempt wholesale generator shall not be considered an electric utility company under section 2(a)(3) of this Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, an exempt wholesale generator shall be exempt from all provisions of this Act.

"(f) OWNERSHIP OF EWGS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act, a holding company that is exempt under section 3 of this Act shall be permitted, without condition or limitation under this Act, to acquire and maintain an interest in the business of one or more exempt wholesale generators.

"(g) OWNERSHIP OF EWGS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of this Act and the Commission's jurisdiction as provided under subsection (h) of this section, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under this Act) to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

"(h) FINANCING AND OTHER RELATIONSHIPS BETWEEN EWGS AND REGISTERED HOLDING COMPANIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (g) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act: Provided, That—

"(1) section 11 of this Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

"(2) the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system;

"(3) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or (B) the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding com-

pany system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, unless the Commission first finds that the issue or sale of such security, or the making of the guarantee, would have a substantial adverse impact on the financial integrity of the registered holding company system;

"(4) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator, or (B) other transactions by such registered holding company or by its subsidiaries other than with respect to exempt wholesale generators, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator upon the registered holding company system, unless the approval of the issue or sale or other transaction, together with the effect of such capitalization and earnings, would have a substantial adverse impact on the financial integrity of the registered holding company system;

"(5) the Commission shall make its decision under paragraph (3) to approve or disapprove the issue or sale of a security or the guarantee of a security within 120 days of the filing of a declaration concerning such issue, sale or guarantee; and

"(6) the Commission shall promulgate regulations with respect to the actions which would be considered, for purposes of this subsection, to have a substantial adverse impact on the financial integrity of the registered holding company system; such regulations shall ensure that the action has no adverse impact on any utility subsidiary or its customers, or on the ability of State commissions to protect such subsidiary or customers, and shall take into account the amount and type of capital invested in exempt wholesale generators, the ratio of such capital to the total capital invested in utility operations, the availability of books and records, and the financial and operating experience of the registered holding company and the exempt wholesale generator; the Commission shall promulgate such regulations within 6 months after the enactment of this section; after such 6-month period the Commission shall not approve any actions under paragraph (3), (4) or (5) except in accordance with such issued regulations.

"(i) APPLICATION OF ACT TO OTHER ELIGIBLE FACILITIES.—In the case of any person engaged directly and exclusively in the business of owning or operating (or both owning and operating) all or part of one or more eligible facilities, an advisory letter issued by the Commission staff under this Act after the date of enactment of this section, or an order issued by the Commission under this Act after the date of enactment of this section, shall not be required for the purpose, or have the effect, of exempting such person from treatment as an electric utility company under section 2(a)(3) or exempting such person from any provision of this Act.

"(j) OWNERSHIP OF EXEMPT WHOLESALE GENERATORS AND QUALIFYING FACILITIES.—The ownership by a person of one or more exempt wholesale generators shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and

3(18)(B)(ii) of the Federal Power Act (16 U.S.C. 796 (17)(C)(ii) and 796(18)(B)(ii)).

"(k) PROTECTION AGAINST ABUSIVE AFFILIATE TRANSACTIONS.—

"(1) PROHIBITION.—After the date of enactment of this section, an electric utility company may not enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator if the exempt wholesale generator is an affiliate or associate company of the electric utility company.

"(2) STATE AUTHORITY TO EXEMPT FROM PROHIBITION.—Notwithstanding paragraph (1), an electric utility company may enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator that is an affiliate or associate company of the electric utility company—

"(A) if every State commission having jurisdiction over the retail rates of such electric utility company makes each of the following specific determinations in advance of the electric utility company entering into such contract:

"(i) A determination that such commission has sufficient regulatory authority, resources and access to books and records of the electric utility company and any relevant associate, affiliate or subsidiary company to exercise its duties under this subparagraph.

"(ii) A determination that the transaction—

"(I) will benefit consumers,

"(II) does not violate any State law (including where applicable, least cost planning),

"(III) would not provide the exempt wholesale generator any unfair competitive advantage by virtue of its affiliation or association with the electric utility company, and

"(IV) is in the public interest; or

"(B) if such electric utility company is not subject to State commission retail rate regulation and the purchased electric energy:

"(i) would not be resold to any affiliate or associate company, or

"(ii) the purchased electric energy would be resold to an affiliate or associate company and every State commission having jurisdiction over the retail rates of such affiliate or associate company makes each of the determinations provided under subparagraph (A), including the determination concerning a State commission's duties.

"(l) RECIPROCAL ARRANGEMENTS PROHIBITED.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.".

SEC. 712. STATE CONSIDERATION OF THE EFFECTS OF POWER PURCHASES ON UTILITY COST OF CAPITAL; CONSIDERATION OF THE EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND CONSIDERATION OF ADEQUATE FUEL SUPPLIES.

Section 111 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by inserting the following new paragraph after paragraph (9):

"(10) CONSIDERATION OF THE EFFECTS OF WHOLESALE POWER PURCHASES ON UTILITY COST OF CAPITAL; EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND ASSURANCE OF ADEQUATE FUEL SUPPLIES.—(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall perform a general evaluation of:

"(i) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities;

"(ii) whether the use by exempt wholesale generators (as defined in section 32 of the Public Utility Holding Company Act of 1935) of capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

"(iii) whether to implement procedures for the advance approval or disapproval of the purchase of a particular long-term wholesale power supply; and

"(iv) whether to require as a condition for the approval of the purchase of power that there be reasonable assurances of fuel supply adequacy.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

"(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.

"(E) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.".

SEC. 713. PUBLIC UTILITY HOLDING COMPANIES TO OWN INTERESTS IN COGENERATION FACILITIES.

Public Law 99-186 (99 Stat. 1180, as amended by Public Law 99-553, 100 Stat. 3087), is amended to read as follows:

"SECTION 1. Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act, or a subsidiary company of such registered company, may acquire or retain, in any geographic area, an interest in any qualifying cogeneration facilities and qualifying small power production facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act of 1935 prescribed pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978.

"SEC. 2. Nothing herein shall be construed to affect the applicability of section 3(17)(C) or section 3(18)(B) of the Federal Power Act or any provision of the Public Utility Holding Company Act of 1935, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.".

SEC. 714. BOOKS AND RECORDS.

Section 201 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(g) BOOKS AND RECORDS.—(1) Upon written order of a State commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

"(A) an electric utility company subject to its regulatory authority under State law,

"(B) any exempt wholesale generator selling energy at wholesale to such electric utility, and

"(C) any electric utility company, or holding company thereof, which is an associate company or affiliate of an exempt wholesale generator which sells electric energy to an electric utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric service.

"(2) Where a State commission issues an order pursuant to paragraph (1), the State commission shall not publicly disclose trade secrets or sensitive commercial information.

"(3) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to enforce compliance with this subsection.

"(4) Nothing in this section shall—

"(A) preempt applicable State law concerning the provision of records and other information; or

"(B) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

"(5) As used in this subsection the terms 'affiliate', 'associate company', 'electric utility company', 'holding company', 'subsidiary

company', and 'exempt wholesale generator' shall have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

SEC. 715. INVESTMENT IN FOREIGN UTILITIES.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is amended by inserting after section 32 the following new section:

"SEC. 33. TREATMENT OF FOREIGN UTILITIES.

"(a) EXEMPTIONS FOR FOREIGN UTILITY COMPANIES.—

"(1) IN GENERAL.—A foreign utility company shall be exempt from all of the provisions of this Act, except as otherwise provided under this section, and shall not, for any purpose under this Act, be deemed to be a public utility company under section 2(a)(5), notwithstanding that the foreign utility company may be a subsidiary company, an affiliate, or an associate company of a holding company or of a public utility company.

"(2) STATE COMMISSION CERTIFICATION.—Section (a)(1) shall not apply or be effective unless every State commission having jurisdiction over the retail electric or gas rates of a public utility company that is an associate company or an affiliate of a company otherwise exempted under section (a)(1) (other than a public utility company that is an associate company or an affiliate of a registered holding company) has certified to the Commission that it has the authority and resources to protect ratepayers subject to its jurisdiction and that it intends to exercise its authority. Such certification, upon the filing of a notice by such State commission, may be revised or withdrawn by the State commission prospectively as to any future acquisition. The requirement of State certification shall be deemed satisfied if the relevant State commission had, prior to the date of enactment of this section, on the basis of prescribed conditions of general applicability, determined that ratepayers of a public utility company are adequately insulated from the effects of diversification and the diversification would not impair the ability of the State commission to regulate effectively the operations of such company.

"(3) DEFINITION.—For purposes of this section, the term 'foreign utility company' means any company that—

"(A) owns or operates facilities that are not located in any State and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, if such company—

"(i) derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, within the United States; and

"(ii) neither the company nor any of its subsidiary companies is a public utility company operating in the United States; and

"(B) provides notice to the Commission, in such form as the Commission may prescribe, that such company is a foreign utility company.

"(b) OWNERSHIP OF FOREIGN UTILITY COMPANIES BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act except as provided under this section, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under the Act to acquire and maintain an interest in the business of one or more foreign utility companies.

"(c) REGISTERED HOLDING COMPANIES.—

"(1) OWNERSHIP OF FOREIGN UTILITY COMPANIES BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of this Act except as otherwise provided under this section, a registered holding company shall be permitted as of the date of enactment of this section (without the need to apply for, or receive approval from the Commission) to acquire and hold the securities or an interest in the business, of one or more foreign utility companies. The Commission shall promulgate rules or regulations regarding registered holding companies' acquisition of interests in foreign utility companies which shall provide for the protection of the customers of a public utility company which is an associate company of a foreign utility company and the maintenance of the financial integrity of the registered holding company system.

"(2) ISSUANCE OF SECURITIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of a foreign utility company, the guarantee of securities of a foreign utility company by a registered holding company, the entering into service, sales, or construction contracts, and the creation or maintenance of any other relationship between a foreign utility company and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act (unless otherwise exempted under this Act, in the case of a transaction with an affiliate or associate company located outside of the United States). Any State commission with jurisdiction over the retail rates of a public utility company which is part of a registered holding company system may make such recommendations to the Commission regarding the registered holding company's relationship to a foreign utility company, and the Commission shall reasonably and fully consider such State recommendation.

"(3) CONSTRUCTION.—Any interest in the business of 1 or more foreign utility companies, or 1 or more companies organized exclusively to own, directly or indirectly, the securities or other interest in a foreign utility company, shall for all purposes of this Act, be considered to be—

"(A) consistent with the operation of a single integrated public utility system, within the meaning of section 11; and

"(B) reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system, within the meaning of section 11.

"(d) EFFECT ON EXISTING LAW; NO STATE PREEMPTION.—Nothing in this section shall—

"(1) preclude any person from qualifying for or maintaining any exemption otherwise provided for under this Act or the rules, regulations, or orders promulgated or issued under this Act; or

"(2) be deemed or construed to limit the authority of any State (including any State regulatory authority) with respect to—

"(A) any public utility company or holding company subject to such State's jurisdiction; or

"(B) any transaction between any foreign utility company (or any affiliate or associate company thereof) and any public utility company or holding company subject to such State's jurisdiction.

(e) REPORTING REQUIREMENTS.—

"(1) FILING OF REPORTS.—A public utility company that is an associate company of a foreign utility company shall file with the Commission such reports (with respect to such foreign utility company) as the Commission may by rules, regulations, or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

"(2) NOTICE OF ACQUISITIONS.—Not later than 30 days after the consummation of the acquisition of an interest in a foreign utility company by an associate company of a public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates or by such public utility company, such associate company or such public utility company, shall provide notice of such acquisition to every State commission having jurisdiction over the retail electric or gas rates of such public utility company, in such form as may be prescribed by the State commission.

"(f) PROHIBITION ON ASSUMPTION OF LIABILITIES.—

"(1) IN GENERAL.—No public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall issue any security for the purpose of financing the acquisition, or for the purposes of financing the ownership or operation, of a foreign utility company, nor shall any such public utility company assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of a foreign utility company.

"(2) EXCEPTION FOR HOLDING COMPANIES WHICH ARE PREDOMINANTLY PUBLIC UTILITY COMPANIES.—Subsection (f)(1) shall not apply if:

"(A) the public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates is a holding company and is not an affiliate under section 2(a)(11)(B) of another holding company or is not subject to regulation as a holding company and has no affiliate as defined in section 2(a)(11)(A) that is a public utility company subject to the jurisdiction of a State commission with respect to its retail electric or gas rates; and

"(B) each State commission having jurisdiction with respect to the retail electric and gas rates of such public utility company expressly permits such public utility to

engage in a transaction otherwise prohibited under section (f)(1); and

"(C) the transaction (aggregated with all other then-outstanding transactions exempted under this subsection) does not exceed 5 per centum of the then-outstanding total capitalization of the public utility.

"(g) PROHIBITION ON PLEDGING OR ENCUMBERING UTILITY ASSETS.—No public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall pledge or encumber any utility assets or utility assets of any subsidiary thereof for the benefit of an associate foreign utility company.".

Subtitle B—Federal Power Act; Interstate Commerce in Electricity

SEC. 721. AMENDMENTS TO SECTION 211 OF FEDERAL POWER ACT.

Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended as follows:

(1) The first sentence of subsection (a) is amended to read as follows: "Any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale, may apply to the Commission for an order under this subsection requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant.".

(2) In the second sentence of subsection (a), strike "the Commission may" and all that follows and insert "the Commission may issue such order if it finds that such order meets the requirements of section 212, and would otherwise be in the public interest. No order may be issued under this subsection unless the applicant has made a request for transmission services to the transmitting utility that would be the subject of such order at least 60 days prior to its filing of an application for such order.".

(3) Amend subsection (b) to read as follows:

"(b) RELIABILITY OF ELECTRIC SERVICE.—No order may be issued under this section or section 210 if, after giving consideration to consistently applied regional or national reliability standards, guidelines, or criteria, the Commission finds that such order would unreasonably impair the continued reliability of electric systems affected by the order.".

(4) In subsection (c)—

(A) Strike out paragraph (1).

(B) In paragraph (2) strike "which requires the electric" and insert "which requires the transmitting".

(C) Strike out paragraphs (3) and (4).

(5) In subsection (d)—

(A) In the first sentence of paragraph (1), strike "electric" and insert "transmitting" in each place it appears.

(B) In the second sentence of paragraph (1) before "and each affected electric utility," insert "each affected transmitting utility,".

(C) In paragraph (3), strike "electric" and insert "transmitting".

(D) Strike the period in subparagraph (B) of paragraph (1) and insert ", or" and after subparagraph (B) insert the following new subparagraph:

"(C) the ordered transmission services require enlargement of transmission capacity and the transmitting utility subject to the order has failed, after making a good faith effort, to obtain the necessary approvals or property rights under applicable Federal, State, and local laws.".

SEC. 722. TRANSMISSION SERVICES.

Section 212 of the Federal Power Act is amended as follows:

(1) Strike subsections (a) and (b) and insert the following:

"(a) RATES, CHARGES, TERMS, AND CONDITIONS FOR WHOLESALE TRANSMISSION SERVICES.—An order under section 211 shall require the transmitting utility subject to the order to provide wholesale transmission services at rates, charges, terms, and conditions which permit the recovery by such utility of all the costs incurred in connection with the transmission services and necessary associated services, including, but not limited to, an appropriate share, if any, of legitimate, verifiable and economic costs, including taking into account any benefits to the transmission system of providing the transmission service, and the costs of any enlargement of transmission facilities. Such rates, charges, terms, and conditions shall promote the economically efficient transmission and generation of electricity and shall be just and reasonable, and not unduly discriminatory or preferential. Rates, charges, terms, and conditions for transmission services provided pursuant to an order under section 211 shall ensure that, to the extent practicable, costs incurred in providing the wholesale transmission services, and properly allocable to the provision of such services, are recovered from the applicant for such order and not from a transmitting utility's existing wholesale, retail, and transmission customers.".

(2) Subsection (e) is amended to read as follows:

"(e) SAVINGS PROVISIONS.—(1) No provision of section 210, 211, 214, or this section shall be treated as requiring any person to utilize the authority of any such section in lieu of any other authority of law. Except as provided in section 210, 211, 214, or this section, such sections shall not be construed as limiting or impairing any authority of the Commission under any other provision of law.

"(2) Sections 210, 211, 213, 214, and this section, shall not be construed to modify, impair, or supersede the antitrust laws. For purposes of this section, the term 'antitrust laws' has the meaning given in subsection (a) of the first sentence of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section relates to unfair methods of competition.".

(3) Add the following new subsections at the end thereof:

"(g) PROHIBITION ON ORDERS INCONSISTENT WITH RETAIL MARKETING AREAS.—No order may be issued under this Act which is in-

consistent with any State law which governs the retail marketing areas of electric utilities.

"(h) PROHIBITION ON MANDATORY RETAIL WHEELING AND SHAM WHOLESALE TRANSACTIONS.—No order issued under this Act shall be conditioned upon or require the transmission of electric energy:

"(1) directly to an ultimate consumer, or

"(2) to, or for the benefit of, an entity if such electric energy would be sold by such entity directly to an ultimate consumer, unless:

"(A) such entity is a Federal power marketing agency; the Tennessee Valley Authority; a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision); a corporation or association that has ever received a loan for the purposes of providing electric service from the Administrator of the Rural Electrification Administration under the Rural Electrification Act of 1936; a person having an obligation arising under State or local law (exclusive of an obligation arising solely from a contract entered into by such person) to provide electric service to the public; or any corporation or association which is wholly owned, directly or indirectly, by any one or more of the foregoing; and

"(B) such entity was providing electric service to such ultimate consumer on the date of enactment of this subsection or would utilize transmission or distribution facilities that it owns or controls to deliver all such electric energy to such electric consumer.

Nothing in this subsection shall affect any authority of any State or local government under State law concerning the transmission of electric energy directly to an ultimate consumer.".

"(i) LAWS APPLICABLE TO FEDERAL COLUMBIA RIVER TRANSMISSION SYSTEM.—(1) The Commission shall have authority pursuant to section 210, section 211, this section, and section 213 to (A) order the Administrator of the Bonneville Power Administration to provide transmission service and (B) establish the terms and conditions of such service. In applying such sections to the Federal Columbia River Transmission System, the Commission shall assure that—

"(i) the provisions of otherwise applicable Federal laws shall continue in full force and effect and shall continue to be applicable to the system; and

"(ii) the rates for the transmission of electric power on the system shall be governed only by such otherwise applicable provisions of law and not by any provision of section 210, section 211, this section, or section 213, except that no rate for the transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential, as determined by the Commission.

"(2) Notwithstanding any other provision of this Act with respect to the procedures for the determination of terms and conditions for transmission service—

"(A) when the Administrator of the Bonneville Power Administration either (i) in response to a written request for specific transmission service terms and conditions does not offer the requested terms and conditions, or (ii) proposes to establish

terms and conditions of general applicability for transmission service on the Federal Columbia River Transmission System, then the Administrator may provide opportunity for a hearing and, in so doing, shall—

"(I) give notice in the Federal Register and state in such notice the written explanation of the reasons why the specific terms and conditions for transmission services are not being offered or are being proposed;

"(II) adhere to the procedural requirements of paragraphs (1) through (3) of section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839(i)(1) through (3)), except that the hearing officer shall, unless the hearing officer becomes unavailable to the agency, make a recommended decision to the Administrator that states the hearing officer's findings and conclusions, and the reasons or basis thereof, on all material issues of fact, law, or discretion presented on the record; and

"(III) make a determination, setting forth the reasons for reaching any findings and conclusions which may differ from those of the hearing officer, based on the hearing record, consideration of the hearing officer's recommended decision, section 211 and this section, as amended by the Energy Policy Act of 1992, and the provisions of law as preserved in this section; and

"(B) if application is made to the Commission under section 211 for transmission service under terms and conditions different than those offered by the Administrator, or following the denial of a request for transmission service by the Administrator, and such application is filed within 60 days of the Administrator's final determination and in accordance with Commission procedures, the Commission shall—

"(i) in the event the Administrator has conducted a hearing as herein provided for (I) accord parties to the Administrator's hearing the opportunity to offer for the Commission record materials excluded by the Administrator from the hearing record, (II) accord such parties the opportunity to submit for the Commission record comments on appropriate terms and conditions, (III) afford those parties the opportunity for a hearing if and to the extent that the Commission finds the Administrator's hearing record to be inadequate to support a decision by the Commission, and (IV) establish terms and conditions for or deny transmission service based on the Administrator's hearing record, the Commission record, section 211 and this section, as amended by the Energy Policy Act of 1992, and the provisions of law as preserved in this section, or

"(ii) in the event the Administrator has not conducted a hearing as herein provided for, determine whether to issue an order for transmission service in accordance with section 211 and this section, including providing the opportunity for a hearing.

"(3) Notwithstanding those provisions of section 313(b) of this Act (16 U.S.C. 825l) which designate the court in which review may be obtained, any party to a proceeding concerning transmission serv-

ice sought to be furnished by the Administrator of the Bonneville Power Administration seeking review of an order issued by the Commission in such proceeding shall obtain a review of such order in the United States Court of Appeals for the Pacific Northwest, as that region is defined by section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)).

"(4) To the extent the Administrator of the Bonneville Power Administration cannot be required under section 211, as a result of the Administrator's other statutory mandates, either to (A) provide transmission service to an applicant which the Commission would otherwise order, or (B) provide such service under rates, terms, and conditions which the Commission would otherwise require, the applicant shall not be required to provide similar transmission services to the Administrator or to provide such services under similar rates, terms, and conditions.

"(5) The Commission shall not issue any order under section 210, section 211, this section, or section 213 requiring the Administrator of the Bonneville Power Administration to provide transmission service if such an order would impair the Administrator's ability to provide such transmission service to the Administrator's power and transmission customers in the Pacific Northwest, as that region is defined in section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)), as is needed to assure adequate and reliable service to loads in that region.

"(j) EQUITABILITY WITHIN TERRITORY RESTRICTED ELECTRIC SYSTEMS.—With respect to an electric utility which is prohibited by Federal law from being a source of power supply, either directly or through a distributor of its electric energy, outside an area set forth in such law, no order issued under section 211 may require such electric utility (or a distributor of such electric utility) to provide transmission services to another entity if the electric energy to be transmitted will be consumed within the area set forth in such Federal law, unless the order is in furtherance of a sale of electric energy to that electric utility: Provided, however, That the foregoing provision shall not apply to any area served at retail by an electric transmission system which was such a distributor on the date of enactment of this subsection and which before October 1, 1991, gave its notice of termination under its power supply contract with such electric utility.

"(k) ERCOT UTILITIES.—

"(1) RATES.—Any order under section 211 requiring provision of transmission services in whole or in part within ERCOT shall provide that any ERCOT utility which is not a public utility and the transmission facilities of which are actually used for such transmission service is entitled to receive compensation based, insofar as practicable and consistent with subsection (a), on the transmission ratemaking methodology used by the Public Utility Commission of Texas.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'ERCOT' means the Electric Reliability Council of Texas; and

"(B) the term 'ERCOT utility' means a transmitting utility which is a member of ERCOT.".

SEC. 723. INFORMATION REQUIREMENTS.

Part II of the Federal Power Act is amended by adding the following new section after section 212:

"SEC. 213. INFORMATION REQUIREMENTS.

"(a) REQUESTS FOR WHOLESALE TRANSMISSION SERVICES.—Whenever any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale makes a good faith request to a transmitting utility to provide wholesale transmission services and requests specific rates and charges, and other terms and conditions, unless the transmitting utility agrees to provide such services at rates, charges, terms and conditions acceptable to such person, the transmitting utility shall, within 60 days of its receipt of the request, or other mutually agreed upon period, provide such person with a detailed written explanation, with specific reference to the facts and circumstances of the request, stating (1) the transmitting utility's basis for the proposed rates, charges, terms, and conditions for such services, and (2) its analysis of any physical or other constraints affecting the provision of such services.

"(b) TRANSMISSION CAPACITY AND CONSTRAINTS.—Not later than 1 year after the enactment of this section, the Commission shall promulgate a rule requiring that information be submitted annually to the Commission by transmitting utilities which is adequate to inform potential transmission customers, State regulatory authorities, and the public of potentially available transmission capacity and known constraints.".

SEC. 724. SALES BY EXEMPT WHOLESALE GENERATORS.

Part II of the Federal Power Act is amended by adding the following new section after section 213:

"SEC. 214. SALES BY EXEMPT WHOLESALE GENERATORS.

"No rate or charge received by an exempt wholesale generator for the sale of electric energy shall be lawful under section 205 if, after notice and opportunity for hearing, the Commission finds that such rate or charge results from the receipt of any undue preference or advantage from an electric utility which is an associate company or an affiliate of the exempt wholesale generator. For purposes of this section, the terms 'associate company' and 'affiliate' shall have the same meaning as provided in section 2(a) of the Public Utility Holding Company Act of 1935.".

SEC. 725. PENALTIES.

(a) EXISTING PENALTIES NOT APPLICABLE TO TRANSMISSION PROVISIONS.—Sections 315 and 316 of the Federal Power Act are each amended by adding the following at the end thereof:

"(c) This subsection shall not apply in the case of any provision of section 211, 212, 213, or 214 or any rule or order issued under any such provision.".

(b) PENALTIES APPLICABLE TO TRANSMISSION PROVISIONS.—Title III of the Federal Power Act is amended by inserting the following new section after section 316:

"SEC. 316A. ENFORCEMENT OF CERTAIN PROVISIONS.

"(a) VIOLATIONS.—It shall be unlawful for any person to violate any provision of section 211, 212, 213, or 214 or any rule or order issued under any such provision.

"(b) CIVIL PENALTIES.—Any person who violates any provision of section 211, 212, 213, or 214 or any provision of any rule or order thereunder shall be subject to a civil penalty of not more than $10,000 for each day that such violation continues. Such penalty shall be assessed by the Commission, after notice and opportunity for public hearing, in accordance with the same provisions as are applicable under section 31(d) in the case of civil penalties assessed under section 31. In determining the amount of a proposed penalty, the Commission shall take into consideration the seriousness of the violation and the efforts of such person to remedy the violation in a timely manner.".

SEC. 726. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act is amended by adding the following at the end thereof:

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any electric utility, qualifying cogeneration facility, qualifying small power production facility, or Federal power marketing agency which owns or operates electric power transmission facilities which are used for the sale of electric energy at wholesale.

"(24) WHOLESALE TRANSMISSION SERVICES.—The term 'wholesale transmission services' means the transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.

"(25) EXEMPT WHOLESALE GENERATOR.—The term 'exempt wholesale generator' shall have the meaning provided by section 32 of the Public Utility Holding Company Act of 1935.".

(b) CLARIFICATION OF TERMS.—Section 3(22) of the Federal Power Act is amended by inserting "(including any municipality)" after "State agency".

Subtitle C—State and Local Authorities

SEC. 731. STATE AUTHORITIES.

Nothing in this title or in any amendment made by this title shall be construed as affecting or intending to affect, or in any way to interfere with, the authority of any State or local government relating to environmental protection or the siting of facilities.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

SEC. 801. NUCLEAR WASTE DISPOSAL.

(a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—

(1) PROMULGATION.—Notwithstanding the provisions of section 121(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)), section 161 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(b)), and any other authority of the Administrator of the Environmental Protection Agency to set generally applicable standards for the Yucca Mountain site, the Administrator shall, based upon and consistent with the findings and recom-

mendations of the National Academy of Sciences, promulgate, by rule, public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site. Such standards shall prescribe the maximum annual effective dose equivalent to individual members of the public from releases to the accessible environment from radioactive materials stored or disposed of in the repository. The standards shall be promulgated not later than 1 year after the Administrator receives the findings and recommendations of the National Academy of Sciences under paragraph (2) and shall be the only such standards applicable to the Yucca Mountain site.

(2) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Within 90 days after the date of the enactment of this Act, the Administrator shall contract with the National Academy of Sciences to conduct a study to provide, by not later than December 31, 1993, findings and recommendations on reasonable standards for protection of the public health and safety, including—

(A) whether a health-based standard based upon doses to individual members of the public from releases to the accessible environment (as that term is defined in the regulations contained in subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on November 18, 1985) will provide a reasonable standard for protection of the health and safety of the general public;

(B) whether it is reasonable to assume that a system for post-closure oversight of the repository can be developed, based upon active institutional controls, that will prevent an unreasonable risk of breaching the repository's engineered or geologic barriers or increasing the exposure of individual members of the public to radiation beyond allowable limits; and

(C) whether it is possible to make scientifically supportable predictions of the probability that the repository's engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years.

(3) APPLICABILITY.—The provisions of this section shall apply to the Yucca Mountain site, rather than any other authority of the Administrator to set generally applicable standards for radiation protection.

(b) NUCLEAR REGULATORY COMMISSION REQUIREMENTS AND CRITERIA.—

(1) MODIFICATIONS.—Not later than 1 year after the Administrator promulgates standards under subsection (a), the Nuclear Regulatory Commission shall, by rule, modify its technical requirements and criteria under section 121(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(b)), as necessary, to be consistent with the Administrator's standards promulgated under subsection (a).

(2) REQUIRED ASSUMPTIONS.—The Commission's requirements and criteria shall assume, to the extent consistent with the findings and recommendations of the National Academy of Sciences, that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure oversight of

the Yucca Mountain site, in accordance with subsection (c), shall be sufficient to—

(A) prevent any activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits.

(c) POST-CLOSURE OVERSIGHT.—Following repository closure, the Secretary of Energy shall continue to oversee the Yucca Mountain site to prevent any activity at the site that poses an unreasonable risk of—

(1) breaching the repository's engineered or geologic barriers; or

(2) increasing the exposure of individual members of the public to radiation beyond allowable limits.

SEC. 802. OFFICE OF THE NUCLEAR WASTE NEGOTIATOR.

(a) EXTENSION.—Section 410 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10250) is amended by striking "5 years" and inserting "7 years".

(b) DEFINITION OF STATE.—Section 401 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10241) is amended—

(1) by striking "States," the first place it appears and inserting "States and"; and

(2) by inserting a period after "District of Columbia" and striking the remainder of the sentence.

SEC. 803. NUCLEAR WASTE MANAGEMENT PLAN.

(a) PREPARATION AND SUBMISSION OF REPORT.—The Secretary of Energy, in consultation with the Nuclear Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to the Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of the enactment of this Act. The Secretary shall prepare the report for submission to the President and the Congress within 1 year after the date of the enactment of this Act. The report shall examine any new relevant issues related to management of spent nuclear fuel and high-level radioactive waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent nuclear fuel or high-level radioactive waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

(b) OPPORTUNITY FOR PUBLIC COMMENT.—In preparation of the report required under subsection (a), the Secretary of Energy shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

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

TITLE IX—UNITED STATES ENRICHMENT CORPORATION

SEC. 901. ESTABLISHMENT OF THE UNITED STATES ENRICHMENT CORPORATION.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding at the end the following new title:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"SEC. 1201. DEFINITIONS.

"For purposes of this title:

"(1) The term 'alternative technologies for uranium enrichment' means technologies to enrich uranium by methods other than the gaseous diffusion process.

"(2) The term 'AVLIS' means atomic vapor laser isotope separation technology.

"(3) The term 'Board' means the Board of Directors of the Corporation established under section 1304.

"(4) The term 'Corporation' means the United States Enrichment Corporation.

"(5) The term 'corrective actions' has the meaning given such term by the Administrator of the Environmental Protection Agency under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u)).

"(6) The term 'decontamination and decommissioning' means those activities, other than response actions or corrective actions, undertaken to decontaminate and decommission inactive uranium enrichment facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination, including depleted tailings.

"(7) The term 'Department' means the Department of Energy.

"(8) The term 'highly enriched uranium' means uranium enriched to 20 percent or more of the uranium-235 isotope.

"(9) The term 'low-enriched uranium' means uranium enriched to less than 20 percent of the uranium-235 isotope.

"(10) The term 'releases' has the meaning given the term 'release' in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

"(11) The term 'remedial action' has the meaning given such term in section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

"(12) The term 'response actions' has the meaning given the term 'response' in section 101(25) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

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

"(14) The term 'uranium enrichment' means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

"SEC. 1202. PURPOSES.

"The Corporation is created for the following purposes:

"(1) To operate as a business enterprise on a profitable and efficient basis.

"(2) To maximize the long-term value of the Corporation to the Treasury of the United States.

"(3) To lease Department uranium enrichment facilities, as needed.

"(4) To acquire uranium for uranium enrichment, low-enriched uranium for resale, and highly enriched uranium for conversion into low-enriched uranium, as needed.

"(5) To market and sell its enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) domestic and foreign persons, as provided in section 1303(6).

"(6) To conduct research and development as required to meet business objectives for the purposes of identifying, evaluating, improving, and testing alternative technologies for uranium enrichment.

"(7) To conduct the business as a self-financing corporation and eliminate the need for Federal Government appropriations or sources of Federal financing other than those provided in this title.

"(8) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(9) To comply with laws, and regulations promulgated thereunder, to protect the public health, safety, and the environment.

"(10) To continue at all times to meet the objectives of ensuring the Nation's common defense and security, including abiding by United States laws and policies concerning special nuclear materials and nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy.

"(11) To take all other lawful actions in furtherance of these purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"SEC. 1301. ESTABLISHMENT OF THE CORPORATION.

"(a) IN GENERAL.—There is established a body corporate to be known as the United States Enrichment Corporation.

"(b) GOVERNMENT CORPORATION.—The Corporation shall be established as a wholly owned Government corporation subject to

chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this title.

"(c) FEDERAL AGENCY.—The Corporation shall be an agency and instrumentality of the United States.

"SEC. 1302. CORPORATE OFFICES.

"The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"SEC. 1303. POWERS OF THE CORPORATION.

"In order to accomplish its purposes, the Corporation—

"(1) shall, except as provided in this title or applicable Federal law, have all the powers of a private corporation incorporated under the District of Columbia Business Corporation Act;

"(2) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"(3) may obtain from the Administrator of General Services the services the Administrator is authorized to provide agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

"(4) shall enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium provided under section 1408);

"(5) may conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the Corporation considers necessary or advisable to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis;

"(6) may enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(A) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(B) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(C) persons otherwise authorized by law to enter into such transactions;

"(7) may enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the Corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(8) may enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(9) shall sell to the Department as provided in this title, without regard to section 57 e., the amounts of uranium enrich-

ment and related services that the Department determines from time to time are required for it to—

"(A) carry out Presidential directions and authorizations under section 91; and

"(B) conduct other Department programs.

"SEC. 1304. BOARD OF DIRECTORS.

"(a) IN GENERAL.—The powers of the Corporation are vested in the Board of Directors.

"(b) APPOINTMENT.—The Board of Directors shall consist of 5 individuals, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among members of the Board.

"(c) QUALIFICATIONS.—Members of the Board shall be citizens of the United States. No member of the Board shall be an employee of the Corporation or have any direct financial relationship with the Corporation other than that of being a member of the Board.

"(d) TERMS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board shall serve 5-year terms or until the election of a new Board of Directors under section 1704, whichever comes first.

"(2) INITIAL MEMBERS.—Of the members first appointed to the Board—

"(A) 1 shall be appointed for a 1-year term;

"(B) 1 shall be appointed for a 2-year term;

"(C) 1 shall be appointed for a 3-year term; and

"(D) 1 shall be appointed for a 4-year term.

"(3) REAPPOINTMENT.—Members of the Board may be reappointed by the President, by and with the advice and consent of the Senate.

"(e) VACANCIES.—Upon the occurrence of a vacancy on the Board, the President by and with the advice and consent of the Senate shall appoint an individual to fill such vacancy for the remainder of the applicable term.

"(f) MEETINGS AND QUORUM.—The Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. 3 voting members of the Board shall constitute a quorum. A majority of the Board shall adopt and from time to time may amend bylaws for the operation of the Board.

"(g) POWERS.—The Board shall be responsible for general management of the Corporation and shall have the same authority, privileges, and responsibilities as the board of directors of a private corporation incorporated under the District of Columbia Business Corporation Act.

"(h) COMPENSATION.—Members of the Board shall serve on a part-time basis and shall receive per diem, when engaged in the actual performance of Corporation duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"(i) MEMBERSHIP OF SECRETARY OF TREASURY.—The President may appoint the Secretary of the Treasury or his designee to serve as

a member of the Board or as a nonvoting, ex officio member of the Board.

"(j) CONFLICT OF INTEREST REQUIREMENTS.—No director, officer, or other management level employee of the Corporation may have a financial interest in any customer, contractor, or competitor of the Corporation or in any business that may be adversely affected by the success of the Corporation.

"SEC. 1305. EMPLOYEES OF THE CORPORATION.

"(a) APPOINTMENT.—The Board shall appoint such officers and employees as are necessary for the transaction of its business.

"(b) COMPENSATION, DUTIES, AND REMOVAL.—The Board shall, without regard to section 5301 of title 5, United States Code, fix the compensation of all officers and employees of the Corporation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any officer or employee of the Corporation may be removed in the discretion of the Board.

"(c) APPLICABLE CRITERIA.—The Board shall ensure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees shall be appointed, promoted, and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"(d) TREATMENT OF PERSONS EMPLOYED PRIOR TO TRANSITION DATE.—Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the transition date, whether provided by statute or by rules of the Department or the executive branch, shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Board.

"(e) PROTECTION OF EXISTING EMPLOYEES.—

"(1) IN GENERAL.—It is the purpose of this subsection to ensure that the establishment of the Corporation pursuant to this chapter shall not result in any adverse effects on the employment rights, wages, or benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—Any employer (including the Corporation) at a facility described in paragraph (1) shall abide by the terms of a collective bargaining agreement in effect on April 30, 1991, at each individual facility until—

"(A) the earlier of the date on which a new bargaining agreement is signed; or

"(B) the end of the 2-year period beginning on the date of the enactment of this title.

"(3) APPLICABILITY OF NLRA.—Except as specifically provided in this subsection, the Corporation is subject to the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

"(4) BENEFITS OF TRANSFEREES AND DETAILEES.—At the request of the Board and subject to the approval of the Secretary, an employee of the Department may be transferred or detailed as provided for in section 1315, to the Corporation without any loss in accrued benefits or standing within the Civil Service System. For those employees who accept transfer to the Corporation, it shall be their option as to whether to have any accrued retirement benefits transferred to a retirement system established by the Corporation or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system. For those employees electing to remain with one of the Federal retirement systems, the Corporation shall withhold pay and make such payments as are required under the Federal retirement system. For those Department employees detailed, the Department shall offer those employees a position of like grade, compensation, and proximity to their official duty station after their services are no longer required by the Corporation.

"SEC. 1306. AUDITS.

"(a) INDEPENDENT AUDITS.—

"(1) IN GENERAL.—The financial statements of the Corporation shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with auditing standards issued by the Comptroller General. Such auditing standards shall be consistent with the private sector's generally accepted auditing standards.

"(2) REVIEW BY GAO.—The Comptroller General may review any audit of the Corporation's financial statements conducted under paragraph (1). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations.

"(b) GAO AUDITS.—

"(1) IN GENERAL.—The Comptroller General may audit the financial statements of the Corporation for any year in the manner provided in subsection (a)(1).

"(2) REIMBURSEMENT BY CORPORATION.—The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General.

"(c) AVAILABILITY OF BOOKS AND RECORDS.—All books, accounts, financial records, reports, files, papers, and other property belonging to or in use by the Corporation and its auditor that the Comptroller General considers necessary to the performance of any audit or review under this section shall be made available to the Comptroller General, subject to section 1314.

"(d) TREATMENT OF GAO AUDITS.—Activities the Comptroller General conducts under this section shall be in lieu of any other audit of the financial transactions of the Corporation the Comptroller General is required to make under chapter 91 of title 31, United States Code, or other law.

"SEC. 1307. ANNUAL REPORTS.

"(a) IN GENERAL.—The Corporation shall prepare and submit an annual report of its activities to the President and the Congress. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends;

"(3) copies of audit reports prepared under section 1305;

"(4) the information required under regulations issued under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

"(5) an identification and assessment of any impairment of capital or ability of the Corporation to comply with this title.

"(b) DEADLINE.—The report shall be completed not later than 150 days following the close of each of the Corporation's fiscal years and shall accurately reflect the financial position of the Corporation at fiscal year end.

"SEC. 1308. ACCOUNTS.

"(a) ESTABLISHMENT OF UNITED STATES ENRICHMENT CORPORATION FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the 'United States Enrichment Corporation Fund', which shall be available to the Corporation, without need for further appropriation and without fiscal year limitation, for carrying out its purposes, functions, and powers, and which shall not be subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

"(b) TRANSFER OF UNEXPENDED BALANCES.—On the transfer date, the Secretary shall, without need of further appropriation, transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"SEC. 1309. OBLIGATIONS.

"(a) ISSUANCE.—

"(1) IN GENERAL.—The Corporation may issue and sell bonds, notes, and other evidences of indebtedness (collectively referred to in this title as 'bonds'), except that the Corporation may not issue or sell bonds for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities. Borrowing under this paragraph during any fiscal year ending before October 1, 1996, shall be subject to approval in appropriation Acts.

"(2) USE OF REVENUES.—The Corporation may pledge and use its revenues for payment of the principal of and interest on its bonds, for their purchase or redemption, and for other purposes incidental to these functions, including creation of reserve funds and other funds that may be similarly pledged and used.

"(3) AGREEMENTS WITH HOLDERS AND TRUSTEES.—The Corporation may enter into binding covenants with the holders and trustees of its bonds with respect to—

"(A) the establishment of reserve and other funds;

"(B) stipulations concerning the subsequent issuance of bonds; and

"(C) other matters not inconsistent with this title;

that the Corporation determines necessary or desirable to enhance the marketability of the bonds.

"(b) NOT OBLIGATIONS OF UNITED STATES.—Bonds issued by the Corporation under this section shall not be obligations of, or guaranteed as to principal or interest by, the United States, and the bonds shall so plainly state.

"(c) TERMS AND CONDITIONS.—

"(1) NEGOTIABLE; MATURITY.—Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified in the bond and shall mature not more than 50 years after their date of issuance.

"(2) ROLE OF SECRETARY OF THE TREASURY.—

"(A) RIGHT OF DISAPPROVAL.—The Corporation may set the terms and conditions of bonds issued under this section, subject to disapproval of such terms and conditions by the Secretary of the Treasury within 5 days after the Secretary of the Treasury is notified of the following terms and conditions of the bonds:

"(i) Their forms and denominations.

"(ii) The times, amounts, and prices at which they are sold.

"(iii) Their rates of interest.

"(iv) The terms at which they may be redeemed by the Corporation before maturity.

"(v) The priority of their claims on the Corporation's net revenues with respect to principal and interest payments.

"(vi) Any other terms and conditions.

"(B) INAPPLICABILITY OF RIGHT TO PRESCRIBE TERMS.—Section 9108(a) of title 31, United States Code, shall not apply to the Corporation.

"(d) INAPPLICABILITY OF SECURITIES REQUIREMENTS.—The Corporation shall be considered an executive department of the United States for purposes of section 3(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(c)).

"(e) INAPPLICABILITY OF FFB.—The Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1310. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.

"(a) EXEMPTION FROM TAXATION.—In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation shall, beginning in fiscal year 1998, make payments to State and local governments as provided in this section. These payments shall be in lieu of any and all State and local taxes on the real and personal property of the Corporation. All property of the Corporation is expressly exempted from taxation in any manner or form by any State, county, or other local government entity including State, county, or other local government sales tax.

"(b) PAYMENTS IN LIEU OF TAXES.—Beginning in fiscal year 1998, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making these determinations, the Corporation shall be guided by the following criteria:

"(1) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(2) The payment made to any taxing authority for any period shall not be less than the payments that would have been made to the taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1404 and that would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the transition date.

"(c) TIME OF PAYMENTS.—Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable.

"(d) DETERMINATION OF AMOUNT DUE.—The determination by the Corporation of the amounts due under this section shall be final and conclusive.

"SEC. 1311. COOPERATION WITH OTHER AGENCIES.

"The Corporation may request to use on a reimbursable basis the available services, equipment, personnel, and facilities of agencies of the United States, and on a similar basis may cooperate with such agencies in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

"SEC. 1312. APPLICABILITY OF CERTAIN FEDERAL LAWS.

"(a) ANTITRUST LAWS.—The Corporation shall conduct its activities in a manner consistent with the policies expressed in the following antitrust laws:

"(1) The Sherman Act (15 U.S.C. 1–7).

"(2) The Clayton Act (15 U.S.C. 12–27).

"(3) Sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9).

"(b) ENVIRONMENTAL LAWS.—The Corporation shall be subject to, and comply with, all Federal and State, interstate, and local environmental laws and requirements, both substantive and procedural, in the same manner, and to the same extent, as any person who is subject to such laws and requirements. For purposes of enforcing any such law or substantive or procedural requirements (including any injunctive relief, administrative order, or civil or administrative penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corpora-

tion. For the purposes of this subsection, the term 'person' means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, or political subdivision of a State.

"(c) OSHA REQUIREMENTS.—Notwithstanding sections 3(5), 4(b)(1), and 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5), 653(b)(1), and 668)), the Corporation shall be subject to, and comply with, such Act and all regulations and standards promulgated thereunder in the same manner, and to the same extent, as an employer is subject to such Act. For the purposes of enforcing such Act (including any injunctive relief, administrative order, or civil, administrative, or criminal penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation.

"(d) LABOR STANDARDS.—The Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.) and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall apply to the Corporation. All laborers and mechanics employed on the construction, alteration, or repair of projects funded, in whole or in part, by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with such Act of March 3, 1931. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

"(e) ENERGY REORGANIZATION ACT REQUIREMENTS.—The Corporation is subject to the provisions of section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5850) to the same extent as an employer subject to such section, and, with respect to the operation of the facilities leased by the Corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the Corporation.

"(f) EXEMPTION FROM FEDERAL PROPERTY REQUIREMENTS.—The Corporation shall not be subject to the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.).

"SEC. 1313. SECURITY.

"Any references to the term 'Commission' or to the Department in sections 161 k., 221 a., and 230 shall be considered to include the Corporation.

"SEC. 1314. CONTROL OF INFORMATION.

"(a) IN GENERAL.—Except as provided in subsection (b), the Corporation may protect trade secret and commercial or financial information to the same extent as a privately owned corporation.

"(b) OTHER APPLICABLE LAWS.—Section 552(d) of title 5, United States Code, shall apply to the Corporation, and such information shall be subject to the applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

"SEC. 1315. TRANSITION.

"(a) TRANSITION MANAGER.—Within 30 days after the date of the enactment of this title, the President shall appoint a Transition

Manager, who shall serve at the pleasure of the President until a quorum of the Board has been appointed and confirmed in accordance with section 1304.

"(b) POWERS.—

"(1) IN GENERAL.—Until a quorum of the Board has qualified, the Transition Manager shall exercise the powers and duties of the Board and shall be responsible for taking all actions needed to effect the transfer of the uranium enrichment enterprise from the Secretary to the Corporation on the transition date.

"(2) CONTINUATION UNTIL BOARD HAS QUORUM.—In the event that a quorum of the Board have not qualified by the transition date, the Transition Manager shall continue to exercise the powers and duties of the Board until a quorum has qualified.

"(c) RATIFICATION OF TRANSITION MANAGER'S ACTIONS.—All actions taken by the Transition Manager before the qualification of a quorum of the Board shall be subject to ratification by the Board.

"(d) RESPONSIBILITIES OF SECRETARY.—Before the transition date, the Secretary shall—

"(1) continue to be responsible for the management and operation of the uranium enrichment plants;

"(2) provide funds, to the extent provided in appropriations Acts, to the Transition Manager to pay salaries and expenses;

"(3) delegate Department employees to assist the Transition Manager in meeting his responsibilities under this section; and

"(4) assist and cooperate with the Transition Manager in preparing for the transfer of the uranium enrichment enterprise to the Corporation on the transition date.

"(e) TRANSITION DATE.—The transition date shall be July 1, 1993.

"(f) DETAIL OF PERSONNEL.—For the purpose of continuity of operations, maintenance, and authority, the Department shall detail, for up to 18 months after the date of the enactment of this title, appropriate Department personnel as may be required in an acting capacity, until such time as a Board is confirmed and top officers of the Corporation are hired. The Corporation shall reimburse the Department and its contractors for the detail of such personnel.

"SEC. 1316. WORKING CAPITAL ACCOUNT.

"There shall be established within the Corporation a Working Capital Account in which the Corporation may retain all revenue necessary for legitimate business expenses, or investments, related to carrying out its purposes.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"SEC. 1401. MARKETING AND CONTRACTING AUTHORITY.

"(a) EXCLUSIVE MARKETING AGENT.—The Corporation shall act as the exclusive marketing agent on behalf of the United States Government for entering into contracts for providing enriched uranium (including low-enriched uranium derived from highly enriched uranium) and uranium enrichment and related services. The Department may not market enriched uranium (including low-en-

riched uranium derived from highly enriched uranium), or uranium enrichment and related services, after the transition date.

"(b) TRANSFER OF CONTRACTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), all contracts, agreements, and leases with the Department, including all uranium enrichment contracts and power purchase contracts, that have been executed by the Department before the transition date and that relate to uranium enrichment and related services shall transfer to the Corporation.

"(2) EXCEPTIONS.—

"(A) TVA SETTLEMENT.—The rights and responsibilities of the Department under the settlement agreement with the Tennessee Valley Authority, filed on December 18, 1987, with the United States Claims Court, shall not transfer to the Corporation.

"(B) NONTRANSFERABLE POWER CONTRACTS.—If the Secretary determines that a power purchase contract executed by the Department prior to the transition date cannot be transferred under its terms, the Secretary may continue to receive power under the contract and resell such power to the Corporation at cost.

"(C) NONPOWER APPLICATIONS.—Contracts for enriched uranium and uranium services in existence as of the date of the enactment of this title for research and development or other nonpower applications shall remain with the Department. At the request of the Department, the Corporation, in consultation with the Department, may enter into such contracts it determines to be appropriate.

"SEC. 1402. PRICING.

"(a) SERVICES PROVIDED TO COMMERCIAL CUSTOMERS.—The Corporation shall establish prices for its products, materials, and services provided to customers other than the Department on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

"(b) SERVICES PROVIDED TO DOE.—The Corporation shall charge prices to the Department for uranium enrichment services provided under section 1303(9) on a basis that will allow it to recover its costs, on a yearly basis, for providing products, materials, and services, and provide for a reasonable profit.

"SEC. 1403. LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.

"(a) IN GENERAL.—The Corporation shall lease the Paducah Gaseous Diffusion Plant in Paducah, Kentucky, the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio, and related property of the Department, for a period of 6 years from the transition date. Thereafter, the Corporation shall have the exclusive option to lease such facilities and related property for additional periods.

"(b) TERMS OF LEASE.—The Corporation and the Department shall set mutually agreeable terms for a lease under subsection (a), including specifying annual payments to the Department by the Corporation to be made. The amount of annual payments shall be equal to the cost incurred by the Department in administering the lease and providing services related to the lease to the Corporation (excluding depreciation and imputed interest on original plant in-

vestments in the Department's gaseous diffusion plants and costs under subsection (d)).

"(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—Subsection (a) shall not apply to Department facilities necessary for the production of highly enriched uranium. The Secretary may grant to the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

"(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before the transition date, in connection with property of the Department leased under subsection (a), shall remain the sole responsibility of the Department.

"(e) ENVIRONMENTAL AUDIT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a comprehensive environmental audit identifying environmental conditions that will remain the responsibility of the Department pursuant to subsection (d) after the transition date. Such audit shall be completed no later than the transition date.

"(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation under this section shall be deemed to be a contract for purposes of section 170 d.

"(g) WAIVER OF EIS REQUIREMENT.—The execution of the lease by the Corporation and the Department shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"SEC. 1404. CAPITAL STRUCTURE OF CORPORATION.

"(a) CAPITAL STOCK.—

"(1) ISSUANCE TO SECRETARY OF THE TREASURY.—The Corporation shall issue capital stock representing an equity investment equal to the greater of—

"(A) $3,000,000,000; or

"(B) the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1991, modified to reflect continued depreciation and other usual changes that occur up to the transfer date.

The Secretary of the Treasury shall hold such stock for the United States, except that all rights and duties pertaining to management of the Corporation shall remain vested in the Board.

"(2) RESTRICTION ON TRANSFERS OF STOCK BY UNITED STATES.—The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States, except to carry out the privatization of the Corporation under section 1502.

"(3) ANNUAL ASSESSMENT.—The Secretary of the Treasury shall annually assess the value of the stock held by the Secretary under paragraph (1) and submit to the Congress a report setting forth such value. The annual assessment of the Secretary shall be subject to review by an independent auditor.

"(b) PAYMENT OF DIVIDENDS.—The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as is provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. Until privatization occurs under section 1502, the Corporation shall pay as dividends to the Treasury of the United States all net revenues remaining at the end of each fiscal year not required for operating expenses or for deposit into the Working Capital Account established in section 1316.

"(c) PROHIBITION ON ADDITIONAL FEDERAL ASSISTANCE.—Except as otherwise specifically provided in this title, the Corporation shall receive no appropriations, loans, or other financial assistance from the Federal Government.

"(d) SOLE RECOVERY OF UNRECOVERED COSTS.—Receipt by the United States of the proceeds from the sale of stock issued by the Corporation under subsection (a)(1), and the dividends paid under subsection (b), shall constitute the sole recovery by the United States of previously unrecovered costs (including depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants) that have been incurred by the United States for uranium enrichment activities prior to the transition date.

"SEC. 1405. PATENTS AND INVENTIONS.

"The Corporation may at any time apply to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when the patent has not been declared to be affected with the public interest under section 153 a. and when use of the patent is within the Corporation's authority. An application shall constitute an application under section 153 c. subject to section 153 c., d., e., f., g., and h.

"SEC. 1406. LIABILITIES.

"(a) LIABILITIES BASED ON OPERATIONS BEFORE TRANSITION.—Except as otherwise provided in this title, all liabilities attributable to operation of the uranium enrichment enterprise before the transition date shall remain direct liabilities of the Department.

"(b) JUDGMENTS BASED ON OPERATIONS BEFORE TRANSITION.—Any judgment entered against the Corporation imposing liability arising out of the operation of the uranium enrichment enterprise before the transition date shall be considered a judgment against and shall be payable solely by the Department.

"(c) REPRESENTATION.—With regard to any claim seeking to impose liability under subsection (a) or (b), the United States shall be represented by the Department of Justice.

"(d) JUDGMENTS BASED ON OPERATIONS AFTER TRANSITION.—Any judgment entered against the Corporation arising from operations of the Corporation on or after the transition date shall be payable solely by the Corporation from its own funds. The Corporation shall not be considered a Federal agency for purposes of chapter 171 of title 28, United States Code.

"SEC. 1407. TRANSFER OF URANIUM INVENTORIES.

"The Secretary shall transfer to the Corporation without charge all raw and low-enriched uranium inventories of the Department

necessary for the fulfillment of contracts transferred under section 1401(b).

"SEC. 1408. PURCHASE OF HIGHLY ENRICHED URANIUM FROM FORMER SOVIET UNION.

"(a) IN GENERAL.—The Corporation is authorized to negotiate the purchase of all highly enriched uranium made available by any State of the former Soviet Union under a government-to-government agreement or shall assume the obligations of the Department under any contractual agreement that has been reached with any such State or any private entity before the transition date. The Corporation may only purchase this material so long as the quality of the material can be made suitable for use in commercial reactors.

"(b) ASSESSMENT OF POTENTIAL USE.—The Corporation shall prepare an assessment of the potential use of highly enriched uranium in the business operations of the Corporation.

"(c) PLAN FOR BLENDING AND CONVERSION.—In the event that the agreement under subsection (a) provides for the Corporation to provide for the blending and conversion the assessment shall include a plan for such blending and conversion. The plan shall determine the least-cost approach to providing blending and conversion services, compatible with environmental, safety, security, and nonproliferation requirements. The plan shall include a competitive process that the Corporation shall use for selecting a provider of such services, including the public solicitation of proposals from the private sector to allow a determination of the least-cost approach.

"(d) MINIMIZATION OF IMPACT ON DOMESTIC INDUSTRIES.—The Corporation shall seek to minimize the impact on domestic industries (including uranium mining) of the sale of low-enriched uranium derived from highly enriched uranium.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"SEC. 1501. STRATEGIC PLAN FOR PRIVATIZATION.

"(a) IN GENERAL.—Within 2 years after the transition date, the Corporation shall prepare a strategic plan for transferring ownership of the Corporation to private investors. The Corporation shall revise the plan as needed.

"(b) CONSIDERATION OF ALTERNATIVE MEANS OF TRANSFERRING OWNERSHIP.—The plan shall include consideration of alternative means for transferring ownership of the Corporation to private investors, including public stock offering, private placement, or merger or acquisition. The plan may call for the phased transfer of ownership or for complete transfer at a single point of time. If the plan calls for phased transfer of ownership, then—

"(1) privatization shall be deemed to occur when 100 percent of ownership has been transferred to private investors;

"(2) prior to privatization, such stock shall be nonvoting stock; and

"(3) at the time of privatization, such stock shall convert to voting stock.

"(c) EVALUATION AND RECOMMENDATION.—The plan shall evaluate the relative merits of the alternatives considered and the estimated return on the Government's investment in the Corporation achievable through each alternative. The plan shall include the

Corporation's recommendation on its preferred means of privatization.

"(d) TRANSMITTAL.—The Corporation shall transmit copies of the strategic plan for privatization to the President and Congress upon completion.

"SEC. 1502. PRIVATIZATION.

"(a) IMPLEMENTATION.—Subsequent to transmitting a plan for privatization pursuant to section 1501, and subject to subsections (b) and (c), the Corporation may implement the privatization plan if the Corporation determines, in consultation with appropriate agencies of the United States, that privatization will—

"(1) result in a return to the United States at least equal to the net present value of the Corporation;

"(2) not result in the Corporation being owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government;

"(3) not be inimical to the health and safety of the public or the common defense and security; and

"(4) provide reasonable assurance that adequate enrichment capacity will remain available to meet the domestic electric utility industry.

"(b) REQUIREMENT OF PRESIDENTIAL APPROVAL.—The Corporation may not implement the privatization plan without the approval of the President.

"(c) NOTIFICATION OF CONGRESS AND GAO EVALUATION.—The Corporation shall notify the Congress of its intent to implement the privatization plan. Within 30 days of notification, the Comptroller General shall submit a report to Congress evaluating the extent to which—

"(1) the privatization plan would result in any ongoing obligation or undue cost to the Federal Government; and

"(2) the revenues gained by the Federal Government under the privatization plan would represent at least the net present value of the Corporation.

"(d) PERIOD FOR CONGRESSIONAL REVIEW.—The Corporation may not implement the privatization plan less than 60 days after notification of the Congress.

"(e) DEPOSIT OF PROCEEDS.—Proceeds from the sale of capital stock of the Corporation under this section shall be deposited in the general fund of the Treasury.

"CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

"SEC. 1601. ASSESSMENT BY UNITED STATES ENRICHMENT CORPORATION.

"(a) IN GENERAL.—The Corporation shall prepare an assessment of the economic viability of proceeding with the commercialization of AVLIS and alternative technologies for uranium enrichment in accordance with this chapter. The assessment shall include—

"(1) an evaluation of market conditions together with a marketing strategy;

"(2) an analysis of the economic viability of competing enrichment technologies;

"(3) an identification of predeployment and capital requirements for the commercialization of AVLIS and alternative technologies for uranium enrichment;

"(4) an estimate of potential earnings from the licensing of AVLIS and alternative technologies for uranium enrichment to a private government sponsored corporation;

"(5) an analysis of outstanding and potential patent and related claims with respect to AVLIS and alternative technologies for uranium enrichment, and a plan for resolving such claims; and

"(6) a contingency plan for providing enriched uranium and related services in the event that deployment of AVLIS and alternative technologies for uranium enrichment is determined not to be economically viable.

"(b) DETERMINATION BY CORPORATION TO PROCEED WITH COMMERCIALIZATION OF AVLIS OR ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.—The succeeding sections of this chapter shall apply only to the extent the Corporation determines in its business judgment, on the basis of the assessment prepared under subsection (a), to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment.

"SEC. 1602. TRANSFER OF RIGHTS AND PROPERTY TO UNITED STATES ENRICHMENT CORPORATION.

"(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Department.

"(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

"(1) IN GENERAL.—To the extent requested by the Corporation, the President shall transfer without charge to the Corporation all of the Department's right, title, or interest in and to property owned by the Department, or by the United States but under control or custody of the Department, that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

"(A) facilities, equipment, and materials for research, development, and demonstration activities; and

"(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

"(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Department shall not transfer under paragraph (1)(B).

"(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon privatization under section 1502.

"(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3), or any settle-

ments or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) shall provide for a reduction of royalty payments to the Department to offset any payments, awards, settlements, or judgments under this subsection.

"SEC. 1603. PREDEPLOYMENT ACTIVITIES BY UNITED STATES ENRICHMENT CORPORATION.

"The Corporation may begin activities necessary to prepare AVLIS or alternative technologies for uranium enrichment for commercialization including—

"(1) completion of preapplication activities with the Nuclear Regulatory Commission;

"(2) preparation of a transition plan to move AVLIS or alternative technologies for uranium enrichment from the laboratory to the marketplace;

"(3) confirmation of technical performance;

"(4) validation of economic projections;

"(5) completion of feasibility and risk studies;

"(6) initiation of preliminary plant design and engineering; and

"(7) site selection, site characterization, and environmental documentation activities on the basis of site evaluations and recommendations prepared for the Department by the Argonne National Laboratory.

"SEC. 1604. UNITED STATES ENRICHMENT CORPORATION SPONSORSHIP OF PRIVATE FOR-PROFIT CORPORATION TO CONSTRUCT AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—If the Corporation determines to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment under this chapter, the Corporation may provide for the establishment of a private for-profit corporation, which shall have as its initial purpose the construction of a uranium enrichment facility using AVLIS technology or alternative technologies for uranium enrichment.

"(2) PROCESS OF ORGANIZATION.—For purposes of the establishment of the private corporation under paragraph (1), the Corporation shall appoint not less than 3 persons to be incorporators. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial board of directors until the members of the 1st regular board of directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the private corporation, including the filing of articles of incorporation in such jurisdiction as the incorporators determine to be appropriate. The incorporators shall also develop a plan for the issuance by the private corporation of voting common stock to the public, which plan shall be subject to the approval of the Secretary of the Treasury.

"(b) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The private corporation established under subsection (a) shall not be an agency, instrumentality, or establishment of the United States Government and

shall not be a Government corporation or Government controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the private corporation established under subsection (a) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the private corporation established under subsection (a).

"(c) TRANSACTIONS BETWEEN UNITED STATES ENRICHMENT CORPORATION AND PRIVATE CORPORATION.—

"(1) GRANTS FROM USEC.—The Corporation may make grants to the private corporation established under subsection (a) from amounts available in the AVLIS Commercialization Fund. Such grants shall be used by the private corporation to carry out any remaining predeployment activity assigned to the private corporation by the Corporation. Such grants may not be used for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than such assigned predeployment activities). The aggregate amount of such grants shall not exceed $364,000,000.

"(2) LICENSING AGREEMENT.—The Corporation shall license to the private corporation established under subsection (a) the rights, titles, and interests provided to the Corporation under section 1602. The licensing agreement shall require the private corporation to make periodic payments to the Corporation in an amount that is not less than the aggregate amounts paid by the Corporation during the period involved under subsections (a) and (c) of section 1602.

"(3) PURCHASE AGREEMENT.—The Corporation may enter into a commitment to purchase all enriched uranium produced at an AVLIS, or alternative technologies for uranium enrichment, facility of the private corporation established under subsection (a) at a price negotiated by the 2 corporations that—

"(A) provides the private corporation with a reasonable return on its investment; and

"(B) is less costly than enriched uranium available from other sources.

"(4) ADDITIONAL ASSISTANCE.—The Corporation may provide to the private corporation established under subsection (a), on a reimbursable basis, such additional personnel, services, and equipment as the 2 corporations may determine to be appropriate.

"SEC. 1605. AVLIS COMMERCIALIZATION FUND WITHIN UNITED STATES ENRICHMENT CORPORATION.

"(a) ESTABLISHMENT.—The Corporation may establish within the Corporation an AVLIS Commercialization Fund, which shall consist of not more than $364,000,000 paid into the Fund by the Corporation from amounts provided in appropriation Acts for such purposes and from the retained earnings of the Corporation.

"(b) EXPENDITURES FROM FUND.—Amounts in the AVLIS Commercialization Fund shall be available for—

"(1) expenses of the Corporation in preparing the assessment under section 1601;

"(2) expenses of predeployment activities under section 1603; and

"(3) grants to the private corporation under section 1604.

"(c) LIMITATIONS.—

"(1) EXCLUSIVE SOURCE OF FUNDS.—The Corporation may not incur any obligation, or expend any amount, with respect to AVLIS or alternative technologies for uranium enrichment, except from amounts available in the AVLIS Commercialization Fund.

"(2) UNAVAILABLE FOR CONSTRUCTION COSTS.—No amount may be used from the AVLIS Commercialization Fund for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than activities specified in subsection (b)).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $364,000,000 from the Uranium Enrichment Special Fund for purposes of this section.

"(e) COST REPORT.—On the basis of the assessment under section 1601(a)(3), the Corporation shall submit to the Congress a report on the capital requirements for commercialization of AVLIS.

"SEC. 1606. DEPARTMENT RESEARCH AND DEVELOPMENT ASSISTANCE.

"If requested by the Corporation, the Secretary shall provide, on a reimbursable basis, research and development of AVLIS and alternative technologies for uranium enrichment.

"SEC. 1607. SITE SELECTION.

"This chapter shall not prejudice consideration of the site of an existing uranium enrichment facility as a candidate site for future expansion or replacement of uranium enrichment capacity through AVLIS or alternative technologies for uranium enrichment. Selection of a site for the AVLIS, or alternative technologies for uranium enrichment, facility shall be made on a competitive basis, taking into consideration economic performance, environmental compatibility, and use of any existing uranium enrichment facilities.

"SEC. 1608. EXCLUSION FROM PRICE-ANDERSON COVERAGE.

"Section 170 shall not apply to any license under section 53, 63, or 103 for a uranium enrichment facility constructed after the date of the enactment of this title.".

SEC. 902. CONFORMING AMENDMENTS AND REPEALERS.

(a) ATOMIC ENERGY ACT OF 1954.—

(1) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended—

(A) by inserting after "ATOMIC ENERGY ACT OF 1954" the 1st place it appears the following:

"TABLE OF CONTENTS

"TITLE I—ATOMIC ENERGY";

and

(B) by adding at the end of the table of contents the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

(2) Section 41 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2061(a)) is amended—

(A) by striking "or";

(B) by striking "pursuant to under this Act" and inserting "under this title"; and

(C) by striking the period at the end and inserting "; or (3) are owned by the United States Enrichment Corporation.".

(3) Section 53 c. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2073(c)(1)) is amended—

(A) by striking "grant," and inserting "or grant"; and

(B) by striking "or through the provision of production or enrichment services" both places it appears.

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

"v. provide services in support of the United States Enrichment Corporation, except that the Secretary of Energy shall annually collect payments and other charges from the Corporation sufficient to ensure recovery of the costs (excluding depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants and costs under section 1403(d)) incurred by the Department of Energy after the date of the enactment of the Energy Policy Act of 1992 in performing such services;".

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

(A) by striking the comma after "104 b." and inserting the following: ", or which operates any facility regulated or certified under section 1701 or 1702,"; and

(B) by inserting "or certificates" after "holders of, such licenses".

(6) Section 274 c. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(c)(1)) is amended by inserting "or any uranium enrichment facility" before the semicolon at the end.

(7) Section 318(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2286g(1)) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; or", and by adding at the end the following new subparagraph:

"(D) any facility owned by the United States Enrichment Corporation.".

(8) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting before the chapter heading for chapter 1 the following new heading:

"TITLE I—ATOMIC ENERGY".

(b) GOVERNMENT CORPORATION CONTROL PROVISIONS.—Section 9101(3) of title 31, United States Code is amended by adding at the end the following:

"(N) the Uranium Enrichment Corporation.".

(c) ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988.—Section 306 of the Energy and Water Development Appropriation Act, 1988 (Pub. L. 100-202; 101 Stat. 1329-126) is repealed.

(d) EXEMPTION FROM DEFICIT CONTROL ACT.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the item relating to the Tennessee Valley Authority fund the following new item:

"United States Enrichment Corporation;".

SEC. 903. RESTRICTIONS ON NUCLEAR EXPORTS.

(a) FURTHER RESTRICTIONS.—

(1) IN GENERAL.—Chapter 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 134. FURTHER RESTRICTIONS ON EXPORTS.—

"a. The Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

"(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

"(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

"(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

"b. As used in this section—

"(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

"(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U–235; and

"(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

"(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

"(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.".

(2) CLERICAL AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 11 the following new item:

"Sec. 134. Further restrictions on exports.".

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

(A) their location;

(B) whether they are irradiated;

(C) whether they have been used for the purpose stated in their export license; and

(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

(A) exports of highly enriched uranium to EURATOM; and

(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.

SEC. 904. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

TITLE X—REMEDIAL ACTION AND URANIUM REVITALIZATION

Subtitle A—Remedial Action at Active Processing Sites

SEC. 1001. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary of Energy shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the costs described in such subsection as are—

(A) determined by the Secretary to be attributable to byproduct material generated as an incident of sales to the United States; and

(B) either—

(i) incurred by such licensee not later than December 31, 2002; or

(ii) placed in escrow not later than December 31, 2002, in accordance with a plan for subsequent decontamination, decommissioning, reclamation, and other remedial action approved by the Secretary.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 1002 and, for uranium mill tailings only, shall not exceed an amount equal to $5.50 multiplied by the dry short tons of byproduct material located on the date of the enactment of

this Act at the site of the activities of such licensee described in subsection (a), and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $40,000,000, and may only be made for off-site disposal.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B), and (C) of this paragraph shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—

(i) DETERMINATION OF EXCESS.—The Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated pursuant to section 1003, when considered with the $5.50 per dry short ton limit on reimbursement, exceeds the amount reimbursable to the licensees under subsection (b)(2).

(ii) IN THE EVENT OF EXCESS.—If the Secretary determines under clause (i) that there is an excess, the Secretary may allow reimbursement in excess of $5.50 per dry short ton on a prorated basis at such sites where the costs reimbursable under subsection (b)(1) exceed the $5.50 per dry short ton limitation described in paragraph (2) of such subsection.

(3) BYPRODUCT LOCATION.—Notwithstanding the requirement of paragraph (2)(A) that byproduct material be located at the site on the date of the enactment of this Act, byproduct material moved from the site of the Edgemont Mill to a disposal site as the result of the decontamination, decommissioning, reclamation, and other remedial action of such mill shall be eligible for reimbursement to the extent eligible under paragraph (1).

SEC. 1002. REGULATIONS.

Within 180 days of the date of the enactment of this Act, the Secretary shall issue regulations governing reimbursement under section 1001. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a request for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such request for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 1001.

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated $310,000,000 to carry out this subtitle. The aggregate amount authorized in the preceding sentence shall be increased annually as provided in section 1001, based upon an inflation index to be determined by the Secretary.

(b) SOURCE.—Funds described in subsection (a) shall be provided from the Fund established under section 1801 of the Atomic Energy Act of 1954.

SEC. 1004. DEFINITIONS.

For purposes of this subtitle:

(1) The term "active uranium or thorium processing site" means—

(A) any uranium or thorium processing site, including the mill, containing byproduct material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Secretary or by a State as permitted under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) The term "byproduct material" has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954, (42 U.S.C. 2014(e)(2)); and

(3) The term "decontamination, decommissioning, reclamation, and other remedial action" means work performed prior to or subsequent to the date of the enactment of this Act which is necessary to comply with all applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.), or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

Subtitle B—Uranium Revitalization

SEC. 1011. OVERFEED PROGRAM.

(a) URANIUM PURCHASES.—To the maximum extent permitted by sound business practice, the Corporation shall purchase uranium in accordance with subsection (b) and overfeed it into the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by enrichment services customers, taking into account costs associated with depleted tailings.

(b) USE OF DOMESTIC URANIUM.—Uranium purchased by the Corporation for purposes of this section shall be of domestic origin and purchased from domestic uranium producers to the extent permitted under the General Agreement on Tariffs and Trade and the United States-Canada Free Trade Agreement.

SEC. 1012. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of natural uranium and uranium equivalents contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of the enactment of this Act and for 6 years thereafter, use of the Reserve shall be restricted to military purposes and government research. Use of the Department of Energy's stockpile of enrichment tails existing on the date of the enactment of this Act shall be restricted to military purposes for 6 years thereafter.

SEC. 1013. SALE OF REMAINING DOE INVENTORIES.

The Secretary, after making the transfer required under section 1407 of the Atomic Energy Act of 1954, may sell, from time to time, portions of the remaining inventories of raw or low-enriched uranium of the Department that are not necessary to national security needs, to the Corporation, at a fair market price. Sales under this section may be made only if such sales will not have a substantial adverse impact on the domestic uranium mining industry. Proceeds from sales under this subsection shall be deposited into the general fund of the United States Treasury.

SEC. 1014. RESPONSIBILITY FOR THE INDUSTRY.

(a) CONTINUING SECRETARIAL RESPONSIBILITY.—The Secretary shall have a continuing responsibility for the domestic uranium industry to encourage the use of domestic uranium. The Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within 180 days after the date of the enactment of this Act, the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 1015. ANNUAL URANIUM PURCHASE REPORTS.

(a) IN GENERAL.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator of the Energy Information Administration, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Congress by March 1 of each year.

SEC. 1016. URANIUM INVENTORY STUDY.

Within 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a study and report that includes—

(1) a comprehensive inventory of all Government owned uranium or uranium equivalents, including natural uranium, depleted tailings, low-enriched uranium, and highly enriched uranium available for conversion to commercial use;

(2) a plan for the conversion of inventories of foreign and domestic highly enriched uranium to low-enriched uranium for commercial use;

(3) an estimation of the potential need of the United States for inventories of highly enriched uranium;

(4) an analysis and summary of technological requirements and costs associated with converting highly enriched uranium to low-enriched uranium, including the construction of facilities if necessary;

(5) an estimation of potential net proceeds from the conversion and sale of highly enriched uranium;

(6) recommendations for implementing a plan to convert highly enriched uranium to low-enriched uranium; and

(7) recommendations for the future use and disposition of such inventories.

SEC. 1017. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) ENCOURAGEMENT.—The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) REPORT.—Within 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall report to the Congress on the progress of the Secretary in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this subtitle.

(c) SAVINGS PROVISION.—This section may not be construed to authorize the Secretary to take any action in violation of the general Agreement on Tariffs and Trade or the United States-Canada Free Trade Agreement.

SEC. 1018. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Corporation" means the United States Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954, as added by this Act.

(2) The term "country of origin" means—

(A) with respect to uranium, that country where the uranium was mined;

(B) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(C) with respect to enrichment services, that country where the enrichment services were performed.

(3) The term "domestic origin" refers to any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States.

(4) The term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment.

(5) The term "non-affiliated" refers to a seller who does not control, and is not controlled by or under common control with, the buyer.

(6) The term "overfeed" means to use uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(7) The term "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer. For purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the respective meanings given such terms in section 3 of the Public Utility Regulatory Policies Act of 1978.

Subtitle C—Remedial Action at Inactive Processing Sites

SEC. 1031. URANIUM MILL TAILINGS RADIATION CONTROL ACT EXTENSION.

Section 112(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7922(a)) is amended by striking "1994" and inserting "1996".

TITLE XI—URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES

SEC. 1101. URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as amended by title IX of this Act, is further amended by adding at the end of title II the following:

"CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"SEC. 1701. GASEOUS DIFFUSION FACILITIES.

"(a) ISSUANCE OF STANDARDS.—Within 2 years after the date of the enactment of this title, the Nuclear Regulatory Commission shall establish by regulation such standards as are necessary to govern the gaseous diffusion uranium enrichment facilities of the Department in order to protect the public health and safety from radiological hazard and provide for the common defense and security. Regulations promulgated pursuant to this subsection shall, among other things, require that adequate safeguards (within the meaning of section 147) are in place.

"(b) ANNUAL REPORT.—

"(1) IN GENERAL.—The Nuclear Regulatory Commission, in consultation with the Department and the Environmental Protection Agency, shall report at least annually to the Congress on the status of health, safety, and environmental conditions at the gaseous diffusion uranium enrichment facilities of the Department.

"(2) REQUIRED DETERMINATION.—Such report shall include a determination regarding whether the gaseous diffusion uranium enrichment facilities of the Department are in compliance with the standards established under subsection (a) and all applicable laws.

"(c) CERTIFICATION PROCESS.—

"(1) ESTABLISHMENT.—The Nuclear Regulatory Commission shall establish a certification process to ensure that the Corporation complies with standards established under subsection (a).

"(2) ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1). The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

"(3) TREATMENT OF CERTIFICATE OF COMPLIANCE.—The requirement for a certificate of compliance under paragraph (1) shall be in lieu of any requirement for a license for any gaseous diffusion facility of the Department leased by the Corporation.

"(4) NRC REVIEW.—

"(A) IN GENERAL.— The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review the operations of the Corporation with respect to any gaseous diffusion uranium enrichment facilities of the Department leased by the Corporation to ensure that public health and safety are adequately protected.

"(B) ACCESS TO FACILITIES AND INFORMATION.—The Corporation and the Department shall cooperate fully with the Nuclear Regulatory Commission and the Environmental Protection Agency and shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with the ready access to the facilities, personnel,

and information the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection. A contractor operating a Corporation facility for the Corporation shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with ready access to the facilities, personnel, and information of the contractor as the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection.

"(C) LIMITATION.—The Nuclear Regulatory Commission shall limit its finding under subsection (b)(2) to a determination of whether the facilities are in compliance with the standards established under subsection (a).

"(d) REQUIREMENT FOR OPERATION.—The gaseous diffusion uranium enrichment facilities of the Department may not be operated by the Corporation unless the Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, makes a determination of compliance under subsection (b) or approves a plan prepared by the Department for achieving compliance required under subsection (b).

"SEC. 1702. LICENSING OF OTHER TECHNOLOGIES.

"(a) IN GENERAL.—Corporation facilities using alternative technologies for uranium enrichment, other than AVLIS, shall be licensed under sections 53 and 63.

"(b) COSTS FOR DECONTAMINATION AND DECOMMISSIONING.—The Corporation shall provide for the costs of decontamination and decommissioning of any Corporation facilities described in subsection (a) in accordance with the requirements of the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990.

"SEC. 1703. REGULATION OF RESTRICTED DATA.

"The Corporation shall be subject to this Act with respect to the use of, or access to, Restricted Data to the same extent as any private corporation.

"CHAPTER 28—DECONTAMINATION AND DECOMMISSIONING

"SEC. 1801. URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (referred to in this chapter as the 'Fund'). The Fund, and any amounts deposited in it, including any interest earned thereon, shall be available to the Secretary subject to appropriations for the exclusive purpose of carrying out this chapter.

"(b) ADMINISTRATION.—

"(1) IN GENERAL.—The Secretary of the Treasury shall hold the Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) INVESTMENTS.—The Secretary of the Treasury shall invest amounts contained within the Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate for what the Department determines to be the needs of the Fund; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to these obligations.

"SEC. 1802. DEPOSITS.

"(a) AMOUNT.—The Fund shall consist of deposits in the amount of $480,000,000 per fiscal year (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

"(b) SOURCE.—Deposits described in subsection (a) shall be from the following sources:

"(1) Sums collected pursuant to subsection (c).

"(2) Appropriations made pursuant to subsection (d).

"(c) SPECIAL ASSESSMENT.—The Secretary shall collect a special assessment from domestic utilities. The total amount collected for a fiscal year shall not exceed $150,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor). The amount collected from each utility pursuant to this subsection for a fiscal year shall be in the same ratio to the amount required under subsection (a) to be deposited for such fiscal year as the total amount of separative work units such utility has purchased from the Department of Energy for the purpose of commercial electricity generation, before the date of the enactment of this title, bears to the total amount of separative work units purchased from the Department of Energy for all purposes (including units purchased or produced for defense purposes) before the date of the enactment of this title. For purposes of this subsection—

"(1) a utility shall be considered to have purchased a separative work unit from the Department if such separative work unit was produced by the Department, but purchased by the utility from another source; and

"(2) a utility shall not be considered to have purchased a separative work unit from the Department if such separative work unit was purchased by the utility, but sold to another source.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund, for the period encompassing 15 years after the date of the enactment of this title, such sums as are necessary to ensure that the amount required under subsection (a) is deposited for each fiscal year.

"(e) TERMINATION OF ASSESSMENTS.—The collection of amounts under subsection (c) shall cease after the earlier of—

"(1) 15 years after the date of the enactment of this title; or

"(2) the collection of $2,250,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban con-

sumers published by the Department of Labor) under such subsection.

"(f) CONTINUATION OF DEPOSITS.—Except as provided in subsection (e), deposits shall continue to be made into the Fund under subsection (d) for the period specified in such subsection.

"(g) TREATMENT OF ASSESSMENT.—Any special assessment levied under this section on domestic utilities for the decontamination and decommissioning of the Department's gaseous diffusion enrichment facilities shall be deemed a necessary and reasonable current cost of fuel and shall be fully recoverable in rates in all jurisdictions in the same manner as the utility's other fuel cost.

"SEC. 1803. DEPARTMENT FACILITIES.

"(a) STUDY BY NATIONAL ACADEMY OF SCIENCES.—The National Academy of Sciences shall conduct a study and provide recommendations for reducing costs associated with decontamination and decommissioning, and shall report its findings to the Congress within 3 years after the date of the enactment of this title. Such report shall include a determination of the decontamination and decommissioning required for each facility, shall identify alternative methods, using different technologies, shall include site-specific surveys of the actual contamination, and shall provide estimated costs of those activities.

"(b) PAYMENT OF DECONTAMINATION AND DECOMMISSIONING COSTS.—The costs of all decontamination and decommissioning activities of the Department shall be paid from the Fund until such time as the Secretary certifies and the Congress concurs, by law, that such activities are complete.

"(c) PAYMENT OF REMEDIAL ACTION COSTS.—The annual cost of remedial action at the Department's gaseous diffusion facilities shall be paid from the Fund to the extent the amount available in the Fund is sufficient. To the extent the amount in the Fund is insufficient, the Department shall be responsible for the cost of remedial action. No provision of this title may be construed to relieve in any way the responsibility or liability of the Department for remedial action under applicable Federal and State laws and regulations.

"SEC. 1804. EMPLOYEE PROVISIONS.

"All laborers and mechanics employed by contractors or subcontractors in the performance of decontamination or decommissioning of uranium enrichment facilities of the Department shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c). This section may not be construed to require the contracting out of activities associated with the decontamination or decommissioning of uranium enrichment facilities.

"SEC. 1805. REPORTS TO CONGRESS.

"Within 3 years after the date of the enactment of this title, and at least once every 3 years thereafter, the Secretary shall report

to the Congress on progress under this chapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this title.".

SEC. 1102. LICENSING OF AVLIS.

The last sentence of section 11 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: "Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

SEC. 1103. TABLE OF CONTENTS.

The table of contents for title II of the Atomic Energy Act of 1954, as added by title IX of this Act, is amended by adding at the end the following:

"CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"Sec. 1701. Gaseous diffusion facilities.
"Sec. 1702. Licensing of other technologies.
"Sec. 1703. Regulation of restricted data.

"CHAPTER 28—DECONTAMINATION AND DECOMMISSIONING

"Sec. 1801. Uranium Enrichment Decontamination and Decommissioning Fund.
"Sec. 1802. Deposits.
"Sec. 1803. Department facilities.
"Sec. 1804. Employee provisions.
"Sec. 1805. Reports to Congress.".

TITLE XII—RENEWABLE ENERGY

SEC. 1201. PURPOSES.

The purposes of this title are to promote—

(1) increases in the production and utilization of energy from renewable energy resources;

(2) further advances of renewable energy technologies; and

(3) exports of United States renewable energy technologies and services.

SEC. 1202. DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGIES.

(a) DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005) is amended to read as follows:

"SEC. 6. DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.

"(a) PURPOSE.—The purpose of this section is to direct the Secretary to further the commercialization of renewable energy and energy efficiency technologies through a five-year program.

"(b) DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.—

"(1) ESTABLISHMENT.—(A) The Secretary shall solicit proposals for demonstration and commercial application projects for renewable energy and energy efficiency technologies pursuant to subsection (c). Such projects may include projects for—

"(i) the production and sale of electricity, thermal energy, or other forms of energy using a renewable energy technology;

"(ii) increasing the efficiency of energy use; and

"(iii) improvements in, or expansion of, facilities for the manufacture of renewable energy or energy efficiency technologies.

"(B) REQUIREMENTS.—Each project selected under this section shall include at least one for-profit business. Activities supported under this section shall be performed in the United States. Each project under this section shall require the manufacture and reproduction substantially within the United States for commercial sale of any invention or product that may result from the project.

"(2) FORMS OF FINANCIAL ASSISTANCE.—(A) In supporting projects selected under subsection (c), the Secretary may choose from among the forms of agreements described in section 3001 of the Energy Policy Act of 1992.

"(B) In supporting projects selected under subsection (c), the Secretary may also enter into agreements with private lenders to pay a portion of the interest on loans made for such projects.

"(3) COST SHARING.—Cost sharing for projects under this section shall be conducted according to the procedures described in section 3002(b) and (c) of the Energy Policy Act of 1992.

"(4) ADVISORY COMMITTEE.—(A) The Secretary shall establish an Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this Act referred to as the 'Advisory Committee') to advise the Secretary on the development of the solicitation and evaluation criteria for projects under this section, and on otherwise carrying out his responsibilities under this section. The Secretary shall appoint members to the Advisory Committee, including at least one member representing—

"(i) the Secretary of Commerce;

"(ii) the National Laboratories of the Department of Energy;

"(iii) the Solar Energy Research Institute;

"(iv) the Electric Power Research Institute;

"(v) the Gas Research Institute;

"(vi) the National Institute of Building Sciences;

"(vii) the National Institute of Standards and Technology;

"(viii) associations of firms in the major renewable energy manufacturing industries; and

"(ix) associations of firms in the major energy efficiency manufacturing industries.

Nothing in this subparagraph shall be construed to require the Secretary to reestablish the Advisory Committee in place under this subsection as of the date of enactment of the Energy Policy

Act of 1992, or to perform again any duties performed by such advisory committee before such date of enactment.

"(B) Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the program under this section, including specific recommendations for improvements or changes to the program and solicitation process. The Secretary shall transmit such report and, if any, the Secretary's recommendations to the Congress.

"(c) SELECTION OF PROJECTS.—

"(1) SOLICITATION.—(A) Not later than 9 months after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall solicit proposals for projects under this section. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

"(B) A solicitation for proposals under this paragraph shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

"(C) Each solicitation under this paragraph shall include a description of the criteria, developed by the Secretary, according to which proposals will be evaluated. In developing such criteria, the Secretary shall consider—

"(i) the need for Federal involvement to commercialize the technology or speed commercialization of the technology;

"(ii) the potential for the technology to have significant market penetration;

"(iii) the potential energy efficiency gains or energy supply contributions of the technology;

"(iv) potential environmental improvements associated with the technology;

"(v) the export potential of the technology;

"(vi) the likelihood that the proposal is technically sufficient to achieve the objective of the solicitation;

"(vii) the degree to which non-Federal financial participation is involved in the proposal;

"(viii) the business and financial history of the proposer or proposers; and

"(ix) any other factor the Secretary considers appropriate.

"(2) PROJECT TECHNOLOGIES.—Projects under this section may include the following technologies:

"(A) Conversion of cellulosic biomass to liquid fuels.

"(B) Ethanol and ethanol byproduct processes.

"(C) Direct combustion or gasification of biomass.

"(D) Biofuels energy systems.

"(E) Photovoltaics, including utility scale and remote applications.

"(F) Solar thermal, including solar water heating.

"(G) Wind energy.

"(H) High temperature and low temperature geothermal energy.

"(I) Fuel cells, including transportation and stationary applications.

"(J) Nondefense high-temperature superconducting electricity technology.

"(K) Source reduction technology.

"(L) Factory-made housing.

"(M) Advanced district cooling.

"(3) PROJECT SELECTION.—The Secretary shall, within 120 days after the closing date established under paragraph (1)(B), select proposals to receive financial assistance under this section. In selecting proposals under this paragraph, the Secretary shall—

"(A) consider each proposal's ability to meet the criteria developed pursuant to paragraph (1)(C); and

"(B) attempt to achieve technological and geographic diversity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $50,000,000 for fiscal year 1994.

(b) NATIONAL GOALS AND MULTIYEAR FUNDING FOR ALCOHOL FROM BIOMASS.—Section 4(a) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12003(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

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

"(4) ALCOHOL FROM BIOMASS.—(A) In general, the goal of the Alcohol From Biomass Program shall be to advance research and development to a point where alcohol from biomass technology is cost-competitive with conventional hydrocarbon transportation fuels, and to promote the integration of this technology into the transportation fuel sector of the economy.

"(B)(i) Specific goals for producing ethanol from biomass shall be to—

"(I) reduce the cost of alcohol to 70 cents per gallon;

"(II) improve the overall biomass carbohydrate conversion efficiency to 91 percent;

"(III) reduce the capital cost component of the cost of alcohol to 23 cents per gallon; and

"(IV) reduce the operating and maintenance component of the cost of alcohol to 47 cents per gallon.

"(ii) Specific goals for producing methanol from biomass shall be to—

"(I) reduce the cost of alcohol to 47 cents per gallon; and

"(II) reduce the capital component of the cost of alcohol to 16 cents per gallon."; and

(3) in paragraph (5), as so redesignated by paragraph (1) of this subsection, by inserting "Biodiesel Energy Systems," after "Biofuels Energy Systems,".

(c) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and

Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12008(b)) is amended—

(1) in paragraph (1) by inserting "three-year" before "management plan"; and

(2) by striking paragraph (5) and inserting in lieu thereof the following new paragraphs:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under section 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

(d) CONFORMING AMENDMENTS.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.) is further amended—

(1) in section 2(b)—

(A) by striking "authority contained in" and all that follows through "applicable to the Secretary" and inserting in lieu thereof "section 3001 of the Energy Policy Act of 1992"; and

(B) by striking "and demonstration" and inserting in lieu thereof "demonstration, and commercial application";

(2) in section 2(b)(4)—

(A) by striking "research and development"; and

(B) by striking "joint ventures" and inserting in lieu thereof "demonstration and commercial application projects";

(3) in section 2(c), by striking "the authority contained in" and all that follows and inserting in lieu thereof "section 3001 of the Energy Policy Act of 1992, is authorized and directed to—

"(1) pursue a program of research, development, demonstration, and commercial application with the private sector, to achieve the purpose of this Act, including the goals established under section 4; and

"(2) undertake demonstration and commercial application projects as provided in section 6.";

(4) in section 3—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively;

(C) in paragraph (4), as so redesignated by subparagraph (B) of this paragraph—

(i) by striking "joint venture" and inserting in lieu thereof "demonstration and commercial application project";

(ii) by striking "venture" and inserting in lieu thereof "demonstration and commercial application project"; and

(iii) by striking "and " at the end thereof; and

(D) by inserting after paragraph (4), as so redesignated by subparagraph (B) of this paragraph, the following new paragraph:

"(5) the term 'source reduction' means any practice which—

"(A) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

"(B) reduces the hazards to the public health and the environment associated with the release of such substances, pollutants, or contaminants,

including equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, and inventory control, but not including any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service;"; and

(5) in section 9(a), by striking ", projects, and joint ventures" and inserting in lieu thereof "and projects".

SEC. 1203. RENEWABLE ENERGY EXPORT TECHNOLOGY TRAINING.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, shall establish a program for the training of individuals from developing countries in the operation and maintenance of renewable energy and energy efficiency technologies in accordance with this section. The Secretary and the Administrator of the Agency for International Development shall, within one year after the date of enactment of this Act, enter into a written agreement to carry out this program.

(b) PURPOSE.—The purpose of the program established under this section shall be to train appropriate persons in the system design, operation, and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping, heating and purification, and the production of electric power in remote areas.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $6,000,000 for each of the fiscal years 1994, 1995, and 1996, to carry out this section.

SEC. 1204. RENEWABLE ENERGY ADVANCEMENT AWARDS.

(a) AUTHORITY.—The Secretary shall make Renewable Energy Advancement Awards in recognition of developments that advance the practical application of biomass, geothermal, hydroelectric, pho-

tovoltaic, solar thermal, ocean thermal, and wind technologies to consumer, utility, or industrial uses, in accordance with this section. Except as provided in subsection (f), Renewable Energy Advancement Awards shall include a cash award.

(b) SELECTION CRITERIA.—The Secretary, in consultation with the Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this section referred to as the "Advisory Committee"), under section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, shall develop criteria to be applied in the selection of award recipients under this section. Such criteria shall include the following:

(1) The degree to which the technological development increases the utilization of renewable energy.

(2) The degree to which the development will have a significant impact, by benefitting a large number of people, by reducing the costs of an important industrial process or commercial product or service, or otherwise.

(3) The ingenuity of the development.

(4) Whether the application has significant export potential.

(5) The environmental soundness of the development.

(c) SELECTION.—Beginning in fiscal year 1994, and annually thereafter for a period of 10 years, the Secretary, in consultation with the Advisory Committee, shall select developments described in subsection (a) that are worthy of receiving an award under this section, and shall make such awards.

(d) ELIGIBILITY.—Awards may be made under this section only to individuals who are United States nationals or permanent resident aliens, or to non-Federal organizations that are organized under the laws of the United States or the laws of a State of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $50,000 for each of the fiscal years 1994, 1995, and 1996 for carrying out this section.

(f) AWARDS MADE IN ABSENCE OF APPROPRIATIONS.—The Secretary shall make honorary awards under this section if sufficient funds are not available for financial awards in any fiscal year.

SEC. 1205. STUDY OF TAX AND RATE TREATMENT OF RENEWABLE ENERGY PROJECTS.

(a) The Secretary, in conjunction with State regulatory commissions, shall undertake a study to determine if conventional taxation and ratemaking procedures result in economic barriers to or incentives for renewable energy power plants compared to conventional power plants.

(b) Within 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study undertaken under subsection (a).

SEC. 1206. STUDY OF RICE MILLING ENERGY BY-PRODUCT MARKETING.

The Department of Energy shall conduct a study to facilitate the marketing of energy byproducts from rice milling.

SEC. 1207. DUTIES OF INTERAGENCY WORKING GROUP ON RENEWABLE ENERGY AND ENERGY EFFICIENCY EXPORTS.

(a) INTERAGENCY WORKING GROUP.—Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) is amended to read as follows:

"(d) INTERAGENCY WORKING GROUP.—

"(1) ESTABLISHMENT.—(A) There shall be established an interagency working group that, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal Government affecting exports of renewable energy and energy efficiency products and services. The interagency working group shall establish a program to inform foreign countries of the benefits of policies that would increase energy efficiency or would allow facilities that use renewable energy to compete effectively with producers of energy from nonrenewable sources.

"(B) There shall be established an Interagency Working Subgroup on Renewable Energy and an Interagency Working Subgroup on Energy Efficiency that shall, in consultation with representative industry groups, nonprofit organizations, and relevant Federal agencies, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and services, respectively.

"(C) The Secretary of Energy, or the Secretary's designee, shall chair the interagency working group and each subgroup established under this paragraph. The Administrator of the Agency for International Development and the Secretary of Commerce, or their designees, shall be members of both subgroups established under this paragraph. The Secretary shall provide staff for carrying out the functions of the interagency working group and each subgroup established under this paragraph. The heads of appropriate agencies may detail such personnel and may furnish such services to such group and subgroups, with or without reimbursement, as may be necessary to carry out their functions.

"(2) DUTIES OF THE INTERAGENCY WORKING SUBGROUPS.—(A) The interagency working subgroups established under paragraph (1)(B), through the member agencies of the interagency working group, shall promote the development and application in foreign countries of renewable energy and energy efficiency products and services, respectively, that—

"(i) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, wind, small-scale hydroelectric, solar, geothermal, and other renewable energy and energy efficiency products and services; and

"(ii) use hybrid fossil-renewable energy systems.

"(B) In addition, the interagency working subgroups shall explore mechanisms for assisting domestic firms, particularly small businesses, with the export of their renewable energy and energy efficiency products and services and with the identification of potential projects.

"(3) TRAINING AND ASSISTANCE.—The interagency working subgroups 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 companies that provide renewable energy and energy efficiency products and services;

"(C) develop environmentally sustainable renewable energy and energy efficiency 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 renewable energy and energy efficiency products and services to foreign governments or other potential project sponsors;

"(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency products and services; and

"(F) augment budgets for trade and development programs in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy and energy efficiency products and services.".

(b) FUNCTIONS.—Section 256(f) of the Energy Policy and Conservation Act (42 U.S.C. 6276(f)) is amended by inserting "and energy efficiency" after "renewable energy" each place it appears.

(c) DEFINITIONS.—Section 256(g) of the Energy Policy and Conservation Act (42 U.S.C. 6276(g)) is repealed.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 256(h) of the Energy Policy and Conservation Act (42 U.S.C. 6276(h)) is amended to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out the programs under subsections (d) and (e) $10,000,000, to be divided equitably between the interagency working subgroups based on program requirements, for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995 to carry out the purposes of this subtitle.".

SEC. 1208. STUDY OF EXPORT PROMOTION PRACTICES.

Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) as amended by section 1208 of this Act, is further amended by adding at the end the following new paragraph:

"(4) The interagency working group shall conduct a study of subsidies, incentives, and policies that foreign countries use to promote exports of their own renewable energy and energy efficiency technologies and products. Such study shall also identify foreign trade barriers to the import of renewable energy and energy efficiency technologies and products produced in the United States. The interagency working group shall report to the appropriate committees of the House of Representatives and the Senate the results of

such study within 18 months after the date of the enactment of the Energy Policy Act of 1992.".

SEC. 1209. DATA SYSTEM AND ENERGY TECHNOLOGY EVALUATION.

The Secretary of Commerce, in his or her role as a member of the interagency working group established under section 256 of the Energy Policy and Conservation Act (42 U.S.C. 6276), shall—

(1) develop a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, that will provide information on the specific energy technology needs of foreign countries, and the technical and economic competitiveness of various renewable energy and energy efficiency products and technologies;

(2) make such information available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary of Commerce considers necessary; and

(3) prepare and transmit to the Congress not later than June 1, 1993, and biennially thereafter, a comprehensive report evaluating the full range of energy and environmental technologies necessary to meet the energy needs of foreign countries, including—

(A) information on the specific energy needs of foreign countries;

(B) an inventory of United States technologies and services to meet those needs;

(C) an update on the status of ongoing bilateral and multilateral programs which promote United States exports of renewable energy and energy efficiency products and technologies; and

(D) an evaluation of current programs (and recommendations for future programs) that develop and promote energy efficiency and sustainable use of indigenous renewable energy resources in foreign countries to reduce the generation of greenhouse gases.

SEC. 1210. OUTREACH.

(a) OUTREACH.—The interagency working group established under section 256(d)(1)(A) of the Energy Policy and Conservation Act and the Secretary of Commerce shall select one individual who is experienced in renewable energy and energy efficiency products and technologies to be assigned by the Secretary of Commerce to an office of the United States and Foreign Commercial Service in the Pacific Rim, and one such individual to be assigned by the Secretary of Commerce to an office of the United States and Foreign Commercial Service in the Caribbean Basin, for the sole purpose of providing information concerning domestic renewable energy and energy efficiency products, technologies, and industries to territories, foreign governments, industries, and other appropriate persons.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section $500,000 for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995.

SEC. 1211. INNOVATIVE RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the other members of the interagency working group established under section 256(d) of Energy Policy and Conservation Act (in this section referred to as the "interagency working group"), shall establish a renewable energy technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of the enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate Federal agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States renewable energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States renewable energy technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from renewable resources;

(4) develop markets for United States renewable energy technologies to be utilized in meeting the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(6) ensure the introduction of United States firms and expertise in foreign countries;

(7) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of renewable energy technology projects in foreign countries;

(8) assist foreign countries in meeting their energy needs through the use of renewable energy in an environmentally ac-

ceptible manner, consistent with sustainable development policies; and

(9) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the interagency working group, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries, and shall identify a list of such projects within 240 days after the date of the enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects utilizing United States renewable energy technologies, and services related thereto, in developing countries;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-United States funding that is available to the project; and

(B) utilized to assist United States firms in the development of innovative financing packages for renewable energy technology projects that utilize other financial assistance programs available through the Federal Government.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of the enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States renewable energy technology. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE–PS01–90FE62271 Clean Coal Technology IV, as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States renewable energy technology, including services related thereto, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the working group, shall—

(1) establish eligibility criteria for host countries;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the purposes stated in section 1201(b);

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and

the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet 1 or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will make greater use of indigenous renewable energy resources.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(i) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(j) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(k) REPORTS TO CONGRESS.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce renewable energy technologies into foreign countries.

(l) DEFINITIONS.—For purposes of this section—

(1) the term "host country" means a foreign country which is—

(A) the participant in or the site of the proposed renewable energy technology project; and

(B) either—

(i) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a developing country.

(2) the term "developing country" includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

(m) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1212. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified renewable energy facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e). Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—For purposes of this section, a qualified renewable energy facility is a facility which is owned by a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision), by any corporation or association which is wholly owned, directly or indirectly, by one or more of the foregoing, or by a nonprofit electrical cooperative and which generates electric energy for sale in, or affecting, interstate commerce using solar, wind, biomass, or geothermal energy, except that—

(1) the burning of municipal solid waste shall not be treated as using biomass energy; and

(2) geothermal energy shall not include energy produced from a dry steam geothermal reservoir which has—

(A) no mobile liquid in its natural state;

(B) steam quality of 95 percent water; and

(C) an enthalpy for the total produced fluid greater than or equal to 1200 Btu/lb (British thermal units per pound).

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electricity generated from a qualified renewable energy facility first used during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section.

(d) PAYMENT PERIOD.—A qualified renewable energy facility may receive payments under this section for a 10-fiscal year period. Such period shall begin with the fiscal year in which electricity generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Incentive payments made by the Secretary under this section to the owner or operator of any qualified renewable energy facility shall be based on the number of kilowatt hours of electricity generated by the facility through the use of solar, wind, biomass, or geothermal energy during the

payment period referred to in subsection (d). For any facility, the amount of such payment shall be 1.5 cents per kilowatt hour, adjusted as provided in paragraph (2).

(2) ADJUSTMENTS.—The amount of the payment made to any person under this subsection as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 1993 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 1993 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any facility after the expiration of the 20-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 1993, 1994, and 1995 such sums as may be necessary to carry out the purposes of this section.

TITLE XIII—COAL

Subtitle A—Research, Development, Demonstration, and Commercial Application

SEC. 1301. COAL RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall, in accordance with section 3001 and 3002 of this Act, conduct programs for research, development, demonstration, and commercial application on coal-based technologies. Such research, development, demonstration, and commercial application programs shall include the programs established under this subtitle, and shall have the goals and objectives of—

(1) ensuring a reliable electricity supply;

(2) complying with applicable environmental requirements;

(3) achieving the control of sulfur oxides, oxides of nitrogen, air toxics, solid and liquid wastes, greenhouse gases, or other emissions resulting from coal use or conversion at levels of proficiency greater than or equal to applicable currently available commercial technology;

(4) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(5) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels;

(6) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost sharing participation;

(7) ensuring the timely commercial application of cost-effective technologies or energy production processes or systems utilizing coal which achieve—

(A) greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal; and

(B) the control of emissions from the utilization of coal; and

(8) ensuring the availability for commercial use of such technologies by the year 2010.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAMS.—(1) In selecting either a demonstration project or a commercial application project for financial assistance under this subtitle, the Secretary shall seek to ensure that, relative to otherwise comparable commercially available technologies or products, the selected project will meet one or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(2) In administering demonstration and commercial application programs authorized by this subtitle, the Secretary shall establish accounting and project management controls that will be adequate to control costs.

(3)(A) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures and criteria for the recoupment of the Federal share of each cost shared demonstration and commercial application project authorized pursuant to this subtitle. Such recoupment shall occur within a reasonable period of time following the date of completion of such project, but not later than 20 years following such date, taking into account the effect of recoupment on—

(i) the commercial competitiveness of the entity carrying out the project;

(ii) the profitability of the project; and

(iii) the commercial viability of the coal-based technology utilized.

(B) The Secretary may at any time waive or defer all or some portion of the recoupment requirement as necessary for the commercial viability of the project.

(4) Projects selected by the Secretary under this subtitle for demonstration or commercial application of a technology shall, in the judgment of the Secretary, be capable of enhancing the state of the art for such technology.

(c) REPORT.—Within 240 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Energy and Commerce and the Committee on Science, Space, and Technolo-

gy of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report which shall include each of the following:

(1) A detailed description of ongoing research, development, demonstration, and commercial application activities regarding coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries.

(2) A listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the programs established under this subtitle.

(3) Recommendations regarding the manner in which any ongoing coal-based demonstration and commercial application program might be modified and extended in order to ensure the timely demonstrations of advanced coal-based technologies so as to ensure that the goals established under this section are achieved and that such demonstrated technologies are available for commercial use by the year 2010.

(4) Recommendations, if any, regarding the manner in which the cost sharing demonstrations conducted pursuant to the Clean Coal Program established by Public Law 98-473 might be modified and extended in order to ensure the timely demonstration of advanced coal-based technologies.

(5) A detailed plan for conducting the research, development, demonstration, and commercial application programs to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized;

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and

(C) the dates at which further deadlines for additional cost sharing demonstrations shall be established.

(d) STATUS REPORTS.—Within one year after transmittal of the report described in subsection (c), and every 2 years thereafter for a period of 6 years, the Secretary shall transmit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, demonstration, and commercial application activities undertaken to carry out the programs required by this subtitle.

(e) CONSULTATION.—In carrying out research, development, demonstration, and commercial application activities under this subtitle, the Secretary shall consult with the National Coal Council and other representatives of the public and private sectors as the Secretary considers appropriate.

SEC. 1302. COAL-FIRED DIESEL ENGINES.

The Secretary shall conduct a program of research, development, demonstration, and commercial application for utilizing coal-derived liquid or gaseous fuels, including ultra-clean coal-water slurries, in diesel engines. The program shall address—

(1) required engine retrofit technology;
(2) coal-fuel production technology;
(3) emission control requirements;
(4) the testing of low-Btu highly reactive fuels;
(5) fuel delivery and storage systems requirements; and
(6) other infrastructure required to support commercial deployment.

SEC. 1303. CLEAN COAL, WASTE-TO-ENERGY.

The Secretary shall establish a program of research, development, demonstration, and commercial application with respect to the use of solid waste combined with coal as a fuel source for clean coal combustion technologies. The program shall address—

(1) the feasibility of cofiring coal and used vehicle tires in fluidized bed combustion units;
(2) the combined gasification of coal and municipal sludge using integrated gasification combined cycle technology;
(3) the creation of fuel pellets combining coal and material reclaimed from solid waste;
(4) the feasibility of cofiring, in fluidized bed combustion units, waste methane from coal mines, including ventilation air, together with coal or coal wastes; and
(5) other sources of waste and coal mixtures in other applications that the Secretary considers appropriate.

SEC. 1304. NONFUEL USE OF COAL.

(a) PROGRAM.—The Secretary shall prepare a plan for and carry out a program of research, development, demonstration, and commercial application with respect to technologies for the nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;
(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;
(3) production of chemicals from coal-derived synthesis gas;
(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and
(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) PLAN CONTENTS.—The plan described in subsection (a) shall address and evaluate—

(1) the known and potential processes for using coal in the creation of products in the chemical, utility, fuel, and carbon-based materials industries;
(2) the costs, benefits, and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;
(3) the economics of coproduction of products from coal in conjunction with the production of electric power, thermal energy, and fuel;

(4) the economics of the refining of coal and coal byproducts to produce nonfuel products;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of technologies developed under the program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with nonfuel uses of coal.

SEC. 1305. COAL REFINERY PROGRAM.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for coal refining technologies.

(b) OBJECTIVES.—The program shall include technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals, and lignites to produce clean-burning transportation fuels, compliance boiler fuels, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, either alone or in conjunction with the generation of electricity or process heat, or the manufacture of a variety of products from coal. The objectives of such program shall be to achieve—

(1) the timely commercial application of technologies, including mild gasification, hydrocracking and other hydropyrolysis processes, and other energy production processes or systems to produce coal-derived fuels and coproducts, which achieve greater efficiency and economy in the conversion of coal to electrical energy and coproducts than currently available technology;

(2) the production of energy, fuels, and products which, on a complete energy system basis, will result in environmental emissions no greater than those produced by existing comparable energy systems utilized for the same purpose;

(3) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(4) reduction in the cost of producing such coal-derived fuels and coproducts;

(5) the control of emissions from the combustion of coal-derived fuels; and

(6) the availability for commercial use of such technologies by the year 2000.

SEC. 1306. COALBED METHANE RECOVERY.

(a) STUDY OF BARRIERS AND ENVIRONMENTAL AND SAFETY ASPECTS.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall conduct a study of—

(1) technical, economic, financial, legal, regulatory, institutional, or other barriers to coalbed methane recovery, and of policy options for eliminating such barriers; and

(2) the environmental and safety aspects of flaring coalbed methane liberated from coal mines.

Within two years after the date of enactment of this Act, the Secretary shall submit a report to the Congress detailing the results of such study.

(b) INFORMATION DISSEMINATION.—Beginning one year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall disseminate to the public information on state-of-the-art coalbed methane recovery techniques, including information on costs and benefits.

(c) DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAM.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall establish a coalbed methane recovery demonstration and commercial application program, which shall emphasize gas enrichment technology. Such program shall address—

(1) gas enrichment technologies for enriching medium-quality methane recovered from coal mines to pipeline quality;

(2) technologies to use mine ventilation air in nearby power generation facilities, including gas turbines, internal combustion engines, or other coal fired powerplants;

(3) technologies for cofiring methane recovered from mines, including methane from ventilation systems and degasification systems, together with coal in conventional or clean coal technology boilers; and

(4) other technologies for producing and using methane from coal mines that the Secretary considers appropriate.

SEC. 1307. METALLURGICAL COAL DEVELOPMENT.

(a) The Secretary shall establish a research, development, demonstration, and commercial application program on metallurgical coal utilization for the purpose of developing techniques that will lead to the greater and more efficient utilization of the Nation's metallurgical coal resources.

(b) The program referred to in subsection (a) shall include the use of metallurgical coal—

(1) as a boiler fuel for the purpose of generating steam to produce electricity, including blending metallurgical coal with other coals in order to enhance its efficient application as a boiler fuel;

(2) as an ingredient in the manufacturing of steel; and

(3) as a source of pipeline quality coalbed methane.

SEC. 1308. UTILIZATION OF COAL WASTES.

(a) COAL WASTE UTILIZATION PROGRAM.—The Secretary, in consultation with the Secretary of the Interior, shall establish a research, development, demonstration, and commercial application program on coal waste utilization for the purpose of developing techniques that will lead to the greater and more efficient utilization of coal wastes from mining and processing, other than coal ash.

(b) USE AS BOILER FUEL.—The program referred to in subsection (a) shall include projects to facilitate the use of coal wastes from mining and processing as a boiler fuel for the purpose of generating steam to produce electricity.

SEC. 1309. UNDERGROUND COAL GASIFICATION.

(a) PROGRAM.—The Secretary shall conduct a research, development, demonstration, and commercial application program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) DEMONSTRATION PROJECTS.—As part of the program authorized in subsection (a), the Secretary may solicit proposals for underground coal gasification technology projects to fulfill the goal and objective of subsection (a).

SEC. 1310. LOW-RANK COAL RESEARCH AND DEVELOPMENT.

The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties of lignites and sub-bituminous coals, including, but not limited to, the following areas—

(1) high value-added carbon products;

(2) fuel cell applications;

(3) emissions control and combustion efficiencies;

(4) coal water fuels and underground coal gasification;

(5) distillates; and

(6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

SEC. 1311. MAGNETOHYDRODYNAMICS.

(a) PROGRAM.—The Secretary shall carry out a research, development, demonstration, and commercial application program in magnetohydrodynamics. The purpose of this program shall be to determine the adequacy of the engineering and design information completed to date under Department of Energy contracts related to magnetohydrodynamics retrofit systems and to determine whether any further Federal investment in this technology is warranted.

(b) SOLICITATION OF PROPOSALS.—In order to carry out the program authorized in subsection (a), the Secretary may solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

SEC. 1312. OIL SUBSTITUTION THROUGH COAL LIQUEFACTION.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for the purpose of developing economically and environmentally acceptable advanced technologies for oil substitution through coal liquefaction.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) improved resource selection and product quality;

(2) the development of technologies to increase net yield of liquid fuel product per ton of coal;

(3) an increase in overall thermal efficiency; and

(4) a reduction in capital and operating costs through technology improvements.

(c) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 1313. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle $278,139,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 through 1997.

Subtitle B—Clean Coal Technology Program

SEC. 1321. ADDITIONAL CLEAN COAL TECHNOLOGY SOLICITATIONS.

(a) PROGRAM DESIGN.—Additional clean coal technology solicitations described in subsection (b) shall be designed to ensure the timely development of cost-effective technologies or energy production processes or systems utilizing coal that achieve greater efficiency in the conversion of coal to useful energy when compared to currently commercially available technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to ensure, to the greatest extent possible, the availability for commercial use of such technologies by the year 2010.

(b) ADDITIONAL SOLICITATIONS.—In conducting the Clean Coal Program established by Public Law 98-473, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to such program and, based on the results of that consideration, may carry out such additional solicitations, which shall be similar in scope and percentage of Federal cost sharing as that provided by Public Law 101-121.

Subtitle C—Other Coal Provisions

SEC. 1331. CLEAN COAL TECHNOLOGY EXPORT PROMOTION AND INTERAGENCY COORDINATION.

(a) ESTABLISHMENT.—There shall be established within the Trade Promotion Coordinating Committee (established by the President on May 23, 1990, a Clean Coal Technology Subgroup (in this subtitle referred to as the "CCT Subgroup") to focus interagency efforts on clean coal technologies. The CCT Subgroup shall seek to expand the export and use of clean coal technologies, particularly in those countries which can benefit from gains in the efficiency of, and the control of environmental emissions from, coal utilization.

(b) MEMBERSHIP.—The CCT Subgroup shall include 1 member from each agency represented on the Energy, Environment, and Infrastructure Working Group of the Trade Promotion Coordinating Committee as of the date of enactment of this Act. The Secretary shall serve as chair of the CCT Subgroup and shall be responsible for ensuring that the functions of the CCT Subgroup are carried out through its member agencies.

(c) CONSULTATION.—(1) In carrying out this section, the CCT Subgroup shall consult with representatives from the United States coal industry, representatives of railroads and other transportation industries, organizations representing workers, the electric utility industry, manufacturers of equipment utilizing clean coal technology,

members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies that are developed, manufactured, or controlled by United States firms, and other appropriate interested members of the public.

(2) The CCT Subgroup shall maintain ongoing liaison with other elements of the Trade Promotion Coordinating Committee relating to clean coal technologies or regions where these technologies could be important, including Eastern Europe, Asia, and the Pacific.

(d) DUTIES.—The Secretary, acting through the CCT Subgroup, shall—

(1) facilitate the establishment of technical training for the consideration, planning, construction, and operation of clean coal technologies by end users and international development personnel;

(2) facilitate the establishment of and, where practicable, cause to be established, consistent with the goals and objectives stated in section 1301(a), within existing departments and agencies—

(A) financial assistance programs (including grants, loan guarantees, and no interest and low interest loans) to support prefeasibility and feasibility studies for projects that will utilize clean coal technologies; and

(B) loan guarantee programs, grants, and no interest and low interest loans designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and ensure the execution of programs, including the establishment of financial incentives, to encourage and support private sector efforts in exports of clean coal technologies that are developed, manufactured, or controlled by United States firms;

(4) encourage the training in, and understanding of, clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops, and other educational programs sponsored by United States firms;

(5) educate loan officers and other officers of international lending institutions, commercial and energy attachés of the United States, and such other personnel as the CCT Subgroup considers appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technology projects;

(6) develop policies and practices to be conducted by commercial and energy attachés of the United States, and such other personnel as the CCT Subgroup considers appropriate, in order to promote the exports of clean coal technologies to those countries interested in or intending to utilize coal resources;

(7) augment budgets for trade and development programs supported by Federal agencies for the purpose of financially supporting prefeasibility or feasibility studies for projects in foreign countries that will utilize clean coal technologies;

(8) review ongoing clean coal technology projects and review and advise Federal agencies on the approval of planned clean coal technology projects which are sponsored abroad by any Federal agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(9) coordinate the activities of the appropriate Federal agencies in order to ensure that Federal clean coal technology export promotion policies are implemented in a timely fashion;

(10) work with CCT Subgroup member agencies to develop an overall strategy for promoting clean coal technology exports, including setting goals and allocating specific responsibilities among member agencies, consistent with applicable statutes; and

(11) coordinate with multilateral institutions to ensure that United States technologies are properly represented in their projects.

(e) DATA AND INFORMATION.—(1) The CCT Subgroup, consistent with other applicable provisions of law, shall ensure the development of a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, relating to the availability of clean coal technologies and the potential need for such technologies, particularly in developing countries and countries making the transition from nonmarket to market economies.

(2) The Secretary, acting through the CCT Subgroup, shall assess and prioritize foreign markets that have the most potential for the export of clean coal technologies that are developed, manufactured, or controlled by United States firms. Such assessment shall include—

(A) an analysis of the financing requirements for clean coal technology projects in foreign countries and whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions;

(B) the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology projects;

(C) the priority of environmental considerations in the selection of such projects;

(D) the technical competence of those entities likely to be involved in the planning and operation of such projects;

(E) an objective comparison of the environmental, energy, and economic performance of each clean coal technology relative to conventional technologies;

(F) a list of United States vendors of clean coal technologies; and

(G) answers to commonly asked questions about clean coal technologies,

The Secretary, acting through the CCT Subgroup, shall make such information available to the House of Representatives and the Senate, and to the appropriate committees of each House of Congress, industry, Federal and international financing organizations, nongovernmental organizations, potential customers abroad, govern-

ments of countries where such clean coal technologies might be used, and such others as the CCT Subgroup considers appropriate.

(f) REPORT.—Within 180 days after the Secretary submits the report to the Congress as required by section 409 of Public Law 101-549, the Secretary, acting through the CCT Subgroup, shall provide to the appropriate committees of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101-549. As a part of the plan required by this subsection, the Secretary, acting through the CCT Subgroup, shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of prefeasibility and feasibility studies and projects that would use a clean coal technology in developing countries and countries making the transition from nonmarket to market economies.

SEC. 1332. INNOVATIVE CLEAN COAL TECHNOLOGY TRANSFER PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the other members of the CCT Subgroup, shall establish a clean coal technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate United States agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from coal resources;

(4) develop markets for United States technologies and, where appropriate, United States coal resources to be utilized in meeting the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(6) provide for the accelerated deployment of United States technologies that will serve to introduce into foreign countries United States technologies intended to use coal resources in a more efficient, cost-effective, and environmentally acceptable manner;

(7) serve to ensure the introduction of United States firms and expertise in foreign countries;

(8) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of clean coal technology projects in foreign countries;

(9) assist foreign countries in meeting their energy needs through the use of coal in an environmentally acceptable manner, consistent with sustainable development policies; and

(10) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the CCT Subgroup, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries, and shall identify a list of such projects within 240 days after the date of enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects utilizing United States clean coal technologies, and services related thereto, in developing countries and countries making the transition from nonmarket to market economies;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects, including—

(i) financing the incremental costs of a clean coal technology project attributable only to expenditures to prevent or abate emissions;

(ii) providing the difference between the costs of a conventional energy project in the host country and a comparable project that would utilize a clean coal technology capable of achieving greater efficiency of energy products and improved environmental emissions compared to such conventional project; and

(iii) such other forms of financial assistance as the Secretary, through the Agency for International Development, considers appropriate.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-United States funding that is available to the project; and

(B) utilized to assist United States firms to develop innovative financing packages for clean coal technology projects that seek to utilize other financial assistance programs available through other Federal agencies.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States technology. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE-PS01-90FE62271 Clean Coal Technology IV as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States clean coal technology, including services related thereto, and, where appropriate, United States coal resources, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the CCT Subgroup, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the CCT Subgroup, shall—

(1) establish eligibility criteria for countries that will host projects;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the goals and objectives stated in section 1301(a);

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet 1 or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(i) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(j) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(k) REPORTS TO CONGRESS.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce clean coal technologies into foreign countries.

(l) DEFINITION.—For purposes of this section, the term "host country" means a foreign country which is—

(1) the participant in or the site of the proposed clean coal technology project; and

(2) either—

(A) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(B) a developing country or country with an economy in transition from a nonmarket to a market economy.

(m) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1333. CONVENTIONAL COAL TECHNOLOGY TRANSFER.

If the Secretary determines that the utilization of a clean coal technology is not practicable for a proposed project and that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the technology being used in a developing country or country making the transition from nonmarket to market economies, with significant indigenous coal resources, such technology shall, for purposes of sections 1321 and 1322, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section. In carrying out this section, the Secretary shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

SEC. 1334. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.

(a) DEFINITION.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials.

(b) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal, and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, which may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for action to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in—

(A) bridge and highway construction;

(B) stabilizing wastes;

(C) procurement by departments and agencies of the Federal Government and State and local governments; and

(D) federally funded or federally subsidized procurement by the private sector.

SEC. 1335. CALCULATION OF AVOIDED COST.

Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) requires a State regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98-473 as an incremental cost of alternative electric energy.

SEC. 1336. COAL FUEL MIXTURES.

Within one year following the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 1337. NATIONAL CLEARINGHOUSE.

(a) FEASIBILITY.—(1) The Secretary shall assess the feasibility of establishing a national clearinghouse for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In assessing the feasibility, the Secretary shall consider whether such a clearinghouse would be appropriate for purposes of—

(A) collecting information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminating to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this section;

(C) maintaining a library of technology publications and treatises relating to technology information and data collected pursuant to this section;

(D) organizing and conducting seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gathering information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translating into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encouraging, during the testing of technologies, the use of coal from a variety of domestic sources, and collecting or developing, or both, complete listings of test results using coals from all sources;

(H) establishing and maintaining an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conducting economic modeling for feasibility of projects.

(b) AUTHORITY TO ESTABLISH CLEARINGHOUSE.—Based upon the assessment under subsection (a), the Secretary may establish a clearinghouse.

SEC. 1338. COAL EXPORTS.

(a) PLAN.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall submit to the appropriate committees of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a plan for expanding exports of coal mined in the United States.

(b) PLAN CONTENTS.—The plan submitted under subsection (a) shall include—

(1) a description of the location, size, and projected growth in potential export markets for coal mined in the United States;

(2) the identification by country of the foreign trade barriers to the export of coal mined in the United States, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and a plan for addressing any such trade barriers;

(4) an evaluation of existing infrastructure in the United States and any new infrastructure requirements in the United States to support an expansion of exports of coal mined in the United States, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) an assessment of environmental implications of coal exports and the identification of export opportunities for blending coal mined in the United States with coal indigenous to other countries to enhance energy efficiency and environmental performance.

SEC. 1339. OWNERSHIP OF COALBED METHANE.

(a) FEDERAL LANDS AND MINERAL RIGHTS.—In the case of any deposit of coalbed methane where the United States is the owner of the surface estate or where the United States has transferred the surface estate but reserved the subsurface mineral estate, the Secretary of the Interior shall administer this section. This section and the definitions contained herein shall be applicable only on lands within Affected States.

(b) AFFECTED STATES.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior, with the participation of the Secretary of Energy, shall publish in the Federal Register a list of Affected States which shall be comprised of States—

(1) in which the Secretary of the Interior, with the participation of the Secretary of Energy, determines that disputes, uncertainty, or litigation exist, regarding the ownership of coalbed methane gas;

(2) in which the Secretary of the Interior, with the participation of the Secretary of Energy, determines that development of significant deposits of coalbed methane gas is being impeded by such existing disputes, uncertainty, or litigation regarding ownership of such coalbed methane;

(3) which do not have in effect a statutory or regulatory procedure or existing case law permitting and encouraging the development of coalbed methane gas within that State; and

(4) which do not have extensive development of coalbed methane gas.

The Secretary of the Interior, with the participation of the Secretary of Energy, shall revise such list of Affected States from time to time. Any Affected State shall be deleted from the list of Affected States upon the receipt by the Secretary of the Interior of a Governor's petition requesting such deletion, a State law requesting such deletion, or a resolution requesting such deletion enacted by the legislative body of the State. A Governor intending to petition the Secretary of the Interior to delete a State from the list of Affected States shall

provide the State's legislative body with 6 months notice of such petition during a legislative session. At the end of such 6-month period, the Governor may petition the Secretary of the Interior to delete a State from the list of Affected States, unless during such 6-month period, the State's legislative body has enacted a law or resolution disapproving the Governor's petition. Until the Secretary of the Interior, with the participation of the Secretary of Energy, publishes a different list, the States of West Virginia, Pennsylvania, Kentucky, Ohio, Tennessee, Indiana, and Illinois shall be the Affected States, effective on the date of the enactment of this Act. The States of Colorado, Montana, New Mexico, Wyoming, Utah, Virginia, Washington, Mississippi, Louisiana, and Alabama shall not be included on the Secretary of the Interior's list of Affected States or any extension or revision thereof.

(c) FAILURE TO ADOPT STATUTORY OR REGULATORY PROCEDURE.—If an Affected State has not placed in effect, by statute or by regulation, a substantial program promoting the permitting, drilling and production of coalbed methane wells (including pooling arrangements) within that State within 3 years after becoming an Affected State, the Secretary of the Interior, with the participation of the Secretary of Energy, shall administer this section and shall promulgate such regulations as are necessary to carry out this section in that State.

(d) IMPLEMENTATION BY THE SECRETARY OF THE INTERIOR.—In implementing this section, the Secretary of the Interior, with the participation of the Secretary of Energy, shall—

(A) consider existing and future coal mining plans,

(B) preserve the mineability of coal seams, and

(C) provide for the prevention of waste and maximization of recovery of coal and coalbed methane gas in a manner which will protect the rights of all entities owning an interest in such coalbed methane resource.

(e) SPACING.—Except where State law in an Affected State contains existing spacing requirements regarding the minimum distance between coalbed methane wells and the minimum distance of a coalbed methane well from a property line, the Secretary of the Interior shall establish such requirements within 90 days after the assertion of jurisdiction pursuant to subsection (c) of this section.

(f) SPACING UNITS.—Applications to establish spacing units for the drilling and operation of coalbed methane gas wells may be filed by any entity claiming a coalbed methane ownership interest within a proposed spacing unit. Upon receipt and approval of an application, the Secretary of the Interior shall issue an order establishing the boundaries of the coalbed methane spacing unit. Spacing units shall generally be uniform in size.

(g) DEVELOPMENT UNDER POOLING ARRANGEMENT.—Following issuance of an order establishing a spacing unit under subsection (f), and pursuant to an application for pooling filed by the entity claiming a coalbed methane ownership interest and proposing to drill a coalbed methane gas well, the Secretary of the Interior shall hold a hearing to consider the application for pooling and shall, if the criteria of this section are met, issue an order allowing the proposed pooling of acreage within the designated spacing unit for purposes of drilling and production of coalbed methane from the spacing

unit. The pooling order shall not be issued before notice or a reasonable and diligent effort to provide notice has been made to each entity which may claim an ownership interest in the coalbed methane gas within such spacing unit and each such entity has been offered an opportunity to appear before the Secretary of the Interior at the hearing. Upon issuance of a pooling order, each owner or claimant of an ownership interest shall be allowed to make one of the following elections:

(1) An election to sell or lease its coalbed methane ownership interest to the unit operator at a rate determined by the Secretary of the Interior as set forth in the pooling order.

(2) An election to become a participating working interest owner by bearing a share of the risks and costs of drilling, completing, equipping, gathering, operating (including all disposal costs), plugging and abandoning the well, and receiving a share of production from the well.

(3) An election to share in the operation of the well as a nonparticipating working interest owner by relinquishing its working interest to participating working interest owners until the proceeds allocable to its share equal 300 percent of the share of such costs allocable to its interest. Thereafter, the nonparticipating working interest owner shall become a participating working interest owner.

The pooling order shall designate a unit operator who shall be authorized to drill and operate the spacing unit. The pooling order shall provide that any entity claiming an ownership interest in the coalbed methane within such spacing unit which does not make an election under the pooling order shall be deemed to have leased its coalbed methane interest to the unit operator under such terms and conditions as the pooling order may provide. No pooling order may be issued under this paragraph for any spacing unit if all entities claiming an ownership interest in the coalbed methane in the spacing unit have entered into a voluntary agreement providing for the drilling and operation of the coalbed methane gas well for the spacing unit.

(h) ESCROW ACCOUNT.—(1) Each pooling order issued under subsection (g) shall provide for the establishment of an escrow account into which the payment of costs and proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants as follows:

(A) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account its proportionate share of the costs allocable to the ownership interest claimed by each such participating working interest owner as set forth in the pooling order issued by the Secretary of the Interior.

(B) The unit operator shall deposit in the escrow account all proceeds attributable to the conflicting interests of lessees, plus all proceeds in excess of ongoing operational expenses (including reasonable overhead costs) attributable to conflicting working interests.

(2) The Secretary of the Interior shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within 30 days of receipt by the Secretary of the Interior

of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane gas. Upon such final determination—

(A) each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(B) each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner (as determined by the election of the entity under the applicable pooling order);

(C) each entity leasing (or deemed to have leased) its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds (as set out in the applicable pooling order) attributable to the conflicting interests of lessees; and

(D) the unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner.

The Secretary of the Interior shall enact rules and regulations for the administration and protection of funds delivered to the escrow accounts.

(i) APPROVAL OF THE SECRETARY OF THE INTERIOR.—No entity may drill any well for the production of coalbed methane gas from a coal seam, subject to the provisions of subsection (g), in an Affected State unless the drilling of such well has been approved by the Secretary of the Interior.

(j) AUTHORIZATION TO STIMULATE A COAL SEAM.—(1) No operator of a coalbed methane well may stimulate a coal seam without the written consent of each entity which, at the time that the coalbed methane operator applies for a drilling permit, is operating a coal mine, or has by virtue of his property rights in the coal the ability to operate a coal mine, located within a horizontal or vertical distance from the point of stimulation as established by the Secretary of the Interior pursuant to paragraph (3) of this subsection. In seeking the coal operator's consent, a coalbed methane well operator shall provide the coal operator with necessary information about such stimulation, including relevant information to ensure compliance with coal mine safety laws and rules.

(2) In the absence of a written consent pursuant to pargraph (1) and at the request of a coalbed methane operator, the Secretary of the Interior shall make a determination regarding stimulation of a coal seam. Such request shall include an affidavit which shall—

(A) state that an entity from which consent is required pursuant to paragraph (1) has refused to provide written consent;

(B) set forth in detail the efforts undertaken by the applicant to obtain such written consent;

(C) state the known reasons for the consent not being provided;

(D) set forth the conditions and compensation, if any, offered by the applicant as part of the efforts to obtain consent; and

(E) provide prima facie evidence that the method of stimulation proposed by the coalbed methane operator will not (i) cause unreasonable loss or damage to the coal seam considering all factors, including the prospect, taking into consideration the economics of the coal industry, that coal seams for which no actual or proposed mining plans exist will be mined at some future date, or (ii) violate mine safety requirements. If a denial of consent by a coal operator is based on reasons related to safety, the Secretary of the Interior shall seek the views and recommendations of the appropriate State or Federal coal mine safety agency. Any determination by the Secretary of the Interior shall be in accordance with all applicable Federal and State coal mine safety laws and such views and recommendations. A determination by the Secretary of the Interior approving a method of stimulation may include reasonable conditions including, but not limited to, conditions to mitigate, to the extent practicable, economic damage to the coal seam. Any determination approving or denying a method of stimulation by the Secretary of the Interior shall be subject to appeal. Interested entities shall be allowed to participate in and comment on proceedings under this paragraph.

(3) The Secretary of the Interior shall by rule establish, for an Affected State, a region thereof, or a multi-State region comprised of Affected States, the boundaries within which a coalbed methane operator shall be required to obtain written consent from a coal operator pursuant to paragraph (1). Such boundaries shall be stated in terms of a horizontal and a vertical distance from the point of stimulation and shall be determined based on an evaluation of the maximum length, height and depth of fracture producible in a coal seam in such Affected State, region thereof, or multi-State region comprised of Affected States.

(4) The consent required under this subsection shall in no way be deemed to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease in existence as of the effective date of this section between the coalbed methane operator and the coal operator, and the existence of such lease or contractual agreement and any extensions or renewals of such lease shall be deemed to fully meet the requirements of this section.

(5) Nothing in this subsection precludes either a coal operator or a coalbed methane operator from seeking in the appropriate State forum compensation for the consequences of a determination by the Secretary of the Interior pursuant to paragraph (2).

(k) NOTICE AND OBJECTION.—(1) The Secretary of the Interior shall not approve the drilling of any coalbed methane well unless the unit operator has notified each entity which is operating, or has the ability, by virtue of his property rights in the coal, to operate, a coal mine in any portion of the coalbed that would be affected by such well within the distances established pursuant to the rules promulgated under subsection (j)(3). Any notified entity may object to the drilling of such well within 30 days after receipt of a notice. Upon receipt of a timely objection to the drilling of any coalbed methane gas well submitted by a notified entity, the Secretary of the

Interior may refuse to approve the drilling of the well based on any of the following:

(A) The proposed activity, due to its proximity to any coal mine opening, shaft, underground workings, or to any proposed extension of the coal mine, would adversely affect any operating, inactive or abandoned coal mine, including any coal mine already surveyed and platted but not yet being operated.

(B) The proposed activity would not conform with a coal operator's development plan for an existing or proposed operation.

(C) There would be an unreasonable interference from the proposed activity with present or future coal mining operations, including the ability to comply with other applicable laws and regulations.

(D) The presence of evidence indicating that the proposed drilling activities would be unsafe, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal.

(E) The proposed activity would unreasonably interfere with the safe recovery of coal, oil and gas.

(2) In the event the Secretary of the Interior does not approve the drilling of a coalbed methane well pursuant to paragraph (1), the Secretary of the Interior shall consider whether such drilling could be approved if the unit operator modifies the proposed activities to take into account any of the following:

(A) The proposed activity could instead be reasonably done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration surface topography.

(B) The proposed activity could instead be moved to a mined-out area, below the coal outcrop or to some other feasible area.

(C) The unit operator agrees to a drilling moratorium of not more than two years in order to permit completion of coal mining operations.

(D) The practicality of locating the proposed spacing unit or well on a uniform pattern with other spacing units or wells.

(l) PLUGGING.—All coalbed methane wells drilled after enactment of this Act that penetrate coal seams with remaining reserves shall provide for subsequent safe mining through the well in accordance with standards prescribed by the Secretary of the Interior, in consultation with any Federal and State agencies having authority over coal mine safety. Well plugging costs should be allocated in accordance with State law or private contractual arrangement, as the case may be.

(m) NOTICE AND OBJECTION BY OTHER PARTIES.—The Secretary of the Interior shall not approve the drilling of any coalbed methane well unless such well complies with the spacing and other requirements established by the Secretary of the Interior and each of the following:

(1) The unit operator of such well has notified, or has made a reasonable and diligent effort to notify, all entities claiming ownership of coalbed methane to be drained by such well and

provided an opportunity to object in accordance with requirements established by the Secretary of the Interior.

(2) Where conflicting interests exist, an order under subsection (g) establishing pooling requirements has been issued.

The notification requirements of this subsection shall be additional to the notification referred to in subsection (k). The Secretary of the Interior shall establish the conditions under which entities claiming ownership of coalbed methane may object to the drilling of a coalbed methane well.

(n) VENTING FOR SAFETY.—Nothing in this section shall be construed to prevent or inhibit the entity which has the right to develop and mine coal in any mine from venting coalbed methane gas to ensure safe mine operations.

(o) OTHER LAWS.—The Secretary of the Interior shall comply with all applicable Federal and State coal mine safety laws and regulations.

(p) DEFINITIONS.—As used in this section—

(1) The term "Affected State" means a State listed by the Secretary of the Interior, with the participation of the Secretary of Energy, under subsection (b).

(2) The term "coalbed methane gas" means occluded natural gas produced (or which may be produced) from coalbeds and rock strata associated therewith.

(3) The term "unit operator" means the entity designated in a pooling order to develop a spacing unit by the drilling of one or more wells on the unit.

(4) The term "nonparticipating working interest owner" means a gas or oil owner of a tract included in a spacing unit which elects to share in the operation of the well on a carried basis by agreeing to have its proportionate share of the costs allocable to its interest charged against its share of production of the well in accordance with subsection (f)(3).

(5) The term "participating working interest owner" means a gas or oil owner which elects to bear a share of the risks and costs of drilling, completing, equipping, gathering, operating (including any and all disposal costs) plugging, and abandoning a well on a spacing unit and to receive a share of production from the well equal to the proportion which the acreage in the spacing unit it owns or holds under lease bears to the total acreage of the spacing unit.

(6) The term "coal seam" means any stratum of coal 20 inches or more in thickness, unless a stratum of less thickness is being commercially worked, or can in the judgment of the Secretary of the Interior forseeably be commercially worked and will require protection if wells are being drilled through it.

SEC. 1340. ESTABLISHMENT OF DATA BASE AND STUDY OF TRANSPORTATION RATES.

(a) DATA BASE.—The Secretary shall review the information currently collected by the Federal Government and shall determine whether information on transportation rates for rail and pipeline transport of domestic coal, oil, and gas during the period of January 1, 1988, through December 31, 1997, is reasonably available. If he determines that such information is not reasonably available,

the Secretary shall establish a data base containing, to the maximum extent practicable, information on all such rates. The confidentiality of contract rates shall be preserved. To obtain data pertaining to rail contract rates, the Secretary shall acquire such data in aggregate form only from the Interstate Commerce Commission, under terms and conditions that maintain the confidentiality of such rates.

(b) STUDY.—The Energy Information Administration shall determine the extent to which any agency of the Federal Government is studying the rates and distribution patterns of domestic coal, oil, and gas to determine the impact of the Clean Air Act as amended by the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.", enacted November 15, 1990 (Public Law 101-549), and other Federal policies on such rates and distribution patterns. If the Energy Information Administration finds that no such study is underway, or that reports of the results of such study will not be available to the Congress providing the information specified in this subsection and subsection (a) by the dates established in subsection (c), the Energy Information Administration shall initiate such a study.

(c) REPORTS TO CONGRESS.—Within one year after the date of enactment of this Act, the Secretary shall report to the Congress on the determination the Energy Information Administration is required to make under subsection (b). Within three years after the date of enactment of this Act, the Secretary shall submit reports on any data base or study developed under this section. Any such reports shall be updated and resubmitted to the Congress within eight years after such date of enactment. If the Energy Information Administration has determined pursuant to subsection (b) that another study or studies will provide all or part of the information called for in this section, the Secretary shall transmit the results of that study by the dates established in this subsection, together with his comments.

(d) CONSULTATION WITH OTHER AGENCIES.—The Secretary and the Energy Information Administration shall consult with the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission in implementing this section.

SEC. 1341. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle, other than section 1322, such sums as may be necessary for fiscal years 1993 through 1998.

TITLE XIV—STRATEGIC PETROLEUM RESERVE

SEC. 1401. DRAWDOWN AND DISTRIBUTION OF THE RESERVE.

Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended—

(1) in subsection (d)—

(A) by striking "(d)" and inserting "(d)(1)"; and

(B) by adding at the end the following new paragraph:

"(2) For purposes of this section, in addition to the circumstances set forth in section 3(8), a severe energy supply interruption shall be deemed to exist if the President determines that—

"(A) an emergency situation exists and there is a significant reduction in supply which is of significant scope and duration;

"(B) a severe increase in the price of petroleum products has resulted from such emergency situation; and

"(C) such price increase is likely to cause a major adverse impact on the national economy."; and

(2) in subsection (h)(1)(A), by inserting "or international" after "domestic".

SEC. 1402. EXPANSION OF RESERVE.

Section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234) is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

(2) by adding at the end the following:

"(2) Beginning on the date of the enactment of the Energy Policy Act of 1992, the President shall take actions to enlarge the Strategic Petroleum Reserve to 1,000,000,000 barrels as rapidly as possible. Such actions may include—

"(A) petroleum acquisition, transportation, and injection activities at the highest practicable fill rate achievable, subject to the availability of appropriated funds;

"(B) contracting for petroleum product not owned by the United States as specified in part C;

"(C) contracting for petroleum product for storage in facilities not owned by the United States, except that no such product may be stored in such facilities unless petroleum product stored in facilities owned by the United States on the date such product is delivered for storage is at least 750,000,000 barrels;

"(D) carrying out the activities described in section 160(h);

"(E) the transferring of oil from the Naval Petroleum Reserve; and

"(F) other activities specified in this title.".

SEC. 1403. AVAILABILITY OF FUNDING FOR LEASING.

Section 171 of the Energy Policy and Conservation Act (42 U.S.C. 6249) is amended by adding at the end the following new subsection:

"(f) AVAILABILITY OF FUNDS.—The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out such activities, in advance of the receipt of petroleum products.".

SEC. 1404. PURCHASE FROM STRIPPER WELL PROPERTIES.

(a) IN GENERAL.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end the following new subsection:

"(h)(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary to acquire oil from domestic production of stripper well properties for storage in the Strategic Pe-

troleum Reserve. Except as provided in paragraph (2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

"(2) Crude oil purchased by the Secretary pursuant to this subsection shall be by competitive bid. The price paid by the Secretary—

"(A) shall take into account the cost of production including costs of reservoir and well maintenance; and

"(B) shall not exceed the price that would have been paid if the Secretary had acquired petroleum products of a similar quality on the open market under competitive bid procedures without regard to the source of the petroleum products.".

(b) TECHNICAL CORRECTIONS.—Part B of title I of such Act is amended—

(1) in section 167(d), in the matter preceding paragraph (1), by striking "subsection (g)" and inserting "under subsection (g)"; and

(2) in section 160(d)(2)—

(A) by striking "(2)(A)" and inserting "(2)"; and

(B) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

SEC. 1405. REDESIGNATION OF ISLAND STATES.

Section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237(a)) is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of carrying out this section—

"(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations, as in effect on November 1, 1975;

"(B) determinations made with respect to Regions, other than States that are islands, shall be made as if the islands were not part of the Regions; and

"(C) with respect to determinations made for any State that is an island, the term 'refined petroleum product' shall have the same meaning given the term 'petroleum product' in section 3(3).".

SEC. 1406. INSULAR AREAS STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study of the implications of the unique vulnerabilities of the insular areas to an oil supply disruption. Such study shall outline how the insular areas shall gain access to vital oil supplies during times of national emergency. Such study shall be completed and submitted to the Congress not later than 9 months after the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "insular areas" means the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau.

TITLE XV—OCTANE DISPLAY AND DISCLOSURE

SEC. 1501. CERTIFICATION AND POSTING OF AUTOMOTIVE FUEL RATINGS.

(a) COVERAGE OF ALL LIQUID AUTOMOTIVE FUELS.—Section 201(6) of the Petroleum Marketing Practices Act (15 U.S.C. 2821(6)) is amended to read as follows:

"(6) The term 'automotive fuel' means liquid fuel of a type distributed for use as a fuel in any motor vehicle.".

(b) AUTOMOTIVE FUEL RATING.—Section 201 of such Act (15 U.S.C. 2821) is amended by adding at the end the following new paragraphs:

"(17) The term 'automotive fuel rating' means—

"(A) the octane rating of an automotive spark-ignition engine fuel; and

"(B) if provided for by the Federal Trade Commission by rule, the cetane rating of diesel fuel oils; or

"(C) another form of rating determined by the Federal Trade Commission, after consultation with the American Society for Testing and Materials, to be more appropriate to carry out the purposes of this title with respect to the automotive fuel concerned.

"(18)(A) The term 'cetane rating' means a measure, as indicated by a cetane index or cetane number, of the ignition quality of diesel fuel oil and of the influence of the diesel fuel oil on combustion roughness.

"(B) The term 'cetane index' and the term 'cetane number' have the meanings determined in accordance with the test methods set forth in the American Society for Testing and Materials standard test methods—

"(i) designated D976 or D4737 in the case of cetane index; and

"(ii) designated D613 in the case of cetane number,

(as in effect on the date of the enactment of this Act) and shall apply to any grade or type of diesel fuel oils defined in the specification of the American Society for Testing and Materials entitled 'Standard Specification for Diesel Fuel Oils' designated D975 (as in effect on such date).".

(c) CONFORMING AMENDMENTS.—(1) Section 201 of such Act (15 U.S.C. 2821) is amended—

(A) in paragraph (1), by striking out "gasoline" and inserting in lieu thereof "fuel";

(B) in paragraph (2)—

(i) by striking out "Standard Specifications for Automotive Gasoline" and inserting in lieu thereof "Standard Specification for Automotive Spark-Ignition Engine Fuel"; and

(ii) by striking out "D 439" and inserting in lieu thereof "D4814";

(C) in paragraph (4)—

(i) by striking out "gasoline" the first place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'refiner' means any person engaged in the production or importation of automotive fuel.";

(E) in paragraph (11)—

(i) by striking out "octane" each place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(F) in paragraph (16), by striking out "gasoline" each place it appears and inserting in lieu thereof "automotive fuel".

(2) Section 202 of such Act (15 U.S.C. 2822) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (a) and (b), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(C) in subsection (c)—

(i) by striking out "gasoline" each place it appears (other than the second place it appears) and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) in subsection (d), by striking out "octane" and inserting in lieu thereof "automotive fuel";

(E) in subsection (e)—

(i) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(ii) by striking out "gasoline's" and inserting in lieu thereof "fuel's";

(F) in subsections (f), (g), and (h), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(G) in subsection (h), by striking out "octane requirement" each place it appears and inserting in lieu thereof "automotive fuel requirement"; and

(H) in the section heading, by striking out "OCTANE" and inserting in lieu thereof "AUTOMOTIVE FUEL RATING".

(3) Section 203 of such Act (15 U.S.C. 2823) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (b) and (c), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(C) in subsection (c)(3), by striking out "201(1)" and inserting in lieu thereof "201".

(e) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective at the end of the one-year period beginning on the date of the enactment of this Act.

(2) The Federal Trade Commission shall, within 270 days after the date of the enactment of this Act, prescribe rules for the purpose of implementing the amendments made in this section.

SEC. 1502. INCREASED AUTHORITY FOR ENFORCEMENT.

(a) STATE LAW.—Section 204 of the Petroleum Marketing Practices Act (15 U.S.C. 2824) is amended to read as follows:

"RELATIONSHIP OF THIS TITLE TO STATE LAW

"SEC. 204. (a) To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

"(b) A State or political subdivision thereof may provide for any investigative or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigative or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).".

(b) FTC ENFORCEMENT.—Section 203(e) of such Act is amended by striking out "; except that" in the second sentence and all that follows through the period and inserting in lieu thereof a period.

(c) EPA ENFORCEMENT.—Section 203(b)(1) of such Act is amended—

(1) in the matter preceding subparagraph (A), by striking out "shall";

(2) in subparagraph (A), by striking out "conduct" and inserting in lieu thereof "may conduct";

(3) in subparagraph (B), by striking out "certify" and inserting in lieu thereof "shall certify";

(4) in subparagraph (C), by striking out "notify" and inserting in lieu thereof "shall notify"; and

(5) in subparagraph (C), by striking out "discovered" and all that follows through "testing".

SEC. 1503. STUDIES.

(a) IN GENERAL.—For the purpose of making the findings, conclusions, and recommendations referred to in subsection (c)—

(1) the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall carry out a study to determine whether, and if so, how, the antiknock characteristics of nonliquid fuels usable as a fuel for a motor vehicle (as defined in section 201(7) of the Petroleum Marketing Practices Act) can be determined; and

(2) the Federal Trade Commission, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a study—

(A) to determine the need for, and the desirability of, having a uniform national label on devices used to dispense automotive fuel to consumers that would consolidate information required by Federal law to be posted on such devices; and

(B) to determine the nature of such label if it is determined under subparagraph (A) that such a need exists.

(b) IMPLEMENTATION.—(1) In carrying out studies under this section, each agency shall—

(A) publish general notice of each of the studies in the Federal Register; and

(B) give interested parties an opportunity to participate in such studies through submission of written data, views, or arguments.

(2) In carrying out the study to determine the nature of a uniform national label under subsection (a)(2)(B), the Federal Trade Commission shall—

(A) weigh the consumer, environmental, and energy saving benefits of any element of such label against the necessity for a concise, practical, and cost-efficient label; and

(B) consider as a possible element of such label a statement suggesting consumers check the vehicle's owner's manual regarding octane requirements.

(c) REPORTS.—The Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Chairman of the Federal Trade Commission shall transmit to the Congress, within one year after the date of the enactment of this Act, the findings, conclusions, and recommendations made as a result of the studies carried out by such officers under this section, together with a description of the administrative and legislative actions needed to implement such recommendations.

TITLE XVI—GLOBAL CLIMATE CHANGE

SEC. 1601. REPORT.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to the Congress that includes an assessment of—

(1) the feasibility and economic, energy, social, environmental, and competitive implications, including implications for jobs, of stabilizing the generation of greenhouse gases in the United States by the year 2005;

(2) the recommendations made in chapter 9 of the 1991 National Academy of Sciences report entitled "Policy Implications of Greenhouse Warming", including an analysis of the benefits and costs of each recommendation;

(3) the extent to which the United States is responding, compared with other countries, to the recommendations made in chapter 9 of the 1991 National Academy of Sciences report;

(4) the feasibility of reducing the generation of greenhouse gases;

(5) the feasibility and economic, energy, social, environmental, and competitive implications, including implications for jobs, of achieving a 20 percent reduction from 1988 levels in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(6) the potential economic, energy, social, environmental, and competitive implications, including implications for jobs, of implementing the policies necessary to enable the United States

to comply with any obligations under the United Nations Framework Convention on Climate Change or subsequent international agreements.

SEC. 1602. LEAST-COST ENERGY STRATEGY.

(a) STRATEGY.—The first National Energy Policy Plan (in this title referred to as the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and required to be submitted by the President to Congress after February 1, 1993, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, environmental, and competitive costs and benefits, including costs and benefits for jobs, of his choices. Such strategy shall also take into account the report required under section 1601 and relevant Federal, State, and local requirements. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(1) the energy production, utilization, and energy conservation priorities of subsection (d);

(2) the stabilization and eventual reduction in the generation of greenhouse gases;

(3) an increase in the efficiency of the Nation's total energy use by 30 percent over 1988 levels by the year 2010;

(4) an increase in the percentage of energy derived from renewable resources by 75 percent over 1988 levels by the year 2005; and

(5) a reduction in the Nation's oil consumption from the 1990 level of approximately 40 percent of total energy use to 35 percent by the year 2005.

(b) ADDITIONAL CONTENTS.—The least-cost energy strategy shall also include—

(1) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, distribution, and utilization of such resources, including—

(A) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(B) energy efficiency, including existing technologies for increased efficiency in production, transportation, distribution, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(C) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, hydropower, and natural gas;

(2) a proposed two-year program for ensuring adequate supplies of the energy and energy efficiency resources and technologies described in paragraph (1), and an identification of administrative actions that can be undertaken within existing Federal authority to ensure their adequate supply;

(3) estimates of life-cycle costs for existing energy production facilities;

(4) basecase forecasts of short-term and long-term national energy needs under low and high case assumptions of economic growth; and

(5) an identification of all applicable Federal authorities needed to achieve the purposes of this section, and of any inadequacies in those authorities.

(c) SECRETARIAL CONSIDERATION.—In developing the least-cost energy strategy, the Secretary shall give full consideration to—

(1) the relative costs of each energy and energy efficiency resource based upon a comparison of all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, distribution, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply; and

(2) the economic, energy, social, environmental, and competitive consequences resulting from the establishment of any particular order of Federal priority as determined under subsection (d).

(d) PRIORITIES.—The least-cost energy strategy shall identify Federal priorities, including policies that—

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(e) ASSUMPTIONS.—The Secretary shall include in the least-cost energy strategy an identification of all of the assumptions used in developing the strategy and priorities thereunder, and the reasons for such assumptions.

(f) PREFERENCE.—When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever all direct and quantifiable net costs for the resource over its available life are equal to the estimated cost of the energy resource.

(g) PUBLIC REVIEW AND COMMENT.—The Secretary shall provide for a period of public review and comment of the least-cost energy strategy, for a period of at least 30 days, to be completed at least 60 days before the issuance of such strategy. The Secretary shall also provide for public review and comment before the issuance of any update to the least-cost energy strategy required under this section.

SEC. 1603. DIRECTOR OF CLIMATE PROTECTION.

Within 6 months after the date of the enactment of this Act, the Secretary shall establish, within the Department of Energy, a Director of Climate Protection (in this section referred to as the "Director"). The Director shall—

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change, including the activities of the Committee on Earth and Environmental Sciences as established by the Global Change Research Act of 1990 (Public Law 101-606) and the Policy Coordinating Committee Working Group on Climate Change;

(2) monitor, in cooperation with other Federal agencies, domestic and international policies for their effects on the generation of greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Department of Energy programs.

SEC. 1604. ASSESSMENT OF ALTERNATIVE POLICY MECHANISMS FOR ADDRESSING GREENHOUSE GAS EMISSIONS.

Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit a report to Congress containing a comparative assessment of alternative policy mechanisms for reducing the generation of greenhouse gases. Such assessment shall include a short-run and long-run analysis of the social, economic, energy, environmental, competitive, and agricultural costs and benefits, including costs and benefits for jobs and competition, and the practicality of each of the following policy mechanisms:

(1) Various systems for controlling the generation of greenhouse gases, including caps for the generation of greenhouse gases from major sources and emissions trading programs.

(2) Federal standards for energy efficiency for major sources of greenhouse gases, including efficiency standards for power plants, industrial processes, automobile fuel economy, appliances, and buildings, and for emissions of methane.

(3) Various Federal and voluntary incentives programs.

SEC. 1605. NATIONAL INVENTORY AND VOLUNTARY REPORTING OF GREENHOUSE GASES.

(a) NATIONAL INVENTORY.—Not later than one year after the date of the enactment of this Act, the Secretary, through the Energy Information Administration, shall develop, based on data available to, and obtained by, the Energy Information Administration, an inventory of the national aggregate emissions of each greenhouse gas for each calendar year of the baseline period of 1987 through 1990. The Administrator of the Energy Information Administration shall annually update and analyze such inventory using available data. This subsection does not provide any new data collection authority.

(b) VOLUNTARY REPORTING.—

(1) ISSUANCE OF GUIDELINES.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall, after opportunity for public comment, issue guidelines for the voluntary collection and reporting of information on sources of greenhouse gases. Such guidelines shall establish procedures for the accurate voluntary reporting of information on—

(A) greenhouse gas emissions—

(i) for the baseline period of 1987 through 1990; and

(ii) for subsequent calendar years on an annual basis;

(B) annual reductions of greenhouse gas emissions and carbon fixation achieved through any measures, including fuel switching, forest management practices, tree planting, use of renewable energy, manufacture or use of vehicles with reduced greenhouse gas emissions, appliance efficiency, energy efficiency, methane recovery, cogeneration, chlorofluorocarbon capture and replacement, and power plant heat rate improvement;

(C) reductions in greenhouse gas emissions achieved as a result of—

(i) voluntary reductions;

(ii) plant or facility closings; and

(iii) State or Federal requirements; and

(D) an aggregate calculation of greenhouse gas emissions by each reporting entity.

Such guidelines shall also establish procedures for taking into account the differential radiative activity and atmospheric lifetimes of each greenhouse gas.

(2) REPORTING PROCEDURES.—The Administrator of the Energy Information Administration shall develop forms for voluntary reporting under the guidelines established under paragraph (1), and shall make such forms available to entities wishing to report such information. Persons reporting under this subsection shall certify the accuracy of the information reported.

(3) CONFIDENTIALITY.—Trade secret and commercial or financial information that is privileged or confidential shall be protected as provided in section 552(b)(4) of title 5, United States Code.

(4) ESTABLISHMENT OF DATA BASE.—Not later than 18 months after the date of the enactment of this Act, the Secretary, through the Administrator of the Energy Information Administration, shall establish a data base comprised of information voluntarily reported under this subsection. Such information may be used by the reporting entity to demonstrate achieved reductions of greenhouse gases.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult, as appropriate, with the Administrator of the Environmental Protection Agency.

SEC. 1606. REPEAL.

Title III of the Energy Security Act (42 U.S.C. 7361 et seq.) is hereby repealed.

SEC. 1607. CONFORMING AMENDMENT.

The Secretary, through the Trade Promotion Coordinating Council, shall develop policies and programs to encourage the export and promotion of domestic energy resource technologies, including renewable energy, energy efficiency, and clean coal technologies, to developing countries.

SEC. 1608. INNOVATIVE ENVIRONMENTAL TECHNOLOGY TRANSFER PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the interagency working group established under section 256(d) of the Energy Policy and Conservation Act (in this section referred to as the "interagency working group", shall establish a technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of the enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate Federal agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from technologies that substantially reduce environmental pollutants, including greenhouse gases;

(4) develop markets for United States technologies, including services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, that meet the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies;

(6) ensure the introduction of United States firms and expertise in foreign countries;

(7) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of technologies or services that substantially reduce environmental pollutants, including greenhouse gases; and

(8) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportuni-

ties to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the interagency working group, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries that substantially reduce environmental pollutants, including greenhouse gases, and shall identify a list of such projects within 240 days after the date of the enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects, and services related thereto, that substantially reduce environmental pollutants, including greenhouse gases in foreign countries;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-Federal funding that may be available for the project; and

(B) utilized in conjunction with financial assistance programs available through other Federal agencies.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of the enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States technology or service. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE–PS01–90FE62271 Clean Coal Technology IV, as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States technology, including services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall—

(1) establish eligibility criteria for countries that will host projects;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) ELIGIBLE TECHNOLOGIES.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare a list of eligible technologies and services under this section. In preparing such a list, the Secretary shall consider fuel cell powerplants, aeroderivitive gas turbines and catalytic combustion technologies for aeroderivitive gas turbines, ocean thermal energy conversion technology, anaerobic digester and storage tanks, and other renewable energy and energy efficiency technologies.

(i) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the purposes of this section;

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology or service for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet the following criteria:

(A) It will reduce environmental emissions, including greenhouse gases, to an extent greater than required by applicable provisions of law.

(B) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

(C) It will increase the overall efficiency of energy use.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet these criteria.

(j) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(k) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(l) REPORT TO CONGRESS.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce innovative energy technologies, and services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, into foreign countries.

(m) DEFINITIONS.—For purposes of this section—

(1) the term "host country" means a foreign country which is—

(A) the participant in or the site of the proposed innovative energy technology project; and

(B) either—

(i) classified as a country eligible to participate in development assistance programs of the Agency for

International Development pursuant to applicable law or regulation; or

(ii) a developing country; and

(2) the term "developing country" includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

(n) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1609. GLOBAL CLIMATE CHANGE RESPONSE FUND.

(a) ESTABLISHMENT OF THE FUND.—The Secretary of the Treasury, in consultation with the Secretary of State, shall establish a Global Climate Change Response Fund to act as a mechanism for United States contributions to assist global efforts in mitigating and adapting to global climate change.

(b) RESTRICTIONS ON DEPOSITS.—No deposits shall be made to the Global Climate Change Response Fund until the United States has ratified the United Nations Framework Convention on Climate Change.

(c) USE OF THE FUND.—Moneys deposited into the Fund shall be used by the President, to the extent authorized and appropriated under section 302 of the Foreign Assistance Act of 1961, solely for contributions to a financial mechanism negotiated pursuant to the United Nations Framework Convention on Climate Change, including all protocols or agreements related thereto.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for deposit in the Fund to carry out the purposes of this section, $50,000,000 for fiscal year 1994 and such sums as may be necessary for fiscal years 1995 and 1996.

TITLE XVII—ADDITIONAL FEDERAL POWER ACT PROVISIONS

SEC. 1701. ADDITIONAL FEDERAL POWER ACT PROVISIONS.

(a) ANNUAL CHARGES FOR COSTS.—(1) Section 10(e)(1) of the Federal Power Act is amended by striking the semicolon after "Part" and inserting the following: ", including any reasonable and necessary costs incurred by Federal and State fish and wildlife agencies and other natural and cultural resource agencies in connection with studies or other reviews carried out by such agencies for purposes of administering their responsibilities under this part;".

(2) Section 10(e)(1) of such Act is further amended by inserting after "as conditions may require:" the following proviso: "Provided, That, subject to annual appropriations Acts, the portion of such annual charges imposed by the Commission under this subsection to cover the reasonable and necessary costs of such agencies shall be available to such agencies (in addition to other funds appropriated for such purposes) solely for carrying out such studies and reviews and shall remain available until expended:".

(b) CLARIFICATION OF AUTHORITY REGARDING FISHWAYS.—The definition of the term "fishway" contained in 18 C.F.R.

4.30(b)(9)(iii), as in effect on the date of enactment of this Act, is vacated without prejudice to any definition or interpretation by rule of the term "fishway" by the Federal Energy Regulatory Commission for purposes of implementing section 18 of the Federal Power Act: Provided, That any future definition promulgated by regulatory rulemaking shall have no force or effect unless concurred in by the Secretary of the Interior and the Secretary of Commerce: Provided further, That the items which may constitute a "fishway" under section 18 for the safe and timely upstream and downstream passage of fish shall be limited to physical structures, facilities, or devices necessary to maintain all life stages of such fish, and project operations and measures related to such structures, facilities, or devices which are necessary to ensure the effectiveness of such structures, facilities, or devices for such fish.

(c) EXTENSION OF DEADLINES.—(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 4031 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

(2) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 6221 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project until July 29, 1995.

(3) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 6641 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until June 29, 1996, the time required for the licensee to acquire the required real property and commence the construction of project numbered 6641, and until June 29, 2000, the time required for completion of construction of such project.

(4) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee of FERC project numbered 4656 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until March 26, 1999, the time required for the licensee to acquire the required real property and commence the construction of project numbered 4656.

(5) The authorization for issuing extensions under paragraphs (1) through (4) shall terminate 3 years after the date of enactment of this section. To facilitate requests under such subsections, the Commission may consolidate the requests. The Commission shall provide at the beginning of each Congress a report on the status of all extensions granted by Congress regarding the requirements of section 13 of the Federal Power Act, including information about any delays by the Commission on the licensee and the reasons for such delays.

(d) EMINENT DOMAIN.—Section 21 of the Federal Power Act is amended by striking the period at the end thereof and adding the following: "Provided, further, That no licensee may use the right of eminent domain under this section to acquire any lands or other property that, prior to the date of enactment of the Energy Policy Act of 1992, were owned by a State or political subdivision thereof and were part of or included within any public park, recreation area or wildlife refuge established under State or local law. In the case of lands or other property that are owned by a State or political subdivision and are part of or included within a public park, recreation area or wildlife refuge established under State or local law on or after the date of enactment of such Act, no licensee may use the right of eminent domain under this section to acquire such lands or property unless there has been a public hearing held in the affected community and a finding by the Commission, after due consideration of expressed public views and the recommendations of the State or political subdivision that owns the lands or property, that the license will not interfere or be inconsistent with the purposes for which such lands or property are owned.".

TITLE XVIII—OIL PIPELINE REGULATORY REFORM

SEC. 1801. OIL PIPELINE RATEMAKING METHODOLOGY.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall issue a final rule which establishes a simplified and generally applicable ratemaking methodology for oil pipelines in accordance with section 1(5) of part I of the Interstate Commerce Act.

(b) EFFECTIVE DATE.—The final rule to be issued under subsection (a) may not take effect before the 365th day following the date of the issuance of the rule.

SEC. 1802. STREAMLINING OF COMMISSION PROCEDURES.

(a) RULEMAKING.—Not later than 18 months after the date of the enactment of this Act, the Commission shall issue a final rule to streamline procedures of the Commission relating to oil pipeline rates in order to avoid unnecessary regulatory costs and delays.

(b) SCOPE OF RULEMAKING.—Issues to be considered in the rulemaking proceeding to be conducted under subsection (a) shall include the following:

(1) Identification of information to be filed with an oil pipeline tariff and the availability to the public of any analysis of such tariff filing performed by the Commission or its staff.

(2) Qualification for standing (including definitions of economic interest) of parties who protest oil pipeline tariff filings or file complaints thereto.

(3) The level of specificity required for a protest or complaint and guidelines for Commission action on the portion of the tariff or rate filing subject to protest or complaint.

(4) An opportunity for the oil pipeline to file a response for the record to an initial protest or complaint.

(5) Identification of specific circumstances under which Commission staff may initiate a protest.

(c) ADDITIONAL PROCEDURAL CHANGES.—In conducting the rulemaking proceeding to carry out subsection (a), the Commission shall identify and transmit to Congress any other procedural changes relating to oil pipeline rates which the Commission determines are necessary to avoid unnecessary regulatory costs and delays and for which additional legislative authority may be necessary.

(d) WITHDRAWAL OF TARIFFS AND COMPLAINTS.—

(1) WITHDRAWAL OF TARIFFS.—If an oil pipeline tariff which is filed under part I of the Interstate Commerce Act and which is subject to investigation is withdrawn—

(A) any proceeding with respect to such tariff shall be terminated;

(B) the previous tariff rate shall be reinstated; and

(C) any amounts collected under the withdrawn tariff rate which are in excess of the previous tariff rate shall be refunded.

(2) WITHDRAWAL OF COMPLAINTS.—If a complaint which is filed under section 13 of the Interstate Commerce Act with respect to an oil pipeline tariff is withdrawn, any proceeding with respect to such complaint shall be terminated.

(e) ALTERNATIVE DISPUTE RESOLUTION.—To the maximum extent practicable, the Commission shall establish appropriate alternative dispute resolution procedures, including required negotiations and voluntary arbitration, early in an oil pipeline rate proceeding as a method preferable to adjudication in resolving disputes relating to the rate. Any proposed rates derived from implementation of such procedures shall be considered by the Commission on an expedited basis for approval.

SEC. 1803. PROTECTION OF CERTAIN EXISTING RATES.

(a) RATES DEEMED JUST AND REASONABLE.—Except as provided in subsection (b)—

(1) any rate in effect for the 365-day period ending on the date of the enactment of this Act shall be deemed to be just and reasonable (within the meaning of section 1(5) of the Interstate Commerce Act); and

(2) any rate in effect on the 365th day preceding the date of such enactment shall be deemed to be just and reasonable (within the meaning of such section 1(5)) regardless of whether or not, with respect to such rate, a new rate has been filed with the Commission during such 365-day period;

if the rate in effect, as described in paragraph (1) or (2), has not been subject to protest, investigation, or complaint during such 365-day period.

(b) CHANGED CIRCUMSTANCES.—No person may file a complaint under section 13 of the Interstate Commerce Act against a rate deemed to be just and reasonable under subsection (a) unless—

(1) evidence is presented to the Commission which establishes that a substantial change has occurred after the date of the enactment of this Act—

(A) in the economic circumstances of the oil pipeline which were a basis for the rate; or

(B) in the nature of the services provided which were a basis for the rate; or

(2) the person filing the complaint was under a contractual prohibition against the filing of a complaint which was in effect on the date of enactment of this Act and had been in effect prior to January 1, 1991, provided that a complaint by a party bound by such prohibition is brought within 30 days after the expiration of such prohibition.

If the Commission determines pursuant to a proceeding instituted as a result of a complaint under section 13 of the Interstate Commerce Act that the rate is not just and reasonable, the rate shall not be deemed to be just and reasonable. Any tariff reduction or refunds that may result as an outcome of such a complaint shall be prospective from the date of the filing of the complaint.

(c) LIMITATION REGARDING UNDULY DISCRIMINATORY OR PREFERENTIAL TARIFFS.—Nothing in this section shall prohibit any aggrieved person from filing a complaint under section 13 or section 15(l) of the Interstate Commerce Act challenging any tariff provision as unduly discriminatory or unduly preferential.

SEC. 1804. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission and, unless the context requires otherwise, includes the Oil Pipeline Board and any other office or component of the Commission to which the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)) are delegated.

(2) OIL PIPELINE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "oil pipeline" means any common carrier (within the meaning of the Interstate Commerce Act) which transports oil by pipeline subject to the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(B) EXCEPTION.—The term "oil pipeline" does not include the Trans-Alaska Pipeline authorized by the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) or any pipeline delivering oil directly or indirectly to the Trans-Alaska Pipeline.

(3) OIL.—The term "oil" has the same meaning as is given such term for purposes of the transfer of functions from the Interstate Commerce Commission to the Federal Energy Regulatory Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(4) RATE.—The term "rate" means all charges that an oil pipeline requires shippers to pay for transportation services.

TITLE XIX—REVENUE PROVISIONS

SEC. 1901. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 1911. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $155 per month in the case of qualified parking.

"(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified transportation fringe' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

"(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.

"(7) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2)).".

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 1912. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—

"(A) IN GENERAL.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(B), only the applicable percentage of such subsidy shall be excluded from gross income under paragraph (1).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(i) 40 percent in the case of subsidies provided during 1995,

"(ii) 50 percent in the case of subsidies provided during 1996, and

"(iii) 65 percent in the case of subsidies provided after 1996.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—

"(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1995, with respect to property other than dwelling units.

The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).

"(2) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(i) a recuperator,

"(ii) a heat wheel,

"(iii) a regenerator,

"(iv) a heat exchanger,

"(v) a waste heat boiler,

"(vi) a heat pipe,

"(vii) an automatic energy control system,

"(viii) a turbulator,

"(ix) a preheater,

"(x) a combustible gas recovery system,

"(xi) an economizer,

"(xii) modifications to alumina electrolytic cells,

"(xiii) modifications to chlor-alkali electrolytic cells, or

"(xiv) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(B) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(C) PUBLIC UTILITY.—The term 'public utility' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

"(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by public utilities.
"Sec. 137. Cross reference to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 1913. TREATMENT OF CLEAN-FUEL VEHICLES.

(a) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of—

"(A) any qualified clean-fuel vehicle property, and

"(B) any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(2) INCREMENTAL COST FOR CERTAIN VEHICLES.—If a vehicle may be propelled by both a clean-burning fuel and any other fuel, only the incremental cost of permitting the use of the clean-burning fuel shall be taken into account.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

"(A) IN GENERAL.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver).

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(1)(B) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $100,000, over

"(ii) the aggregate amount taken into account under subsection (a)(1)(B) by the taxpayer (or any relat-

ed person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a)(1)(B).

"(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel—

"(i) if the property is an engine (or modification thereof) which may use a clean-burning fuel, or

"(ii) to the extent the property is used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel, but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which may use such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(3) EXCEPTION FOR QUALIFIED ELECTRIC VEHICLES.—The term 'qualified clean-fuel vehicle property' does not include any qualified electric vehicle (as defined in section 30(c)).

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is—

"(A) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

"(B) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(3) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(b) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the cost of any qualified electric vehicle placed in service by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) LIMITATION PER VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed $4,000.

"(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2001, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by—

"(A) 25 percent in the case of property placed in service in calendar year 2002,

"(B) 50 percent in the case of property placed in service in calendar year 2003, and

"(C) 75 percent in the case of property placed in service in calendar year 2004.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over—

"(B) the tentative minimum tax for the taxable year.

"(c) QUALIFIED ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified electric vehicle' means any motor vehicle—

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current,

"(B) the original use of which commences with the taxpayer, and

"(C) which is acquired for use by the taxpayer and not for resale.

"(2) MOTOR VEHICLE.—For purposes of paragraph (1), the term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(d) SPECIAL RULES.—

"(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit.

"(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(e) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Credit for qualified electric vehicles."

(B) Section 1016(a), as amended by subsection (a)(3), is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 30(d)(1)."

(C) Section 53(d)(1)(B)(iii) is amended—

(i) by striking "section 29(b)(5)(B) or" and inserting "section 29(b)(6)(B),", and

(ii) by inserting ", or not allowed under section 30 solely by reason of the application of section 30(b)(3)(B)" before the period.

(D) Section 55(c)(2) is amended by striking "29(b)(5)," and inserting "29(b)(6), 30(b)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 1914. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was originally placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

"(iii) the aggregate amount of subsidized energy financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the project, and

"(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

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

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production 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) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for such calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. For purposes of the preceding sentence, only contracts entered into after December 31, 1989, shall be taken into account.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective ownership interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993 (before January 1, 1994, to the extent such credit is attributable to wind as a qualified energy resource)."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

SEC. 1915. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) DEPLETION.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduc-

tion for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) DEPLETION.—

"(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) INTANGIBLE DRILLING COSTS.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—In the case of any oil or gas well—

"(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) LIMITATION ON BENEFIT.—The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.".

(c) CONFORMING AMENDMENTS.—

(1) Section 56 is amended by striking subsection (h).

(2) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

(3) Section 59(a)(2)(A)(ii) is amended by striking "and the alternative tax energy preference deduction under section 56(h)" and inserting "and section 57(a)(2)(E)".

(4) Section 59A(b)(1) is amended by striking "or the alternative tax energy preference deduction under section 56(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 1916. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" in subparagraph (A) and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

SEC. 1917. NUCLEAR DECOMMISSIONING FUNDS.

(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) REDUCTION IN RATE OF TAX.—Paragraph (2) of section 468A(e) is amended—

(1) by striking "at the rate equal to the highest rate of tax specified in section 11(b)" in subparagraph (A) and inserting "at the rate set forth in subparagraph (B)", and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) RATE OF TAX.—For purposes of subparagraph (A), the rate set forth in this subparagraph is—

"(i) 22 percent in the case of taxable years beginning in calendar year 1994 or 1995, and

"(ii) 20 percent in the case of taxable years beginning after December 31, 1995."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1993. Section 15 of the Internal Revenue Code of 1986 shall not apply to any change in rate resulting from the amendment made by subsection (b).

SEC. 1918. EXTENSION OF SECTION 29 CREDIT FOR CERTAIN FACILITIES.

Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end thereof the following new subsection:

"(g) EXTENSION FOR CERTAIN FACILITIES.—

"(1) IN GENERAL.—In the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

"(A) for purposes of subsection (f)(1)(B), such facility shall be treated as being placed in service before January 1, 1993, if such facility is placed in service before January 1, 1997, pursuant to a binding written contract in effect before January 1, 1996, and

"(B) if such facility is originally placed in service after December 31, 1992, paragraph (2) of subsection (f) shall be

applied with respect to such facility by substituting 'January 1, 2008' for 'January 1, 2003'.

"(2) SPECIAL RULE.—Paragraph (1) shall not apply to any facility which produces coke or coke gas unless the original use of the facility commences with the taxpayer."

SEC. 1919. TREATMENT UNDER LOCAL FURNISHING RULES OF CERTAIN ELECTRICITY TRANSMITTED OUTSIDE LOCAL AREA.

(a) IN GENERAL.—Subsection (f) of section 142 (relating to local furnishing of electric energy or gas) is amended to read as follows:

"(f) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—For purposes of subsection (a)(8)—

"(1) IN GENERAL.—The local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

"(A) a city and 1 contiguous county, or

"(B) 2 contiguous counties.

"(2) TREATMENT OF CERTAIN ELECTRIC ENERGY TRANSMITTED OUTSIDE LOCAL AREA.—

"(A) IN GENERAL.—A facility shall not be treated as failing to meet the local furnishing requirement of subsection (a)(8) by reason of electricity transmitted pursuant to an order of the Federal Energy Regulatory Commission under section 211 or 213 of the Federal Power Act (as in effect on the date of the enactment of this paragraph) if the portion of the cost of the facility financed with tax-exempt bonds is not greater than the portion of the cost of the facility which is allocable to the local furnishing of electric energy (determined without regard to this paragraph).

"(B) SPECIAL RULE FOR EXISTING FACILITIES.—In the case of a facility financed with bonds issued before the date of an order referred to in subparagraph (A) which would (but for this subparagraph) cease to be tax-exempt by reason of subparagraph (A), such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if, to the extent necessary to comply with subparagraph (A)—

"(i) an escrow to pay principal of, premium (if any), and interest on the bonds is established within a reasonable period after the date such order becomes final, and

"(ii) bonds are redeemed not later than the earliest date on which such bonds may be redeemed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued before, on, or after the date of the enactment of this Act.

SEC. 1920. ALCOHOL FUELS.

(a) REDUCED RATE OF TAX ON GASOLINE MIXED WITH ALCOHOL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by multiplying the otherwise applicable rate by a fraction the numerator of which is 10 and the denominator of which is—

"(A) 9 in the case of 10 percent gasohol,

"(B) 9.23 in the case of 7.7 percent gasohol, and

"(C) 9.43 in the case of 5.7 percent gasohol,

in the case of the removal or entry of any gasoline for use in producing gasohol at the time of such removal or entry. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or entry."

(b) CONFORMING AMENDMENTS.—Section 4081(c) is amended—

(1) by striking "6.1 cents a gallon" in paragraph (2) and inserting "an otherwise applicable rate", and

(2) by striking paragraph (4) and inserting the following new paragraph:

"(4) OTHERWISE APPLICABLE RATE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol.

In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) or entered after December 31, 1992.

SEC. 1921. TAX-EXEMPT FINANCING FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(12) environmental enhancements of hydroelectric generating facilities."

(b) DEFINITION AND SPECIAL RULES FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Section 142 is amended by adding at the end the following new subsection:

"(j) ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'environmental enhancements of hydroelectric generating facilities' means property—

"(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

"(B) which—

"(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

"(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

"(2) USE OF PROCEEDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i)."

(2) FINANCED PROPERTY MUST BE GOVERNMENTALLY OWNED.—Subparagraph (A) of section 142(b)(1) (relating to certain facilities must be governmentally owned) is amended by striking "(2) or (3)" and inserting "(2), (3), or (12)".

(3) EXCLUSION FROM VOLUME CAP.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "or (2)" and inserting ", (2), or (12)", and

(B) by striking "and docks and wharves" and inserting ", docks and wharves, and environmental enhancements of hydroelectric generating facilities".

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

SEC. 1922. TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX CREDIT.

(a) IN GENERAL.—Section 4612 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INCOME TAX CREDIT FOR UNUSED PAYMENTS INTO TRANS-ALASKA PIPELINE LIABILITY FUND.—

"(1) IN GENERAL.—For purposes of section 38, the current year business credit shall include the credit determined under this subsection.

"(2) DETERMINATION OF CREDIT.—

"(A) IN GENERAL.—The credit determined under this subsection for any taxable year is an amount equal to the aggregate credit which would be allowed to the taxpayer under subsection (d) for amounts paid into the Trans-Alaska Pipeline Liability Fund had the Oil Spill Liability Trust Fund financing rate not ceased to apply.

"(B) LIMITATION.—

"(i) IN GENERAL.—The amount of the credit determined under this subsection for any taxable year with respect to any taxpayer shall not exceed the excess of—

"(I) the amount determined under clause (ii), over

"(II) the aggregate amount of the credit determined under this subsection for prior taxable years with respect to such taxpayer.

"(ii) OVERALL LIMITATION.—The amount determined under this clause with respect to any taxpayer is the excess of—

"(I) the aggregate amount of credit which would have been allowed under subsection (d) to the taxpayer for periods before the termination date specified in section 4611(f)(1), if amounts in the Trans-Alaska Pipeline Liability Fund which are actually transferred into the Oil Spill Liability Fund were transferred on January 1, 1990, and the Oil Spill Liability Trust Fund financing rate did not terminate before such termination date, over

"(II) the aggregate amount of the credit allowed under subsection (d) to the taxpayer.

"(3) COST OF INCOME TAX CREDIT BORNE BY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall from time to time transfer from the Oil Spill Liability Trust Fund to the general fund of the Treasury amounts equal to the credits allowed by reason of this subsection.

"(B) TRUST FUND BALANCE MAY NOT BE REDUCED BELOW $1,000,000,000.—Transfers may be made under subparagraph (A) only to the extent that the unobligated balance of the Oil Spill Liability Trust Fund exceeds $1,000,000,000. If any transfer is not made by reason of the preceding sentence, such transfer shall be made as soon as permitted under such sentence.

"(4) NO CARRYBACK.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under this subsection may be carried to a taxable year beginning on or before the date of the enactment of this paragraph.".

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

Subtitle B—Revenue Increases, Etc.

SEC. 1931. INCREASED BASE TAX AMOUNT ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Subparagraph (B) of section 4681(b)(1) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any

ozone-depleting chemical is the amount determined under the following table for such calendar year:

"Calendar year:	*Base tax amount:*
1993	*3.35*
1994	*4.35*
1995	*5.35."*

(b) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended by striking "10" and inserting "7.46".

(c) FLOOR STOCKS.—Subparagraph (C) of section 4682(h)(2) (relating to tax-increase dates) is amended by striking "of 1991, 1992, 1993, and 1994" and inserting "of any calendar year after 1991".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after January 1, 1993.

SEC. 1932. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) (relating to halons) is amended to read as follows:

"In the case of:	***The applicable percentage in the case of sales or use during 1993 is:***
Halon-1211	*2.49*
Halon-1301	*0.75*
Halon-2402	*1.24."*

(b) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS AND AS PROPELLANTS IN METERED-DOSE INHALERS.—Subsection (g) of section 4682 (relating to phase-in of tax on certain substances) is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS AND AS PROPELLANTS IN METERED-DOSE INHALERS.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use during the applicable period of any substance to sterilize medical instruments or as propellants in metered-dose inhalers, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be equal to $1.67 per pound.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical instruments or as propellants in metered-dose inhalers, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d

purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used during the applicable period by any person to sterilize medical instruments or as propellants in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.

"(C) APPLICABLE PERIOD.—For purposes of this paragraph, the term 'applicable period' means—

"(i) 1993 in the case of substances to sterilize medical instruments, and

"(ii) any period after 1992 in the case of propellants in metered-dose inhalers."

(c) TREATMENT OF METHYL CHLOROFORM.—Subsection (g) of section 4682, as amended by subsection (b), is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF METHYL CHLOROFORM.—The tax imposed by section 4681 during 1993 by reason of the treatment of methyl chloroform as an ozone-depleting chemical shall be 63.02 percent of the amount of such tax which would (but for this paragraph) be imposed."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after January 1, 1993.

SEC. 1933. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of an-

other person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.".

(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(f) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1934. INCREASED WITHHOLDING ON GAMBLING WINNINGS.

(a) IN GENERAL.—Section 3402(q)(1) (relating to extension of withholding to certain gambling winnings) is amended by striking "20 percent" and inserting "28 percent".

(b) EFFECTIVE DATE.—The amendment made by this section applies to payments received after December 31, 1992.

SEC. 1935. INCREASE IN BACKUP WITHHOLDING RATE.

(a) IN GENERAL.—Section 3406(a)(1) is amended by striking "20 percent" and inserting "31 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after December 31, 1992.

SEC. 1936. CLASSIFICATION OF CERTAIN INTEREST AS STOCK OR INDEBTEDNESS.

(a) GENERAL RULE.—Section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by adding at the end thereof the following new subsection:

"(c) EFFECT OF CLASSIFICATION BY ISSUER.—

"(1) IN GENERAL.—The characterization (as of the time of issuance) by the issuer as to whether an interest in a corporation is stock or indebtedness shall be binding on such issuer and on all holders of such interest (but shall not be binding on the Secretary).

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—Except as provided in regulations, paragraph (1) shall not apply to any holder of an interest if such holder on his return discloses that he is treating such interest in a manner inconsistent with the characterization referred to in paragraph (1).

"(3) REGULATIONS.—The Secretary is authorized to require such information as the Secretary determines to be necessary to carry out the provisions of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

SEC. 1937. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution,

had been distributed by such partnership to another partner.

"(c) BASIS RULES.—

"(1) PARTNER'S INTEREST.—The adjusted basis of a partner's interest in a partnership shall be increased by the amount of any gain recognized by such partner under subsection (a). Except for purposes of determining the amount recognized under subsection (a), such increase shall be treated as occurring immediately before the distribution.

"(2) PARTNERSHIP'S BASIS IN CONTRIBUTED PROPERTY.—Appropriate adjustments shall be made to the adjusted basis of the partnership in the contributed property referred to in subsection (b) to reflect gain recognized under subsection (a).

"(d) EXCEPTIONS.—

"(1) DISTRIBUTIONS OF PREVIOUSLY CONTRIBUTED PROPERTY.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) COORDINATION WITH SECTION 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after June 25, 1992.

SEC. 1938. DEDUCTION FOR EXPENSES AWAY FROM HOME.

(a) IN GENERAL.—Section 162(a) is amended by adding at the end the following new sentence: "For purposes of paragraph (2), the taxpayer shall not be treated as being temporarily away from home during any period of employment if such period exceeds 1 year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to costs paid or incurred after December 31, 1992.

SEC. 1939. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

SEC. 1940. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph:

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to that pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses."

(b) EXCEPTION FROM TAX ON SELF-DEALING.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1941. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to

the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 1942. UNIFORM EXEMPTION AMOUNT FOR GAMBLING WINNINGS SUBJECT TO WITHHOLDING.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 3402(q)(3) are each amended by striking "$1,000" and inserting "$5,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments of winnings after December 31, 1992.

Subtitle C—Health Care of Coal Miners

SEC. 19141. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 19142. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the production, transportation, and use of coal substantially affects interstate and foreign commerce and the national public interest; and

(2) in order to secure the stability of interstate commerce, it is necessary to modify the current private health care benefit plan structure for retirees in the coal industry to identify persons most responsible for plan liabilities in order to stabilize plan funding and allow for the provision of health care benefits to such retirees.

(b) STATEMENT OF POLICY.—It is the policy of this subtitle—

(1) to remedy problems with the provision and funding of health care benefits with respect to the beneficiaries of multiemployer benefit plans that provide health care benefits to retirees in the coal industry;

(2) to allow for sufficient operating assets for such plans; and

(3) to provide for the continuation of a privately financed self-sufficient program for the delivery of health care benefits to the beneficiaries of such plans.

SEC. 19143. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"Subchapter A—Definitions of General Applicability

"SEC. 9701. DEFINITIONS OF GENERAL APPLICABILITY.

"(a) PLANS AND FUNDS.—For purposes of this chapter—

"(1) UMWA BENEFIT PLAN.—

"(A) IN GENERAL.—The term 'UMWA Benefit Plan' means a plan—

"(i) which is described in section 404(c), or a continuation thereof; and

"(ii) which provides health benefits to retirees and beneficiaries of the industry which maintained the 1950 UMWA Pension Plan.

"(B) 1950 UMWA BENEFIT PLAN.—The term '1950 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired before 1976.

"(C) 1974 UMWA BENEFIT PLAN.—The term '1974 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired on or after January 1, 1976.

"(2) 1950 UMWA PENSION PLAN.—The term '1950 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired before 1976.

"(3) 1974 UMWA PENSION PLAN.—The term '1974 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired in 1976 and thereafter.

"(4) 1992 UMWA BENEFIT PLAN.—The term '1992 UMWA Benefit Plan' means the plan referred to in section 9713A.

"(5) COMBINED FUND.—The term 'Combined Fund' means the United Mine Workers of America Combined Benefit Fund established under section 9702.

"(b) AGREEMENTS.—For purposes of this section—

"(1) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means—

"(A) the National Bituminous Coal Wage Agreement, or

"(B) any other agreement entered into between an employer in the coal industry and the United Mine Workers of America that required or requires one or both of the following:

"(i) the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan; or

"(ii) contributions to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or any predecessor thereof.

"(2) SETTLORS.—The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (referred to in this chapter as the 'BCOA').

"(3) NATIONAL BITUMINOUS COAL WAGE AGREEMENT.—The term 'National Bituminous Coal Wage Agreement' means a collective bargaining agreement negotiated by the BCOA and the United Mine Workers of America.

"(c) TERMS RELATING TO OPERATORS.—For purposes of this section—

"(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a person which is or was a signatory to a coal wage agreement.

"(2) RELATED PERSONS.—

"(A) IN GENERAL.—A person shall be considered to be a related person to a signatory operator if that person is—

"(i) a member of the controlled group of corporations (within the meaning of section 52(a)) which includes such signatory operator;

"(ii) a trade or business which is under common control (as determined under section 52(b)) with such signatory operator; or

"(iii) any other person who is identified as having a partnership interest or joint venture with a signatory operator in a business within the coal industry, but only if such business employed eligible beneficiaries, except that this clause shall not apply to a person whose only interest is as a limited partner.

A related person shall also include a successor in interest of any person described in clause (i), (ii), or (iii).

"(B) TIME FOR DETERMINATION.—The relationships described in clauses (i), (ii), and (iii) of subparagraph (A) shall be determined as of July 20, 1992, except that if, on July 20, 1992, a signatory operator is no longer in business, the relationships shall be determined as of the time immediately before such operator ceased to be in business.

"(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

"(A) a signatory operator which was a signatory to the 1988 National Bituminous Coal Wage Agreement,

"(B) an employer in the coal industry which was a signatory to an agreement containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 National Bituminous Coal Wage Agreement, or

"(C) an employer from which contributions were actually received after 1987 and before July 20, 1992, by the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan in connection with employment in the coal industry during the period covered by the 1988 National Bituminous Coal Wage Agreement.

"(4) LAST SIGNATORY OPERATOR.—The term 'last signatory operator' means, with respect to a coal industry retiree, a signatory operator which was the most recent coal industry employer of such retiree.

"(5) ASSIGNED OPERATOR.—The term 'assigned operator' means, with respect to an eligible beneficiary defined in section 9703(f), the signatory operator to which liability under subchapter B with respect to the beneficiary is assigned under section 9706.

"(6) OPERATORS OF DEPENDENT BENEFICIARIES.—For purposes of this chapter, the signatory operator, last signatory operator, or assigned operator of any eligible beneficiary under this chapter who is a coal industry retiree shall be considered to be the signatory operator, last signatory operator, or assigned operator with respect to any other individual who is an eligible beneficiary under this chapter by reason of a relationship to the retiree.

"(7) BUSINESS.—For purposes of this chapter, a person shall be considered to be in business if such person conducts or derives revenue from any business activity, whether or not in the coal industry.

"(d) ENACTMENT DATE.—For purposes of this chapter, the term 'enactment date' means the date of the enactment of this chapter.

"Subchapter B—Combined Benefit Fund

"PART I—ESTABLISHMENT AND BENEFITS

"SEC. 9702. ESTABLISHMENT OF THE UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—As soon as practicable (but not later than 60 days) after the enactment date, the persons described in subsection (b) shall designate the individuals to serve as trust-

ees. Such trustees shall create a new private plan to be known as the United Mine Workers of America Combined Benefit Fund.

"(2) MERGER OF RETIREE BENEFIT PLANS.—As of February 1, 1993, the settlors of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall cause such plans to be merged into the Combined Fund, and such merger shall not be treated as an employer withdrawal for purposes of any 1988 coal wage agreement.

"(3) TREATMENT OF PLAN.—The Combined Fund shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(4) TAX TREATMENT.—For purposes of this title, the Combined Fund and any related trust shall be treated as an organization exempt from tax under section 501(a).

"(b) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

"(A) one individual who represents employers in the coal mining industry shall be designated by the BCOA;

"(B) one individual shall be designated by the three employers, other than 1988 agreement operators, who have been assigned the greatest number of eligible beneficiaries under section 9706;

"(C) two individuals designated by the United Mine Workers of America; and

"(D) three persons selected by the persons appointed under subparagraphs (A), (B), and (C).

"(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

"(3) SPECIAL RULES.—

"(A) BCOA.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.

"(B) FORMER SIGNATORIES.—The initial trustee under paragraph (1)(B) shall be designated by the 3 employers, other than 1988 agreement operators, which the records of the 1950 UMWA Benefit Plan and 1974 UMWA Benefit Plan indicate have the greatest number of eligible beneficiaries as of the enactment date, and such trustee and any successor shall serve until November 1, 1993.

"(c) PLAN YEAR.—The first plan year of the Combined Fund shall begin February 1, 1993, and end September 30, 1993. Each succeeding plan year shall begin on October 1 of each calendar year.

"SEC. 9703. PLAN BENEFITS.

"(a) IN GENERAL.—Each eligible beneficiary of the Combined Fund shall receive—

"(1) health benefits described in subsection (b), and

"(2) in the case of an eligible beneficiary described in subsection (f)(1), death benefits coverage described in subsection (c).

"(b) HEALTH BENEFITS.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide health care benefits to each eligible beneficiary by enrolling the beneficiary in a health care services plan which undertakes to provide such benefits on a prepaid risk basis. The trustees shall utilize all available plan resources to ensure that, consistent with paragraph (2), coverage under the managed care system shall to the maximum extent feasible be substantially the same as (and subject to the same limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) PLAN PAYMENT RATES.—

"(A) IN GENERAL.—The trustees of the Combined Fund shall negotiate payment rates with the health care services plans described in paragraph (1) for each plan year which are in amounts which—

"(i) vary as necessary to ensure that beneficiaries in different geographic areas have access to a uniform level of health benefits; and

"(ii) result in aggregate payments for such plan year from the Combined Fund which do not exceed the total premium payments required to be paid to the Combined Fund under section 9704(a) for the plan year, adjusted as provided in subparagraphs (B) and (C).

"(B) REDUCTIONS.—The amount determined under subparagraph (A)(ii) for any plan year shall be reduced—

"(i) by the aggregate death benefit premiums determined under section 9704(c) for the plan year, and

"(ii) by the amount reserved for plan administration under subsection (d).

"(C) INCREASES.—The amount determined under subparagraph (A)(ii) shall be increased—

"(i) by any reduction in the total premium payments required to be paid under section 9704(a) by reason of transfers described in section 9705,

"(ii) by any carryover to the plan year from any preceding plan year which—

"(I) is derived from amounts described in section 9704(e)(3)(B)(i), and

"(II) the trustees elect to use to pay benefits for the current plan year, and

"(iii) any interest earned by the Combined Fund which the trustees elect to use to pay benefits for the current plan year.

"(3) QUALIFIED PROVIDERS.—The trustees of the Combined Fund shall not enter into an agreement under paragraph (1) with any provider of services which is of a type which is re-

quired to be certified by the Secretary of Health and Human Services when providing services under title XVIII of the Social Security Act unless the provider is so certified.

"(4) EFFECTIVE DATE.—Benefits shall be provided under paragraph (1) on and after February 1, 1993.

"(c) DEATH BENEFITS COVERAGE.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide death benefits coverage to each eligible beneficiary described in subsection (f)(1) which is identical to the benefits provided under the 1950 UMWA Pension Plan or 1974 UMWA Pension Plan, whichever is applicable, on July 20, 1992. Such coverage shall be provided on and after February 1, 1993.

"(2) TERMINATION OF COVERAGE.—The 1950 UMWA Pension Plan and the 1974 UMWA Pension Plan shall each be amended to provide that death benefits coverage shall not be provided to eligible beneficiaries on and after February 1, 1993. This paragraph shall not prohibit such plans from subsequently providing death benefits not described in paragraph (1).

"(d) RESERVES FOR ADMINISTRATION.—The trustees of the Combined Fund may reserve for each plan year, for use in payment of the administrative costs of the Combined Fund, an amount not to exceed 5 percent of the premiums to be paid to the Combined Fund under section 9704(a) during the plan year.

"(e) LIMITATION ON ENROLLMENT.—The Combined Fund shall not enroll any individual who is not receiving benefits under the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of July 20, 1992.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this subchapter, the term 'eligible beneficiary' means an individual who—

"(1) is a coal industry retiree who, on July 20, 1992, was eligible to receive, and receiving, benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or

"(2) on such date was eligible to receive, and receiving, benefits in either such plan by reason of a relationship to such retiree.

"PART II—FINANCING

"SEC. 9704. LIABILITY OF ASSIGNED OPERATORS.

"(a) ANNUAL PREMIUMS.—Each assigned operator shall pay to the Combined Fund for each plan year beginning on or after February 1, 1993, an annual premium equal to the sum of the following three premiums—

"(1) the health benefit premium determined under subsection (b) for such plan year, plus

"(2) the death benefit premium determined under subsection (c) for such plan year, plus

"(3) the unassigned beneficiaries premium determined under subsection (d) for such plan year.

Any related person with respect to an assigned operator shall be jointly and severally liable for any premium required to be paid by such operator.

"(b) HEALTH BENEFIT PREMIUM.—For purposes of this chapter—

"(1) IN GENERAL.—The health benefit premium for any plan year for any assigned operator shall be an amount equal to the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries assigned to such operator under section 9706.

"(2) PER BENEFICIARY PREMIUM.—The Secretary of Health and Human Services shall calculate a per beneficiary premium for each plan year beginning on or after February 1, 1993, which is equal to the sum of—

"(A) the amount determined by dividing—

"(i) the aggregate amount of payments from the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for health benefits (less reimbursements but including administrative costs) for the plan year beginning July 1, 1991, for all individuals covered under such plans for such plan year, by

"(ii) the number of such individuals, plus

"(B) the amount determined under subparagraph (A) multiplied by the percentage (if any) by which the medical component of the Consumer Price Index for the calendar year in which the plan year begins exceeds such component for 1992.

"(3) ADJUSTMENTS FOR MEDICARE REDUCTIONS.—If, by reason of a reduction in benefits under title XVIII of the Social Security Act, the level of health benefits under the Combined Fund would be reduced, the trustees of the Combined Fund shall increase the per beneficiary premium for the plan year in which the reduction occurs and each subsequent plan year by the amount necessary to maintain the level of health benefits which would have been provided without such reduction.

"(c) DEATH BENEFIT PREMIUM.—The death benefit premium for any plan year for any assigned operator shall be equal to the applicable percentage of the amount, actuarially determined, which the Combined Fund will be required to pay during the plan year for death benefits coverage described in section 9703(c).

"(d) UNASSIGNED BENEFICIARIES PREMIUM.—The unassigned beneficiaries premium for any plan year for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

"(e) PREMIUM ACCOUNTS; ADJUSTMENTS.—

"(1) ACCOUNTS.—The trustees of the Combined Fund shall establish and maintain 3 separate accounts for each of the premiums described in subsections (b), (c), and (d). Such accounts shall be credited with the premiums received and debited with expenditures allocable to such premiums.

"(2) ALLOCATIONS.—

"(A) ADMINISTRATIVE EXPENSES.—Administrative costs for any plan year shall be allocated to premium accounts

under paragraph (1) on the basis of expenditures (other than administrative costs) from such accounts during the preceding plan year.

"(B) INTEREST.—Interest shall be allocated to the account established for health benefit premiums.

"(3) SHORTFALLS AND SURPLUSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if, for any plan year, there is a shortfall or surplus in any premium account, the premium for the following plan year for each assigned operator shall be proportionately reduced or increased, whichever is applicable, by the amount of such shortfall or surplus.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any surplus in the health benefit premium account or the unassigned beneficiaries premium account which is attributable to—

"(i) the excess of the premiums credited to such account for a plan year over the benefits (and administrative costs) debited to such account for the plan year, but such excess shall only be available for purposes of the carryover described in section 9703(b)(2)(C)(ii) (relating to carryovers of premiums not used to provide benefits), or

"(ii) interest credited under paragraph (2)(B) for the plan year or any preceding plan year.

"(C) NO AUTHORITY FOR INCREASED PAYMENTS.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits for any plan year in excess of the limit under section 9703(b)(2).

"(f) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means, with respect to any assigned operator, the percentage determined by dividing the number of eligible beneficiaries assigned under section 9706 to such operator by the total number of eligible beneficiaries assigned under section 9706 to all such operators (determined on the basis of assignments as of October 1, 1993).

"(2) ANNUAL ADJUSTMENTS.—In the case of any plan year beginning on or after October 1, 1994, the applicable percentage for any assigned operator shall be redetermined under paragraph (1) by making the following changes to the assignments as of October 1, 1993:

"(A) Such assignments shall be modified to reflect any changes during the period beginning October 1, 1993, and ending on the last day of the preceding plan year pursuant to the appeals process under section 9706(f).

"(B) The total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries of assigned operators which (and all related persons with respect to which) had ceased business (within the meaning of section 9701(c)(6)) during the period described in subparagraph (A).

"(g) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—The annual premium under subsection (a) for any plan year shall be payable in 12 equal monthly installments, due on the twenty-fifth day of each calendar month

in the plan year. In the case of the plan year beginning February 1, 1993, the annual premium under subsection (a) shall be added to such premium for the plan year beginning October 1, 1993.

"(2) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(h) INFORMATION.—The trustees of the Combined Fund shall, not later than 60 days after the enactment date, furnish to the Secretary of Health and Human Services information as to the benefits and covered beneficiaries under the fund, and such other information as the Secretary may require to compute any premium under this section.

"(i) TRANSITION RULES.—

"(1) 1988 AGREEMENT OPERATORS.—

"(A) 1ST YEAR COSTS.—During the plan year of the Combined Fund beginning February 1, 1993, the 1988 agreement operators shall make contributions to the Combined Fund in amounts necessary to pay benefits and administrative costs of the Combined Fund incurred during such year, reduced by the amount transferred to the Combined Fund under section 9705(a) on February 1, 1993.

"(B) DEFICITS FROM MERGED PLANS.—During the period beginning February 1, 1993, and ending September 30, 1994, the 1988 agreement operators shall make contributions to the Combined Fund as are necessary to pay off the expenses accrued (and remaining unpaid) by the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, reduced by the assets of such plans as of such date.

"(C) FAILURE.—If any 1988 agreement operator fails to meet any obligation under this paragraph, any contributions of such operator to the Combined Fund or any other plan described in section 404(c) shall not be deductible under this title until such time as the failure is corrected.

"(D) PREMIUM REDUCTIONS.—

"(i) 1ST YEAR PAYMENTS.—In the case of a 1988 agreement operator making contributions under subparagraph (A), the premium of such operator under subsection (a) shall be reduced by the amount paid under subparagraph (A) by such operator for the plan year beginning February 1, 1993.

"(ii) DEFICIT PAYMENTS.—In the case of a 1988 agreement operator making contributions under subparagraph (B), the premium of such operator under subsection (a) shall be reduced by the amounts which are paid to the Combined Fund by reason of claims arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims based on the 'evergreen clause' found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan, and which are allocated to such operator under subparagraph (E).

"(iii) LIMITATION.—Clause (ii) shall not apply to the extent the amounts paid exceed the contributions.

"(iv) PLAN YEARS.—Premiums under subsection (a) shall be reduced for the first plan year for which amounts described in clause (i) or (ii) are available and for any succeeding plan year until such amounts are exhausted.

"(E) ALLOCATIONS OF CONTRIBUTIONS AND REFUNDS.—Contributions under subparagraphs (A) and (B), and premium reductions under subparagraph (D)(ii), shall be made ratably on the basis of aggregate contributions made by such operators under the applicable 1988 coal wage agreements as of January 31, 1993.

"(2) 1ST PLAN YEAR.—In the case of the plan year of the Combined Fund beginning February 1, 1993—

"(A) the premiums under subsections (a)(1) and (a)(3) shall be 67 percent of such premiums without regard to this paragraph, and

"(B) the premiums under subsection (a) shall be paid as provided in subsection (g).

"(3) STARTUP COSTS.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall pay the costs of the Combined Fund incurred before February 1, 1993. For purposes of this section, such costs shall be treated as administrative expenses incurred for the plan year beginning February 1, 1993.

"SEC. 9705. TRANSFERS.

"(a) TRANSFER OF ASSETS FROM 1950 UMWA PENSION PLAN.—

"(1) IN GENERAL.—From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pension Plan shall transfer to the Combined Fund—

"(A) $70,000,000 on February 1, 1993,

"(B) $70,000,000 on October 1, 1993, and

"(C) $70,000,000 on October 1, 1994.

"(2) RESERVATION.—Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate $210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

"(3) USE OF FUNDS.—Amounts transferred to the Combined Fund under paragraph (1) shall—

"(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

"(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available.

Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

"(4) TAX TREATMENT; VALIDITY OF TRANSFER.—

"(A) NO DEDUCTION.—No deduction shall be allowed under this title with respect to any transfer pursuant to paragraph (1), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMWA Pension Plan, the 1950 UMWA Benefit Plan, the 1974 UMWA Pension Plan, the 1974 UMWA Benefit Plan, the 1992 UMWA Benefit Plan, or the Combined Fund.

"(B) OTHER TAX PROVISIONS.—Any transfer pursuant to paragraph (1)—

"(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMWA Pension Plan.

"(5) TREATMENT OF TRANSFER.—Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

"(b) TRANSFERS FROM ABANDONED MINE RECLAMATION FUND.—

"(1) IN GENERAL.—The Combined Fund shall include any amount transferred to the Fund under section 402(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)).

"(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.

"SEC. 9706. ASSIGNMENT OF ELIGIBLE BENEFICIARIES.

"(a) IN GENERAL.—For purposes of this chapter, the Secretary of Health and Human Services shall, before October 1, 1993, assign each coal industry retiree who is an eligible beneficiary to a signatory operator which (or any related person with respect to which) remains in business in the following order:

"(1) First, to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry for at least 2 years.

"(2) Second, if the retiree is not assigned under paragraph (1), to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry.

"(3) Third, if the retiree is not assigned under paragraph (1) or (2), to the signatory operator which employed the coal indus-

try retiree in the coal industry for a longer period of time than any other signatory operator prior to the effective date of the 1978 coal wage agreement.

"(b) RULES RELATING TO EMPLOYMENT AND REASSIGNMENT UPON PURCHASE.—For purposes of subsection (a)—

"(1) AGGREGATION RULES.—

"(A) RELATED PERSON.—Any employment of a coal industry retiree in the coal industry by a signatory operator shall be treated as employment by any related persons to such operator.

"(B) CERTAIN EMPLOYMENT DISREGARDED.—Employment with—

"(i) a person which is (and all related persons with respect to which are) no longer in business, or

"(ii) a person during a period during which such person was not a signatory to a coal wage agreement, shall not be taken into account.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of an assigned operator after the enactment date, the assigned operator may transfer the assignment of an eligible beneficiary under subsection (a) to such successor, and such successor shall be treated as the assigned operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the assigned operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. An assigned operator shall notify the trustees of the Combined Fund of any transfer described in this paragraph.

"(c) IDENTIFICATION OF ELIGIBLE BENEFICIARIES.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall, by the later of October 1, 1992, or the twentieth day after the enactment date, provide to the Secretary of Health and Human Services a list of the names and social security account numbers of each eligible beneficiary, including each deceased eligible beneficiary if any other individual is an eligible beneficiary by reason of a relationship to such deceased eligible beneficiary. In addition, the plans shall provide, where ascertainable from plan records, the names of all persons described in subsection (a) with respect to any eligible beneficiary or deceased eligible beneficiary.

"(d) COOPERATION BY OTHER AGENCIES AND PERSONS.—

"(1) COOPERATION.—The head of any department, agency, or instrumentality of the United States shall cooperate fully and promptly with the Secretary of Health and Human Services in providing information which will enable the Secretary to carry out his responsibilities under this section.

"(2) PROVIDING OF INFORMATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, including section 6103, the head of any other agency, department, or instrumentality shall, upon receiving a written request from the Secretary of Health and Human Services in connection with this section, cause a search to be made of the files and records maintained by such agency, department, or instrumentality with a view to

determining whether the information requested is contained in such files or records. The Secretary shall be advised whether the search disclosed the information requested, and, if so, such information shall be promptly transmitted to the Secretary, except that if the disclosure of any requested information would contravene national policy or security interests of the United States, or the confidentiality of census data, the information shall not be transmitted and the Secretary shall be so advised.

"(B) LIMITATION.—Any information provided under subparagraph (A) shall be limited to information necessary for the Secretary to carry out his duties under this section.

"(3) TRUSTEES.—The trustees of the Combined Fund, the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, the 1950 UMWA Pension Plan, and the 1974 UMWA Pension Plan shall fully and promptly cooperate with the Secretary in furnishing, or assisting the Secretary to obtain, any information the Secretary needs to carry out the Secretary's responsibilities under this section.

"(e) NOTICE BY SECRETARY.—

"(1) NOTICE TO FUND.—The Secretary of Health and Human Services shall advise the trustees of the Combined Fund of the name of each person identified under this section as an assigned operator, and the names and social security account numbers of eligible beneficiaries with respect to whom he is identified.

"(2) OTHER NOTICE.—The Secretary of Health and Human Services shall notify each assigned operator of the names and social security account numbers of eligible beneficiaries who have been assigned to such person under this section and a brief summary of the facts related to the basis for such assignments.

"(f) RECONSIDERATION BY SECRETARY.—

"(1) IN GENERAL.—Any assigned operator receiving a notice under subsection (e)(2) with respect to an eligible beneficiary may, within 30 days of receipt of such notice, request from the Secretary of Health and Human Services detailed information as to the work history of the beneficiary and the basis of the assignment.

"(2) REVIEW.—An assigned operator may, within 30 days of receipt of the information under paragraph (1), request review of the assignment. The Secretary of Health and Human Services shall conduct such review if the Secretary finds the operator provided evidence with the request constituting a prima facie case of error.

"(3) RESULTS OF REVIEW.—

"(A) ERROR.—If the Secretary of Health and Human Services determines under a review under paragraph (2) that an assignment was in error—

"(i) the Secretary shall notify the assigned operator and the trustees of the Combined Fund and the trustees shall reduce the premiums of the operator under section 9704 by (or if there are no such premiums, repay) all premiums paid under section 9704 with respect to the eligible beneficiary, and

"(ii) the Secretary shall review the beneficiary's record for reassignment under subsection (a).

"(B) NO ERROR.—If the Secretary of Health and Human Services determines under a review conducted under paragraph (2) that no error occurred, the Secretary shall notify the assigned operator.

"(4) DETERMINATIONS.—Any determination by the Secretary of Health and Human Services under paragraph (2) or (3) shall be final.

"(5) PAYMENT PENDING REVIEW.—An assigned operator shall pay the premiums under section 9704 pending review by the Secretary of Health and Human Services or by a court under this subsection.

"(6) PRIVATE ACTIONS.—Nothing in this section shall preclude the right of any person to bring a separate civil action against another person for responsibility for assigned premiums, notwithstanding any prior decision by the Secretary.

"(g) CONFIDENTIALITY OF INFORMATION.—Any person to which information is provided by the Secretary of Health and Human Services under this section shall not disclose such information except in any proceedings related to this section. Any civil or criminal penalty which is applicable to an unauthorized disclosure under section 6103 shall apply to any unauthorized disclosure under this section.

"PART III—ENFORCEMENT

"Sec. 9707. Failure to pay premium.

"SEC. 9707. FAILURE TO PAY PREMIUM.

"(a) GENERAL RULE.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

"(b) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) on any failure with respect to any eligible beneficiary shall be $100 per day in the noncompliance period with respect to any such failure.

"(c) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure to pay any premium or installment thereof, the period—

"(1) beginning on the due date for such premium or installment, and

"(2) ending on the date of payment of such premium or installment.

"(d) LIMITATIONS ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew, or exercising reasonable diligence, would have known, that such failure existed.

"(2) CORRECTIONS.—No penalty shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER.—In the case of a failure that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed by subsection (a) for failures to the extent that the Secretary determines, in his sole discretion, that the payment of such penalty would be excessive relative to the failure involved.

"(e) LIABILITY FOR PENALTY.—The person failing to meet the requirements of section 9704 shall be liable for the penalty imposed by subsection (a).

"(f) TREATMENT.—For purposes of this title, the penalty imposed by this section shall be treated in the same manner as the tax imposed by section 4980B.

"PART IV—OTHER PROVISIONS

"SEC. 9708. EFFECT ON PENDING CLAIMS OR OBLIGATIONS.

"All liability for contributions to the Combined Fund that arises on and after February 1, 1993, shall be determined exclusively under this chapter, including all liability for contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for coal production on and after February 1, 1993. However, nothing in this chapter is intended to have any effect on any claims or obligations arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims or obligations based on the 'evergreen' clause found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan. This chapter shall not be construed to affect any rights of subrogation of any 1988 agreement operator with respect to contributions due to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of February 1, 1993.

"Subchapter C—Health Benefits of Certain Miners

"PART I—INDIVIDUAL EMPLOYER PLANS

"SEC. 9711. CONTINUED OBLIGATIONS OF INDIVIDUAL EMPLOYER PLANS.

"(a) COVERAGE OF CURRENT RECIPIENTS.—The last signatory operator of any individual who, as of February 1, 1993, is receiving retiree health benefits from an individual employer plan maintained pursuant to a 1978 or subsequent coal wage agreement shall continue to provide health benefits coverage to such individual and the individual's eligible beneficiaries which is substantially the

same as (and subject to all the limitations of) the coverage provided by such plan as of January 1, 1992. Such coverage shall continue to be provided for as long as the last signatory operator (and any related person) remains in business.

"(b) COVERAGE OF ELIGIBLE RECIPIENTS.—

"(1) IN GENERAL.—The last signatory operator of any individual who, as of February 1, 1993, is not receiving retiree health benefits under the individual employer plan maintained by the last signatory operator pursuant to a 1978 or subsequent coal wage agreement, but has met the age and service requirements for eligibility to receive benefits under such plan as of such date, shall, at such time as such individual becomes eligible to receive benefits under such plan, provide health benefits coverage to such individual and the individual's eligible beneficiaries which is described in paragraph (2). This paragraph shall not apply to any individual who retired from the coal industry after September 30, 1994, or any eligible beneficiary of such individual.

"(2) COVERAGE.—Subject to the provisions of subsection (d), health benefits coverage is described in this paragraph if it is substantially the same as (and subject to all the limitations of) the coverage provided by the individual employer plan as of January 1, 1992. Such coverage shall continue for as long as the last signatory operator (and any related person) remains in business.

"(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—Each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

"(d) MANAGED CARE AND COST CONTAINMENT.—The last signatory operator shall not be treated as failing to meet the requirements of subsection (a) or (b) if benefits are provided to eligible beneficiaries under managed care and cost containment rules and procedures described in section 9712(c) or agreed to by the last signatory operator and the United Mine Workers of America.

"(e) TREATMENT OF NONCOVERED EMPLOYEES.—The existence, level, and duration of benefits provided to former employees of a last signatory operator (and their eligible beneficiaries) who are not otherwise covered by this chapter and who are (or were) covered by a coal wage agreement shall only be determined by, and shall be subject to, collective bargaining, lawful unilateral action, or other applicable law.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means any individual who is eligible for health benefits under a plan described in subsection (a) or (b) by reason of the individual's relationship with the retiree described in such subsection (or to an individual who, based on service and employment history at the time of death, would have been so described but for such death).

"(g) RULES APPLICABLE TO THIS PART AND PART II.—For purposes of this part and part II—

"(1) SUCCESSOR.—The term 'last signatory operator' shall include a successor in interest of such operator.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of a last signatory operator after the enactment date, the last signatory operator may transfer any liability of such operator under this chapter with respect to an eligible beneficiary to such successor, and such successor shall be treated as the last signatory operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the last signatory operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. A last signatory operator shall notify the trustees of the 1992 UMWA Benefit Plan of any transfer described in this paragraph.

"PART II—1992 UMWA BENEFIT PLAN

"SEC. 9712. ESTABLISHMENT AND COVERAGE OF 1992 UMWA BENEFIT PLAN.

"(a) CREATION OF PLAN.—

"(1) IN GENERAL.—As soon as practicable after the enactment date, the settlors shall create a separate private plan which shall be known as the United Mine Workers of America 1992 Benefit Plan. For purposes of this title, the 1992 UMWA Benefit Plan shall be treated as an organization exempt from taxation under section 501(a). The settlors shall be responsible for designing the structure, administration and terms of the 1992 UMWA Benefit Plan, and for appointment and removal of the members of the board of trustees. The board of trustees shall initially consist of five members and shall thereafter be the number set by the settlors.

"(2) TREATMENT OF PLAN.—The 1992 UMWA Benefit Plan shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(b) COVERAGE REQUIREMENT.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall only provide health benefits coverage to any eligible beneficiary who is not eligible for benefits under the Combined Fund and shall not provide such coverage to any other individual.

"(2) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means an individual who—

"(A) but for the enactment of this chapter, would be eligible to receive benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, based upon age and service earned as of February 1, 1993; or

"(B) with respect to whom coverage is required to be provided under section 9711, but who does not receive such

coverage from the applicable last signatory operator or any related person,

and any individual who is eligible for benefits by reason of a relationship to an individual described in subparagraph (A) or (B). In no event shall the 1992 UMWA Benefit Plan provide health benefits coverage to any eligible beneficiary who is a coal industry retiree who retired from the coal industry after September 30, 1994, or any beneficiary of such individual.

"(c) HEALTH BENEFITS.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall provide health care benefits coverage to each eligible beneficiary which is substantially the same as (and subject to all the limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) MANAGED CARE.—The 1992 UMWA Benefit Plan shall develop managed care and cost containment rules which shall be applicable to the payment of benefits under this subsection. Application of such rules shall not cause the plan to be treated as failing to meet the requirements of this subsection. Such rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules may include, but are not limited to, elements described in paragraph (3).

"(3) MAJOR ELEMENTS OF RULES.—Elements described in this paragraph are—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use,

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status with the amount of the potential discount varying by geographic region,

"(C) limiting benefit payments to physicians to the allowable charge under title XVIII of the Social Security Act, while protecting beneficiaries from balance billing by providers,

"(D) utilizing, in the claims payment function 'appropriateness of service' protocols under title XVIII of the Social Security Act if more stringent,

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries,

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network, and

"(G) utilizing a managed care network provider system, as practiced in the health care industry, at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this subsection.

"(4) LAST SIGNATORY OPERATORS.—The board of trustees of the 1992 UMWA Benefit Plan shall permit any last signatory operator required to maintain an individual employer plan under section 9711 to utilize the managed care and cost contain-

ment rules and programs developed under this subsection if the operator elects to do so.

"(5) STANDARDS OF QUALITY.—Any managed care system or cost containment adopted by the board of trustees of the 1992 UMWA Benefit Plan or by a last signatory operator may not be implemented unless it is approved by, and meets the standards of quality adopted by, a medical peer review panel, which has been established—

"(A) by the settlors, or

"(B) by the United Mine Workers of America and a last signatory operator or group of operators.

Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending on the nature of the medical need.

"(d) GUARANTEE OF BENEFITS.—

"(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c), in accordance with contribution requirements established in the 1992 UMWA Benefit Plan. Such contribution requirements, which shall be applied uniformly to each 1988 last signatory operator, on the basis of the number of eligible and potentially eligible beneficiaries attributable to each operator, shall include:

"(A) the payment of an annual prefunding premium for all eligible and potentially eligible beneficiaries attributable to a 1988 last signatory operator,

"(B) the payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA Benefit Plan, and

"(C) the provision of security (in the form of a bond, letter of credit or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator. If a 1988 last signatory operator is unable to provide the security required, the 1992 UMWA Benefit Plan shall require the operator to pay an annual prefunding premium that is greater than the premium otherwise applicable.

"(2) ADJUSTMENTS.—The 1992 UMWA Benefit Plan shall provide for—

"(A) annual adjustments of the per beneficiary premium to cover changes in the cost of providing benefits to eligible beneficiaries, and

"(B) adjustments as necessary to the annual prefunding premium to reflect changes in the cost of providing benefits to eligible beneficiaries for whom per beneficiary premiums are not paid.

"(3) ADDITIONAL LIABILITY.—Any last signatory operator who is not a 1988 last signatory operator shall pay the monthly per beneficiary premium under paragraph (1)(B) for each eligible beneficiary described in such paragraph attributable to that operator.

"(4) JOINT AND SEVERAL LIABILITY.—A 1988 last signatory operator or last signatory operator described in paragraph (3), and any related person to any such operator, shall be jointly and severally liable with such operator for any amount required to be paid by such operator under this section.

"(5) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(6) 1988 LAST SIGNATORY OPERATOR.—For purposes of this section, the term '1988 last signatory operator' means a last signatory operator which is a 1988 agreement operator.

"Subchapter D—Other Provisions

"SEC. 9721. CIVIL ENFORCEMENT.

"The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.

"SEC. 9722. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction."

(b) AMENDMENTS TO SURFACE MINING ACT.—

(1) EXTENSION OF FEE PROGRAM.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 1995" and inserting "September 30, 2004".

(2) TRANSFER TO FUND.—Section 402 of such Act (30 U.S.C. 1232) is amended by adding at the end the following new subsection:

"(h) TRANSFER OF FUNDS TO COMBINED FUND.—(1) In the case of any fiscal year beginning on or after October 1, 1995, with respect to which fees are required to be paid under this section, the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in paragraph (2).

"(2) The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of—

"(A) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

"(B) the amount by which the amount described in subparagraph (A) is less than $70,000,000.

"(3)(A) The aggregate amount which may be transferred under paragraph (2) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will

be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

"(B) The aggregate amount which may be transferred under paragraph (2)(B) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

"(4) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

(3) CONFORMING AMENDMENTS.—(A) Section 401(c) of such Act (30 U.S.C. 1231(c)) is amended by striking "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by adding after paragraph (11) the following new paragraph:

"(12) for the purpose described in section 402(h); and".

(B) Section 402(g)(1) of such Act (30 U.S.C. 1232(g)) is amended by striking "Moneys" and inserting "Except as provided in subsection (h), moneys".

TITLE XX—GENERAL PROVISIONS; REDUCTION OF OIL VULNERABILITY

SEC. 2001. GOALS.

It is the goal of the United States in carrying out energy supply and energy conservation research and development—

(1) to strengthen national energy security by reducing dependence on imported oil;

(2) to increase the efficiency of the economy by meeting future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving comparable consideration to technologies that enhance energy supply and technologies that improve the efficiency of energy end uses;

(3) to reduce the air, water, and other environmental impacts (including emissions of greenhouse gases) of energy production, distribution, transportation, and utilization, through the development of an environmentally sustainable energy system;

(4) to maintain the technological competitiveness of the United States and stimulate economic growth through the development of advanced materials and technologies;

(5) to foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development;

(6) to consider the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(7) to consider the obstacles inherent in private industry's development of new energy technologies and steps necessary for

establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies; and

(8) to consider the contribution of a given activity to fundamental scientific knowledge.

Subtitle A—Oil and Gas Supply Enhancement

SEC. 2011. ENHANCED OIL RECOVERY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on technologies to increase the recoverability of domestic oil resources to—

(1) improve reservoir characterization;

(2) improve analysis and field verification;

(3) field test and demonstrate enhanced oil recovery processes, including advanced processes, in reservoirs the Secretary considers to be of high priority, ranked primarily on the basis of oil recovery potential and risk of abandonment;

(4) transfer proven recovery technologies to producers and operators of wells, including stripper wells, that would otherwise be likely to be abandoned in the near term due to declining production;

(5) improve enhanced oil recovery process technology for more economic and efficient oil production;

(6) identify and develop new recovery technologies;

(7) study reservoir properties and how they affect oil recovery from porous media;

(8) improve techniques for meeting environmental requirements;

(9) improve data bases of reservoir and environmental conditions; and

(10) lower lifting costs on stripper wells by utilizing advanced renewable energy technologies such as small wind turbines and others.

(b) PROGRAM GOALS.—

(1) NEAR-TERM PRIORITIES.—The near-term priorities of the program include preserving access to high potential reservoirs, identifying available technologies that can extend the lifetime of wells and of stripper well property, and developing environmental field operations for waste disposal and injection practices.

(2) MID-TERM PRIORITIES.—The mid-term priorities of the program include developing and testing identified but unproven technologies, and transferring those technologies for widespread use.

(3) LONG-TERM PRIORITIES.—The long-term priorities of the program include developing advanced techniques to recover oil not recoverable by other techniques.

(c) ACCELERATED PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a plan for carrying out under this section the accelerated field testing of technologies to achieve the priorities stated in subsection (b). In preparing the plan, the Secretary shall

consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, and with the Advisory Board established under section 2302.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) CONSULTATION.—In carrying out the provisions of this section, the Secretary shall consult representatives of the oil and gas industry with respect to innovative research and development proposals to improve oil and gas recovery and shall consider relevant technical data from industry and other research and information centers and institutes.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including advanced extraction and process technology, $57,250,000 for fiscal year 1993 and $70,000,000 for fiscal year 1994.

SEC. 2012. OIL SHALE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on oil shale extraction and conversion, including research and development on both eastern and western shales, as provided in this section.

(b) PROGRAM GOALS.—The goals of the program established under this section include—

(1) supporting the development of economically competitive and environmentally acceptable technologies to produce domestic supplies of liquid fuels from oil shale;

(2) increasing knowledge of environmentally acceptable oil shale waste disposal technologies and practices;

(3) increasing knowledge of the chemistry and kinetics of oil shale retorting;

(4) increasing understanding of engineering issues concerning the design and scale-up of oil shale extraction and conversion technologies;

(5) improving techniques for oil shale mining systems; and

(6) providing for cooperation with universities and other private sector entities.

(c) EASTERN OIL SHALE PROGRAM.—(1) As part of the program authorized by this section, the Secretary shall carry out a program on oil shale that includes applied research, in cooperation with universities and the private sector, on eastern oil shale that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized by this subsection, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are, as of the date of enactment of this Act, engaged in research on eastern oil shale retorting and associated processes.

(3) The program carried out under this subsection shall be cost-shared with universities and the private sector to the maximum extent possible.

(d) WESTERN OIL SHALE PROGRAM.—As part of the program authorized by this section, the Secretary shall carry out a program on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities. Sixty days prior to establishing any such field testing center, the Secretary shall submit a report to Congress on the center to be established.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,250,000 for fiscal year 1993 and $6,000,000 for fiscal year 1994.

SEC. 2013. NATURAL GAS SUPPLY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with section 3001 and 3002 of this Act, to increase the recoverable natural gas resource base including, but not limited to—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) the extraction of natural gas from tight gas sands and devonian shales or other unconventional sources;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(c) COFIRING OF NATURAL GAS AND COAL.—

(1) PROGRAM.—The Secretary shall establish and carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cofiring natural gas with coal in utility and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(2) FINANCIAL ASSISTANCE.—The Secretary shall enter into agreements with, and provide financial assistance to, appropriate parties for application of cofiring technologies to boilers to demonstrate this technology.

(3) REPORT TO CONGRESS.—The Secretary shall, before December 31, 1995, submit to the Congress a report on the progress made in carrying out this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section and sections 2014 and 2015, $29,745,000 for fiscal year 1993 and $45,000,000 for fiscal year 1994.

SEC. 2014. NATURAL GAS END-USE TECHNOLOGIES.

The Secretary shall carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on new and advanced natural gas utilization technologies including, but not limited to—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, cogeneration, and waste fuels; and

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers, and on-site storage at major energy consuming facilities.

SEC. 2015. MIDCONTINENT ENERGY RESEARCH CENTER.

(a) FINDING.—Congress finds that petroleum resources in the midcontinent region of the United States are very large but are being prematurely abandoned.

(b) PURPOSES.—The purposes of this section are to—

(1) improve the efficiency of petroleum recovery;

(2) increase ultimate petroleum recovery; and

(3) delay the abandonment of resources.

(c) ESTABLISHMENT.—The Secretary may establish the Midcontinent Energy Research Center (referred to in this section as the "Center") to—

(1) conduct research in petroleum geology and engineering focused on improving the recovery of petroleum from existing fields and established plays in the upper midcontinent region of the United States; and

(2) ensure that the results of the research described in paragraph (1) are transferred to users.

(d) RESEARCH.—

(1) IN GENERAL.—In conducting research under this section, the Center shall, to the extent practicable, cooperate with agencies of the Federal Government, the States in the midcontinent region of the United States, and the affected industry.

(2) PROGRAMS.—Research programs conducted by the Center may include—

(A) data base development and transfer of technology;

(B) reservoir management;

(C) reservoir characterization;

(D) advanced recovery methods; and

(E) development of new technology.

Subtitle B—Oil and Gas Demand Reduction and Substitution

SEC. 2021. GENERAL TRANSPORTATION.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cost effective technologies to reduce the demand for oil in the transportation sector for all motor vehicles, including existing vehicles, through increased energy efficiency and the use of alternative fuels. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goals stated in section 2001. Such program shall include the activities required under sections 2022 through 2027, and ongoing activities of a similar nature at the Department of Energy.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Con-

gress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(d) DEFINITION.—For purposes of this subtitle, the term "alternative fuels" includes natural gas, liquefied petroleum gas, hydrogen, fuels other than alcohol that are derived from biological materials, and any fuel the content of which is at least 85 percent by volume methanol, ethanol, or other alcohol.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary for carrying out this subtitle, including all transportation sector energy conservation research and development (other than activities under section 2025) and all transportation sector biofuels energy systems under solar energy, $119,144,000 for fiscal year 1993 and $160,000,000 for fiscal year 1994.

(2) There are authorized to be appropriated to the Secretary for carrying out section 2025—

(A) $60,300,000 for fiscal year 1993;
(B) $75,000,000 for fiscal year 1994;
(C) $80,000,000 for fiscal year 1995;
(D) $80,000,000 for fiscal year 1996;
(E) $90,000,000 for fiscal year 1997; and
(F) $100,000,000 for fiscal year 1998.

SEC. 2022. ADVANCED AUTOMOTIVE FUEL ECONOMY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program, in accordance with sections 3001 and 3002 of this Act, to supplement ongoing research activities of a similar nature at the Department of Energy, to accelerate the near-term and mid-term development of advanced technologies to improve the fuel economy of light-duty passenger vehicles powered by a piston engine, and hybrid vehicles powered by a combination of piston engine and electric motor.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to stimulate the development of emerging technologies with the potential to achieve significant improvements in fuel economy while reducing emissions of air pollutants.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section, making a special effort to involve small businesses in the program.

SEC. 2023. ALTERNATIVE FUEL VEHICLE PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall carry out a program, in accordance with sections 3001 and 3002 of this Act, on techniques related to improving natural gas and other alternative fuel vehicle technology, including—

(1) fuel injection;
(2) carburetion;
(3) manifolding;

(4) combustion;
(5) power optimization;
(6) efficiency;
(7) lubricants and detergents;
(8) engine durability;
(9) ignition, including fuel additives to assist ignition;
(10) multifuel engines;
(11) emissions control, including catalysts;
(12) novel gas compression concepts;
(13) advanced storage systems;
(14) advanced gaseous fueling technologies; and
(15) the incorporation of advanced materials in these areas.

(b) COOPERATIVE AGREEMENTS AND ASSISTANCE.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, public or private entities willing to provide 50 percent of the costs of a program to perform activities under subsection (a).

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

(1) the term "alternative fuel vehicle" means a motor vehicle that operates on alternative fuels; and

(2) the term "motor vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

SEC. 2024. BIOFUELS USER FACILITY.

(a) The Secretary shall establish a biofuels user facility to expedite industry adoption of biofuels technologies, including production of alcohol fuels from biomass.

(b) The Secretary, through such universities and colleges as the Secretary determines are qualified, shall establish a program, in accordance with sections 3001 and 3002 of this Act, with respect to the production and use of diesel fuels from vegetable oils or animal fats. The program shall investigate—

(1) the economic feasibility of production of oilseed crops for biofuels purposes; and

(2) the establishment of a mobile small-scale oilseed pressing and esterification unit and a stationary small-scale commercial oilseed pressing and esterification unit.

SEC. 2025. ELECTRIC MOTOR VEHICLES AND ASSOCIATED EQUIPMENT RESEARCH AND DEVELOPMENT.

(a) GENERAL.—The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920), a research and development program on electric motor vehicles and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, and automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) COMPREHENSIVE PLAN.—(1) The Secretary shall prepare a comprehensive 5-year program plan for carrying out the purposes of this section. Such comprehensive plan shall be updated annually for a period of not less than 10 years after the date of enactment of this Act.

(2) The comprehensive plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of

Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric motor vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary considers appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric motor vehicles, including advanced battery technology;

(B) the program elements, management structure, and activities, including program responsibilities, of Federal agencies;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the comprehensive plan for each of the participating Federal agencies;

(E) a description of the methods of technology transfer;

(F) a proposal for participation by non-Federal entities in the implementation of the comprehensive plan; and

(G) such other information as the Secretary considers appropriate.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit the comprehensive plan to the Congress. Annual updates shall be submitted to the Congress.

(c) COOPERATIVE AGREEMENTS.—The Secretary, consistent with the comprehensive plan under subsection (b), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric motor vehicle range improvement;

(2) light-weight structures for electric motor vehicle weight reduction;

(3) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight, for electric motor vehicle application;

(4) hybrid power trains incorporating an electric motor and recyclable battery charged by an onboard liquid fuel engine, designed to significantly improve fuel economies while maintaining acceleration characteristics comparable to a conventionally fueled vehicle;

(5) batteries and fuel cells for electric-hybrid vehicle application;

(6) fuel cells and fuel cell systems for primary electric motor vehicle power sources; and

(7) photovoltaics for use with electric motor vehicles.

(d) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (c).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (c) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric motor vehicles and associated equipment.

(e) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this section, other than a cooperative agreement under subsection (j), to be from non-Federal sources. Such share may be in the form of cash, personnel, services, equipment, and other resources.

(2) The Secretary may reduce the amount of costs required to be provided by non-Federal sources under paragraph (1), if the Secretary determines that the reduction is necessary and appropriate—

(A) considering the technological risks involved in the project; and

(B) in order to meet the objectives of this section.

(f) DEPLOYMENT.—(1) The Secretary shall conduct a program designed to accelerate deployment of advanced battery technologies for use with electric motor vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced battery technologies and electric motor vehicle technologies and the commercial capability of such technologies; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies, which may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

(g) DOMESTIC PARTS MANUFACTURERS.—In carrying out this section, the Secretary, in consultation with the Secretary of Commerce, shall issue regulations to ensure that the procurement practices of participating electric motor vehicle and associated equipment manufacturers do not discriminate against the United States manufacturers of vehicle parts.

(h) HOLD HARMLESS.—Nothing in this section shall be construed to alter, affect, modify, or change any activities or agreements initiated prior to the date of enactment of this Act with domestic motor vehicle manufacturers through joint venture or consortium agreements regarding batteries for electric motor vehicles.

(i) CONSULTATION.—The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation in carrying out this section.

(j) FUEL CELLS FOR TRANSPORTATION.—(1) The Secretary shall develop and implement a comprehensive program of research, development, and demonstration of fuel cells and related systems for transportation applications through the establishment of one or more cooperative programs among industry, government, and research institutions to develop and demonstrate the use of fuel cells as the primary power source for private and mass transit vehicles and other mobile applications.

(2) Research, development, and demonstration activities under this subsection shall be designed to incorporate one or more of the following priorities:

(A) The potential for near-term to mid-term commercialization.

(B) The ability of the systems to use a variety of renewable and nonfossil fuels.

(C) Emission reduction and energy conservation potential.

(D) The potential to utilize fuel cells and fuel cell systems developed under Department of Defense and National Aeronautics and Space Administration programs.

(E) The potential to take maximum practical advantage of advances made in electric motor vehicle research, stationary source fuel cell research, and other research activities authorized by this title.

(3)(A) Research, development, and demonstration projects selected by the Secretary under this subsection shall apply to—

(i) passenger vehicles;

(ii) vans and utility vehicles;

(iii) light rail systems and locomotives;

(iv) trucks, including long-haul trucks, dump trucks, and garbage trucks;

(v) passenger buses;

(vi) non-chlorofluorocarbon mobile refrigeration systems;

(vii) marine vessels, including recreational marine engines; or

(viii) mobile engines and power generation, including recreational generators, and industrial and construction equipment.

(B) The Secretary shall establish programs to undertake research, development, and demonstration activities for the applications listed in clauses (i) through (viii) of subparagraph (A) in each of fiscal years 1993, 1994, 1995, and 1996, based on the priorities established in paragraph (2), so that by the end of the period, research, development, and demonstration activities are under way for the applications under each such clause. The initiatives authorized and implemented pursuant to this subsection shall be in addition to any other fuel cell programs authorized in existing law.

(k) DEFINITIONS.—For purposes of this section—

(1) the term "advanced battery technology" means electrochemical storage devices and systems, including fuel cells, and associated technology necessary to charge, discharge, recharge, or regenerate such devices, for use as a source of power for an electric motor vehicle and any other associated equipment;

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electric energy used to power an electric motor vehicle and, in the case of electric-hybrid vehicles, such term includes nonpetroleum-related equipment necessary for, and solely related to, the demonstration of such vehicles;

(3) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or other sources of electric current and may include an electric-hybrid vehicle; and

(4) the term "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current and also relies on a nonelectric source of power that also operates on or is capable of operating on a nonelectrical source of power.

SEC. 2026. RENEWABLE HYDROGEN ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on renewable hydrogen energy systems. Such program shall be conducted in accordance with the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (Public Law 101-566), to supplement ongoing activities of a similar nature at the Department of Energy, including—

(1) at least one program to generate hydrogen from renewable energy sources;

(2) at least one program to assess the feasibility of existing natural gas pipelines carrying hydrogen gas, including experimentation if needed, with a goal of determining those components of the natural gas distribution system that would have to be modified to carry—

(A) more than 20 percent hydrogen mixed with natural gas; and

(B) pure hydrogen gas;

(3) at least one program to develop a hydrogen storage system suitable for electric motor vehicles powered by fuel cells, with emphasis on—

(A) improved metal hydride hydrogen storage;

(B) activated carbon-based hydrogen storage;

(C) high pressure compressed hydrogen; or

(D) other novel hydrogen storage techniques;

(4) at least one program to develop a fuel cell suitable to power an electric motor vehicle; and

(5) such other programs as the Secretary considers necessary to carry out this section.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 2027. ADVANCED DIESEL EMISSIONS PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a 5-year program, in accordance with sections 3001 and 3002 of this Act, on diesel engine combustion and engine systems, related advanced materials, and fuels and lubricants to reduce emissions oxides of nitrogen and particulates. Activities conducted under this program shall supplement activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goal stated in subsection (b).

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate the ability of United States diesel manufacturers to meet current and future oxides of nitrogen and particulate emissions requirements.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. Such plan shall be included as part of the plan required by section 2021(b).

(d) SOLICITATION OF PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan.

SEC. 2028. TELECOMMUTING STUDY.

(a) STUDY.—The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) This study shall be completed no more than one hundred and eighty days after the date of enactment of this Act. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than sixty days after completion of this study.

TITLE XXI—ENERGY AND ENVIRONMENT

Subtitle A—Improved Energy Efficiency

SEC. 2101. GENERAL IMPROVED ENERGY EFFICIENCY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cost effective technologies to improve energy efficiency and increase the use of renewable energy in the buildings, industrial, and utility sectors. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number to prove technical and economic viability to meet the goals stated in section 2001. Such program shall include the activities required under sections 2102, 2103, 2104, 2105, 2106, 2107, and 2108 and ongoing activities of a similar nature at the Department of Energy. Such program shall also include the activities conducted pursuant to the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100-680) and the Department of Energy Metal Casting Competitiveness Research Act of 1990 (Public Law 101-425).

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) in the buildings sector—

(A) to accelerate the development of technologies that will increase energy efficiency;

(B) to increase the use of renewable energy; and

(C) to reduce environmental impacts;

(2) in the industrial sector—

(A) to accelerate the development of technologies that will increase energy efficiency in order to improve productivity;

(B) to increase the use of renewable energy; and

(C) to reduce environmental impacts; and

(3) in the utility sector—

(A) to accelerate the development of technologies that will increase energy efficiency; and

(B) to increase the use of integrated resource planning.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this subtitle, including all building, industry, and utility sectors energy conservation research and development, and inventions and innovation under energy conservation technical and financial assistance, $178,250,000 for fiscal year 1993 and $275,000,000 for fiscal year 1994.

SEC. 2102. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.

(a) PROGRAM DIRECTION.—(1) The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on energy efficient natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall include activities on—

(A) thermally activated heat pumps, including absorption heat pumps and engine-driven heat pumps; and

(B) other advanced natural gas technologies, including fuel cells for residential and commercial applications.

(3) The electric heating and cooling program shall focus on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electric HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 2103. PULP AND PAPER.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on advanced pulp and paper technologies. Such program shall include activities on energy generation technologies, boilers, combustion

processes, pulping processes (excluding de-inking), chemical recovery, causticizing, source reduction processes, and other related technologies that can improve the energy efficiency of, and reduce the adverse environmental impacts of, pulp and papermaking operations. This section does not authorize projects involving the combustion of waste paper, other than gasification.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 2104. ADVANCED BUILDINGS FOR 2005.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a 5-year program, in accordance with sections 3001 and 3002 of this Act, to increase building energy efficiency, while maintaining affordability, by the year 2005. Such program shall include activities on—

(1) building design, design methods, and construction techniques;

(2) building materials, including recycled materials, and components;

(3) on-site energy supply conversion systems such as photovoltaics;

(4) automated energy management systems;

(5) methods of evaluating performance; and

(6) insulation products manufactured with nonozone depleting materials.

(b) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include and be judged upon—

(A) evidence of knowledge of current building practices in the United States and in other countries;

(B) an explanation of how the proposal will encourage the commercialization of the technologies resulting from activities in subsection (a);

(C) evidence of consideration of collaboration with Department of Energy national laboratories;

(D) evidence of collaboration with relevant industry or other groups or organizations; and

(E) a demonstration of the ability of the proposers to undertake and complete the project proposed.

SEC. 2105. ELECTRIC DRIVES.

(a) PROGRAM.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, to increase the efficiency of electric drive technologies, including adjustable speed drives, high speed motors, and high efficiency motors.

(b) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for projects under this section.

SEC. 2106. STEEL, ALUMINUM, AND METAL RESEARCH.

(a) STEEL AMENDMENTS.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is amended—

(1) in section 4(b)(5), by striking "Industrial Programs" and inserting in lieu thereof "Industrial Technologies";

(2) in section 8, by inserting at the end the following new sentence: "The reports submitted at the close of fiscal years 1993, 1995, and 1997 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this Act.";

(3) in section 9(a)(1), by striking "and $25,000,000 for fiscal year 1991" and inserting in lieu thereof "$25,000,000 for fiscal year 1991, $17,968,000 for fiscal year 1992, and $18,091,000 for each of the fiscal years 1993 through 1997, to be derived from sums authorized under section 2101(e) of the Energy Policy Act of 1992";

(4) in section 9(b), by striking "and 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, 1996, and 1997, to be derived from sums otherwise authorized to be appropriated to the Institute"; and

(5) in section 11(a), by striking "or fiscal year 1991" both places it appears and inserting in lieu thereof "fiscal year 1991, fiscal year 1992, fiscal year 1993, fiscal year 1994, fiscal year 1995, fiscal year 1996, and fiscal year 1997".

(b) METAL CASTING AMENDMENT.—Section 8 of the Department of Energy Metal Casting Competitiveness Research Act of 1990 (Public Law 101-425) is amended by striking "and 1993" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997, to be derived from such sums as are otherwise authorized under section 2101(e) of the Energy Policy Act of 1992".

SEC. 2107. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.

(a) SECRETARIAL ACTION.—The Secretary, in accordance with sections 3001 and 3002 of this Act, shall—

(1) pursue a research, development, demonstration and commercial application program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so

long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

SEC. 2108. ENERGY EFFICIENT ENVIRONMENTAL PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, is authorized to continue to carry out a 5-year program to improve the energy efficiency and cost effectiveness of pollution prevention technologies and processes, including source reduction and waste minimization technologies and processes. The purposes of this section shall be to—

(1) apply a systems approach to minimizing adverse environmental effects of industrial production in the most cost effective and energy efficient manner; and

(2) incorporate consideration of the entire materials and energy cycle with the goal of minimizing adverse environmental impacts.

(b) IDENTIFICATION OF OPPORTUNITIES.—Within 9 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall identify opportunities for the demonstration of energy efficient pollution prevention technologies and processes.

(c) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress evaluating the opportunities identified under subsection (b). Such report shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected schedules of their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or State regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

In preparing the report required by this subsection, the Secretary shall consult with the Administrator of the Environmental Protec-

tion Agency, any other Federal, State, or local official the Secretary considers necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall solicit proposals for activities under this section. Proposals selected under this subsection shall demonstrate—

(1) technical viability and cost effectiveness; and

(2) procedures for technology transfer and information outreach during and after completion of the project.

Subtitle B—Electricity Generation and Use

SEC. 2111. RENEWABLE ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a comprehensive 5-year program, in accordance with sections 3001 and 3002 of this Act, to provide cost-effective options for the generation of electricity from renewable energy sources for grid and nongrid application, including field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility for providing cost effective generation and for meeting the goal stated in section 2001(3) and section 1602(a)(4).

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including all solar energy programs (other than activities under section 2021), geothermal systems, electric energy systems, and energy storage systems, $208,975,000 for fiscal year 1993 and $275,000,000 for fiscal year 1994.

SEC. 2112. HIGH EFFICIENCY HEAT ENGINES.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, to improve the efficiency of heat engines. Such program shall—

(1) include field demonstrations of sufficient scale and number so as to demonstrate technical and economic feasibility;

(2) incorporate materials that increase engine efficiency; and

(3) cover advanced engine designs for electric and industrial power generation for a range of small-, mid-, and large-scale applications, including—

(A) mechanically recuperated gas turbines;

(B) intercooled gas turbines with steam injection or recuperation;

(C) gas turbines utilizing reformed fuels or hydrogen; and

(D) high efficiency, simple cycle gas turbines.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to develop heat engines that can achieve over 50 percent efficiency in the mid-term.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan, to be included in the plan required under section 2101(c), to guide the activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including the Environmental Protection Agency and national laboratories, and professional and technical societies.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary to be derived from sums authorized under section 2101(e).

SEC. 2113. CIVILIAN NUCLEAR WASTE.

(a) STUDY.—The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of the viability of existing technologies and an assessment of the extent of research and development required for new technologies.

(b) PROGRAM.—Based on the results of the study required under subsection (a), the Secretary shall prepare and submit to Congress a 5-year program plan for carrying out a program of research and development on new technologies for minimizing the volume and toxic lifetime of, and thereby mitigating hazards associated with, nuclear waste.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $4,700,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.

SEC. 2114. FUSION ENERGY.

(a) PROGRAM.—The Secretary shall conduct a fusion energy 5-year program, in accordance with sections 3001 and 3002 of this Act, that by the year 2010 will result in a technology demonstration which verifies the practicability of commercial electric power production.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) a broad based fusion energy program;

(2) United States participation in the Engineering Design Activity of the International Thermonuclear Experimental Reactor (ITER) program and in the related research and technology development efforts;

(3) the development of technology for fusion power and industrial participation in the development of such technology;

(4) the design and construction of a major new machine for fusion research and technology development consistent with paragraphs (2) and (3); and

(5) research and development for Inertial Confinement Fusion Energy and development of a Heavy Ion Inertial Confinement Fusion experiment.

(c) MANAGEMENT PLAN.—(1) Within 180 days after the date of enactment of this Act, the Secretary shall prepare a comprehensive management plan for the fusion energy program. The plan shall include specific program objectives, milestones and schedules for technology development, and cost estimates and program management resource requirements.

(2) The plan shall also include a description of—

(A) United States participation in the Engineering Design Activity of ITER, including industrial participation;

(B) potential United States participation in the construction and operation of an ITER facility; and

(C) the requirements needed to build and test an inertial fusion energy reactor for the purpose of power production.

(3) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should initiate efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(4) The plan shall also evaluate the extent to which university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(5) Within 1 year after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall issue a report describing the progress made in meeting the program objectives, milestones, and schedules established in the management plan. Each such report shall also describe the organization of the program, the personnel assigned and funds committed to the program, and expenditures made in carrying out the program objectives. The report shall be submitted with the plan required under section 2304.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $339,710,000 for fiscal year 1993 and $380,000,000 for fiscal year 1994.

SEC. 2115. FUEL CELLS.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on efficient and environmentally benign power generation using fuel cells. The program may include activities on molten carbonate, solid oxide, including tubular, monolithic, and planar technologies, and advanced concepts.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) is the development of cost-effective, efficient, and environmentally benign fuel cell systems which will operate on fossil fuels in multiple end use sectors.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $51,555,000 for fiscal year 1993 and $56,000,000 for fiscal year 1994.

SEC. 2116. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1993 $70,000,000 for the Fast Flux Test Facility to maintain the operational status of the reactor, such sums to be derived from amounts appropriated to the Secretary for the environmental restoration and waste management program.

(b) LONG-TERM MISSIONS.—The Secretary shall aggressively pursue the development and implementation of long-term missions for the Fast Flux Test Facility. Within 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the progress made in carrying out this subsection.

SEC. 2117. HIGH-TEMPERATURE SUPERCONDUCTIVITY PROGRAM.

(a) PROGRAM.—The Secretary shall carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on high-temperature superconducting electric power equipment technologies. Elements of the program shall include, but are not limited to—

(1) activities that address the development of high-temperature superconducting materials that have increased electrical current capacity, which shall be the emphasis of the program for the near-term;

(2) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(3) activities that will improve the efficiency of materials performance of higher temperatures and at all magnetic field orientations;

(4) development of prototypes based on high-temperature superconducting wire, that operate at the highest temperature possible, and refrigeration systems using cryogenics such as nitrogen;

(5) activities that will assist the private sector with designs for more efficient electric power generation and delivery systems which are cost competitive with conventional energy systems; and

(6) development of prototypes that have application in both the commercial and defense sectors.

The Secretary is also encouraged to expedite government, laboratory, industry, and university collaborative agreements under existing mechanisms at the Department of Energy in coordination with other Federal agencies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $21,900,000 for fiscal year 1993 and such sums as may be necessary for subsequent fiscal years, to be derived from sums authorized under section 2111(c).

SEC. 2118. ELECTRIC AND MAGNETIC FIELDS RESEARCH AND PUBLIC INFORMATION DISSEMINATION PROGRAM.

(a) PROGRAM.—The Secretary shall, in accordance with this section (including the agenda developed under subsection (d)(1)(A)) and within 2 months after the date of the enactment of this Act, establish a comprehensive program to—

(1) determine whether or not exposure to electric and magnetic fields produced by the generation, transmission, and use of electric energy affects human health;

(2) carry out research, development, and demonstration with respect to technologies to mitigate any adverse human health effects; and

(3) provide for dissemination of information described in subsection (b)(1) to the public.

(b) CONTENTS.—The program shall provide for—

(1) collection, compilation, publication, and dissemination of scientifically valid information on—

(A) possible human health effects of electric and magnetic fields;

(B) the types and extent of human exposure to electric and magnetic fields in various occupational and residential settings;

(C) technologies to measure and characterize electric and magnetic fields; and

(D) methods to assess and manage exposure to electric and magnetic fields;

(2)(A) research on mechanisms by which electric and magnetic fields interact with biological systems; and

(B) epidemiological research on the possible human health effects of electric and magnetic fields; and

(3) research, development, and demonstration with respect to—

(A) technologies to improve the measurement and characterization of electric and magnetic fields; and

(B) techniques to assess and manage exposure to electric and magnetic fields.

(c) ROLE OF THE DIRECTOR.—

(1) ROLE OF THE DIRECTOR.—The Secretary of Health and Human Services, acting through the Director, shall have sole responsibility under the program for research on possible human health effects of electric and magnetic fields. The Director may delegate this responsibility to the extent the Director determines appropriate.

(2) AGREEMENT.—Within 6 months after the date of the enactment of this Act, the Secretary shall enter into an agreement with the Secretary of Health and Human Services to carry out, through the Director, the information activities under subsection (b)(1)(A) and the research under subsection (b)(2).

(3) ACTIONS OF THE DIRECTOR.—The actions of the Director in carrying out research and information responsibilities under this section shall not be subject to approval by the Secretary.

(4) TRANSFER OF FUNDS.—The Secretary is authorized, subject to appropriations Acts, to transfer funds to the Director to carry out the Director's responsibilities under paragraph (2).

(5) REPORT.—The Director shall report, by June 1, 1995, and by March 31, 1997, and as appropriate, to the Interagency Committee established under subsection (d) and to Congress the findings and conclusions of the Director on the extent to which exposure to electric and magnetic fields produced by the generation, transmission, or use of electric energy affects human health.

(d) INTERAGENCY COMMITTEE.—

(1) The President shall, within 2 months after the date of the enactment of this Act, establish the Electric and Magnetic Fields Interagency Committee to—

(A) develop within 8 months after the date of the enactment of this Act a comprehensive agenda for conducting research, development, and demonstration under the program, with particular emphasis on electric and magnetic fields of the 60 hertz frequency;

(B) develop recommendations, within 8 months after the date of the enactment of this Act, for guidelines for the coordination of activities of Federal agencies engaged in research on human health effects of electric and magnetic fields that ensure that such research advances the agenda under subparagraph (A) and is not unnecessarily duplicative of other research activities;

(C) develop recommendations, within 8 months after the date of the enactment of this Act, for mechanisms for communication of the results of the program to the public, including recommendations on the scope and nature of the information to be disseminated; and

(D) monitor, review and periodically evaluate the program.

(2)(A) The Interagency Committee shall be composed of 9 members with 1 member to be appointed from each of the following:

(i) The Department of Energy.

(ii) The National Institute of Environmental Health Sciences.

(iii) The Environmental Protection Agency.

(iv) The Department of Defense.

(v) The Occupational Safety and Health Administration.

(vi) The National Institute of Standards and Technology.

(vii) The Department of Transportation.

(viii) The Rural Electrification Administration.

(ix) The Federal Energy Regulatory Commission.

(B) The Interagency Committee shall elect a chairperson from among its members who shall be responsible for ensuring that the duties of the Interagency Committee are carried out.

(C) Agencies that have members on the Interagency Committee shall provide appropriate staff to carry out the duties of the Interagency Committee.

(e) ADVISORY COMMITTEE.—

(1) Not later than 2 months after the date of the enactment of this Act, the Secretary of Health and Human Services and

the Secretary shall establish the National Electric and Magnetic Fields Advisory Committee in accordance with the Federal Advisory Committee Act and this section.

(2) The Advisory Committee shall make recommendations to the Interagency Committee with respect to the duties of the Interagency Committee under subsection (d)(1) and advise the Secretary and the Director with respect to the design and implementation of the program, including preparation of solicitations for proposals to conduct research under the program.

(3) The Advisory Committee shall be composed of 10 members, chosen from among experts in possible human health effects of electric and magnetic fields, experts in the measurement and characterization of electric and magnetic fields, experts in the assessment and management of electric and magnetic fields, State regulatory agencies, State health agencies, electric utilities, electric equipment manufacturers, labor unions and the public. Five members shall be chosen by the Secretary of Health and Human Services in consultation with the Director, and 5 members shall be chosen by the Secretary.

(4) The Advisory Committee shall elect a chairperson from among its members who shall be responsible for ensuring that the duties of the Advisory Committee are carried out.

(5) The Advisory Committee shall terminate not later than December 31, 1997.

(f) FINANCIAL ASSISTANCE.—

(1) The Secretary and the Director may provide financial assistance and enter into contracts to conduct activities under the program.

(2) The Secretary shall solicit contributions from non-Federal sources to offset at least 50 percent of the total funding for all activities under the program. The Secretary shall adopt procedures, including a mechanism for collecting contributions, that ensures that no contributor of non-Federal funds may influence the program.

(3) The Secretary may not obligate funds under this section in any fiscal year unless funds received from non-Federal sources under paragraph (2) are available to offset at least 50 percent of the appropriations made under subsection (j) for such fiscal year.

(4) SOLICITATION AND SELECTION OF PROPOSALS.—

(A) IN GENERAL.—Within 15 months after the date of the enactment of this Act, and as often thereafter as appropriate, the Secretary and the Director shall, in consultation with the Interagency Committee, solicit and select proposals to conduct activities under the program.

(B) CONSULTATION WITH ADVISORY COMMITTEE.—In preparing solicitations for proposals to conduct activities, the Secretary and the Director shall consult with the Advisory Committee.

(C) PEER REVIEW PANELS.—Before a proposal to conduct activities under the program may be selected by the Secretary or the Director, such proposal must be submitted to, and evaluated by, at least one scientific and technical peer review panel.

(g) REPORTS.—

(1) REPORT UPON COMPLETION OF ACTIVITY.—Any person who conducts activities under the program shall, upon completion of the activity, submit to the National Academy of Sciences, the Interagency Committee, and the Advisory Committee a report summarizing the activities and results thereof.

(2) REPORT TO INTERAGENCY COMMITTEE AND ADVISORY COMMITTEE.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences under which the Academy shall periodically submit to the Interagency Committee and the Advisory Committee a report that evaluates the research activities under the program. The report shall include recommendations to promote the effective transfer of information derived from such research projects, including the transfer to representatives of State regulatory agencies, State health agencies, electric utilities, electrical equipment manufacturers, labor unions, and the public. The Secretary shall be responsible for expenses incurred by the Academy in connection with the preparation of such reports.

(3) REPORT TO CONGRESS.—The Interagency Committee, in consultation with the Advisory Committee, shall submit to the Secretary and the Congress—

(A) not later than December 31, 1995, a report summarizing the progress of the research program established under this subsection; and

(B) not later than September 30, 1997, a final report stating the Committee's findings and conclusions on the effects, if any, of electric and magnetic fields on human health and remedial actions, if any, that may be needed to minimize any such health effects.

(h) CONFLICTS OF INTEREST.—The Secretary and the Director shall include conflict of interest provisions in any grant or other funding provided, or contract entered into, under the research program established under this section including provisions—

(1) that require any person conducting a project under such program to disclose any other source of funding received by the person to conduct other related projects, including funding received from consulting on issues relating to electric and magnetic fields; and

(2) that prohibit a person who has been awarded a grant or contract under this program from receiving compensation beyond expenses for testifying in a court of law as an expert on the specific research the person is conducting under such grant or contract.

(i) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Committee" means the National Electric and Magnetic Fields Advisory Committee established under subsection (e).

(2) The term "Interagency Committee" means the Electric and Magnetic Fields Interagency Committee established under subsection (d).

(3) The term "Director" means the Director of the National Institute of Environmental Health Sciences.

(4) The term "program" means the electric and magnetic fields research and public information dissemination program established in subsection (a).

(5) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Secretary a total of $65,000,000 for the period encompassing fiscal years 1993 through 1997 to carry out the provisions of this section, except that not more than $1,000,000 may be expended in any such fiscal year for activities under subsection (b)(1). Any amounts appropriated pursuant to this paragraph shall remain available until expended.

(2) RESTRICTIONS ON USE OF FUNDS.—

(A) ADMINISTRATIVE EXPENSES OF CERTAIN FUNDING RECIPIENTS.—Of the total funds provided to any institution under this section, the amount of such funds that may be used for the administrative indirect costs of the institution may not exceed 26 percent of the modified direct costs of the project.

(B) ADMINISTRATIVE EXPENSES OF THE SECRETARY AND THE DIRECTOR.—Of the total amount of funds made available under this section for any fiscal year, not more than 10 percent of such funds may be used for authorized administrative expenses of the Secretary and the Director in carrying out this section.

(C) CONSTRUCTION AND REHABILITATION OF FACILITIES AND EQUIPMENT.—Funds made available under this section may not be used for the construction or rehabilitation of facilities or fixed equipment.

(k) SENSE OF CONGRESS.—It is the sense of the Congress that remedial action taken by the Government on electric and magnetic fields, if and as necessary, should be based on, and consistent with, scientifically valid research such as the results and findings of the research authorized by this Act.

(l) SUNSET PROVISION.—All authority under this section shall expire on December 31, 1997.

SEC. 2119. SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER.

(a) FINDINGS.—The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a longstanding champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transporta-

tion fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) PURPOSE.—It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) ESTABLISHMENT.—The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (in this section referred to as the "Center").

(d) ADMINISTRATION.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary may authorize a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) ACTIVITIES.—The Center may carry out research, development, educational, and technology transfer activities on—

(1) renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean research concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) MATCHING FUNDS.—To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) AUTHORIZATION.—There is authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived from sums authorized under section 2111(c).

Subtitle C—Advanced Nuclear Reactors

SEC. 2121. PURPOSES AND DEFINITIONS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to require the Secretary to carry out civilian nuclear programs in a way that will lead toward the commercial availability of advanced nuclear reactor technologies; and

(2) to authorize such activities to further the timely availability of advanced nuclear reactor technologies, including tech-

nologies that utilize standardized designs or exhibit passive safety features.

(b) DEFINITIONS.—For purposes of this subtitle—

(1) the term "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized reactors with passive safety features for the generation of commercial electric power from nuclear fission; and

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission;

(2) the term "Commission" means the Nuclear Regulatory Commission;

(3) the term "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(4) the term "certification" means approval by the Commission of a standardized design.

SEC. 2122. PROGRAM, GOALS, AND PLAN.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, taking into consideration life cycle environmental costs;

(2) facilitate the design, licensing, construction, and operation of a nuclear powerplant using a standardized design;

(3) exhibit enhanced safety features; and

(4) incorporate features that advance the objectives of the Nuclear Non-Proliferation Act of 1978.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) for the near-term—

(A) to facilitate the completion, by September 30, 1996, for certification by the Commission, of standardized advanced light water reactor technology designs that the Secretary determines have the characteristics described in subsection (a)(1) through (4);

(B) to facilitate the completion of submissions, by September 30, 1996, for preliminary design approvals by the Commission of standardized designs for the modular high-temperature gas-cooled reactor technology and the liquid metal reactor technology; and

(C) to evaluate by September 30, 1996, actinide burn technology to determine if it can reduce the volume of long-lived fission byproducts;

(2) for the mid-term—

(A) to facilitate increased efficiency of enhanced safety, advanced light water reactors to produce electric power at the lowest cost to the customer;

(B) to develop advanced reactor concepts that are passively safe and environmentally acceptable; and

(C) to complete necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology to support the selection, by September 30, 1998, of one or both of those technologies as appropriate for prototype demonstration; and

(3) for the long-term, to complete research and development and demonstration to support the design of advanced reactor technologies capable of providing electric power to a utility grid as soon as practicable but no later than the year 2010.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. The program plan shall include schedule milestones, Federal funding requirements, and non-Federal cost sharing requirements. In preparing the program plan, the Secretary shall take into consideration—

(1) the need for, and the potential for future adoption by electric utilities or other entities of, advanced nuclear reactor technologies that are available, under development, or have the potential for being developed, for the generation of energy from nuclear fission;

(2) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of such technologies when they are needed;

(3) how the Federal Government can most effectively cooperate with the private sector in the accomplishment of the goals set forth in subsection (b); and

(4) potential alternative funding sources for carrying out this section.

In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall update the program plan annually and submit such update to Congress. Each such update shall describe any activities that are behind schedule, any funding shortfalls, and any other circumstances that might affect the ability of the Secretary to meet the goals set forth in subsection (b).

SEC. 2123. COMMERCIALIZATION OF ADVANCED LIGHT WATER REACTOR TECHNOLOGY.

(a) CERTIFICATION OF DESIGNS.—In order to achieve the goal of certification of completed standardized designs by the Commission by 1996 as set forth in section 2122(b), the Secretary shall conduct a 5-year program of technical and financial assistance to encourage the development and submission for certification of advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of fiscal year 1996.

(b) FIRST-OF-A-KIND ENGINEERING.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall conduct a program of Federal financial and technical assistance for the first-of-a-kind engineering design of standardized commercial nuclear powerplants which are included, as of the date of enactment of this Act, in the Department of Energy's program for certification of advanced light water reactor designs.

(2) SELECTION CRITERIA.—In order to be eligible for assistance under this subsection, an entity shall certify to the satisfaction of the Secretary that—

(A) the entity, or its members, are bona fide entities engaged in the design, engineering, manufacture, construction, or operation of nuclear reactors;

(B) the entity, or its members, have the financial resources necessary for, and fully intend to pursue the design, engineering, manufacture, construction, and operation in the United States of nuclear power plants through completion of construction and into operation;

(C) the design proposed is scheduled for certification by the Commission under the Department of Energy's program for certification of light water reactor designs; and

(D) at least 50 percent of the funding for the project shall be obtained from non-Federal sources, and a substantial portion of that non-Federal funding shall be obtained from utilities or entities whose primary purpose is the production of electrical power for public consumption.

(3) PROGRAM DOCUMENTS.—The Secretary shall prepare and submit to the Congress a program document for each design selected under this subsection, specifying goals and objectives, major milestones for achieving those goals and objectives, and the work products to be provided to the Secretary or made available for inspection.

(4) FUNDING LIMITATIONS.—(A) Before entering into an agreement with an entity under this subsection, the Secretary shall establish a cost ceiling for the contribution of the Federal Government for the project, and shall report such cost ceiling to the Congress.

(B) No entity shall receive assistance under this subsection for a period greater than 4 years.

(C) The aggregate funding provided by the Secretary for projects under this subsection shall not exceed $100,000,000 for the period encompassing fiscal years 1993 through 1997.

(5) STATUS REPORT.—The Secretary shall annually submit to the Congress a status report on each project receiving assistance under this subsection.

SEC. 2124. PROTOTYPE DEMONSTRATION OF ADVANCED NUCLEAR REACTOR TECHNOLOGY.

(a) SOLICITATION OF PROPOSALS.—Within 3 years after the date of enactment of this Act, the Secretary shall solicit proposals for carrying out the preliminary engineering design of not more than 2 prototype advanced nuclear reactor technologies developed by the Department of Energy, other than advanced light water reactor technologies, necessary to support a decision on whether to recom-

mend construction of a prototype demonstration reactor with the characteristics described in section 2123(a). Proposals submitted under this subsection shall be for modular design concepts of sufficient size to address requirements related to the certification of a standardized design.

(b) RECOMMENDATION TO CONGRESS.—(1) Not later than September 30, 1998, the Secretary shall submit to Congress recommendations on whether to build one or more prototype demonstration reactors under this section. Such recommendations shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on milestones for construction and operation;

(C) include an estimate of the funding requirements; and

(D) specify the extent and type of non-Federal financial support anticipated.

In developing the recommendations under this paragraph, the Secretary shall provide for public notice and an opportunity for comment, and shall solicit the views of the Commission and other parties with technical expertise the Secretary considers useful in the development of such recommendations.

(2) The prototype demonstration program under this section shall be carried out to the maximum extent practicable with private sector funding. At least 50 percent of the funding for such program shall be non-Federal funding. The extent of non-Federal cost sharing proposed for any demonstration project shall be a criterion for the selection of the project.

(c) SELECTION OF TECHNOLOGY.—Any technology selected by the Secretary for recommendation for prototype demonstration under this section shall to the maximum extent possible exhibit the characteristics set forth in section 2123(a).

SEC. 2125. REPEALS.

The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 is amended—

(1) in section 4(c)(1)(C), by inserting "and" after "Program;";

(2) in section 4(c)(2)(C), by striking "Program; and" and inserting in lieu thereof "Program.";

(3) by striking section 4(c)(3);

(4) in section 5(1)(B), by inserting "and" after "program;";

(5) in section 5(2)(B), by striking "program; and" and inserting in lieu thereof "program."; and

(6) by striking section 5(3).

SEC. 2126. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle $212,804,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994. Amounts authorized or otherwise made available for program direction, space reactor power systems, advanced radioisotope power systems, and the space exploration initiative under nuclear energy research and development shall be in addition to the amounts authorized in the preceding sentence.

TITLE XXII—ENERGY AND ECONOMIC GROWTH

SEC. 2201. NATIONAL ADVANCED MATERIALS INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a 5-year National Advanced Materials Program, in accordance with sections 3001 and 3002 of this Act. Such program shall foster the commercialization of techniques for processing, synthesizing, fabricating, and manufacturing advanced materials and associated components. At a minimum, the Program shall expedite the private sector deployment of advanced materials for use in high performance energy efficient and renewable energy technologies in the industrial, transportation, and buildings sectors that can foster economic growth and competitiveness. The Program shall include field demonstrations of sufficient scale and number to prove technical and economic feasibility.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide activities under this section. The Secretary shall biennially update and resubmit the program plan to Congress.

(c) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan. Such proposals may be submitted by one or more parties.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of advanced materials in energy efficiency or renewable energy in the near-term to mid-term;

(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrants collaboration with such laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) evidence of the ability of the proposers to undertake and complete the proposed project.

(d) GENERAL SERVICES ADMINISTRATION DEMONSTRATION PROGRAM.—The Secretary, in consultation with the Administrator of General Services, shall establish a program to expedite the use, in goods and services acquired by the General Services Administration, of advanced materials technologies. Such program shall include a demonstration of the use of advanced materials technologies as may be necessary to establish technical and economic feasibility. The Secretary shall transfer funds to the General Services Administration for carrying out this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived for energy efficient applications from section 2101(e) and for renewable applications from section 2111(c), including Department of Energy national laboratory participation in proposals submitted under subsection (c), and including transferring funds to the General Services Administration.

SEC. 2202. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a 5-year National Advanced Manufacturing Technologies Program, in accordance with sections 3001 and 3002 of this Act. Such program shall foster the commercialization of advanced manufacturing technologies to improve energy efficiency and productivity in manufacturing. At a minimum, the Program shall expedite the private sector deployment of advanced manufacturing technologies to improve productivity, quality, and control in manufacturing processes that can foster economic growth, energy efficiency, and competitiveness. The program shall include field demonstrations of sufficient scale and number to prove technical and economic feasibility.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide activities under this section. The Secretary shall biennially update and resubmit the program plan to Congress.

(c) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan. Such proposals may be submitted by one or more parties.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of advanced manufacturing technologies to improve energy efficiency in the building, industry, and transportation sectors;

(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrants collaboration with such laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) evidence of the ability of the proposers to undertake and complete the proposed project.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived from sums authorized under section 2101(e), including Department of Energy national laboratory participation in proposals submitted under subsection (c).

SEC. 2203. SUPPORTING RESEARCH AND TECHNICAL ANALYSIS.

(a) BASIC ENERGY SCIENCES.—

(1) PROGRAM DIRECTION.—The Secretary shall continue to support a vigorous program of basic energy sciences to provide basic research support for the development of energy technologies. Such program shall focus on the efficient production and use of energy, and the expansion of our knowledge of materials, chemistry, geology, and other related areas of advancing technology development.

(2) USER FACILITIES.—(A) As part of the program referred to in paragraph (1), the Secretary shall carry out planning, construction, and operation of user facilities to provide special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of our Nation's universities, industry, private laboratories, Federal laboratories, and others. Research institutions or individuals from other nations shall be accommodated at such user facilities in cases where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest.

(B) The construction of the Advanced Photon Source at the Argonne National Laboratory is hereby authorized.

(C) The Secretary shall not change the user fee practice in effect as of October 1, 1991, with respect to user facilities unless the Secretary notifies Congress 90 days before the effective date of any change.

(D) The Secretary shall expedite the design for construction of the Advanced Neutron Source at the Oak Ridge National Laboratory, in order to provide critical research capabilities in support of our national research initiatives for advanced materials and biotechnology, as well as a broad range of research. Such action shall be consistent with the Basic Energy Sciences Advisory Committee's Technical Evaluation of accelerator and reactor neutron source technologies. Within 90 days after the date of enactment of this Act, the Secretary shall submit to the Congress a plan for such design, including a schedule for construction.

(3) COST SHARING.—The Secretary shall not require cost sharing for research and development pursuant to this subsection, except—

(A) as otherwise provided for in cooperative research and development agreements or other agreements entered into under existing law;

(B) for fees for user facilities, as determined by the Secretary; or

(C) in the case of specific projects, where the Secretary determines that the benefits of such research and development accrue to a specific industry or group of industries, in which case cost sharing under section 3002 of this Act shall apply.

(b) UNIVERSITY AND SCIENCE EDUCATION.—(1) The Secretary shall support programs for improvements and upgrading of university research reactors and associated instrumentation and equip-

ment. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the condition and status of university research reactors, which includes a 5-year plan for upgrading and improving such facilities, instrumentation capabilities, and related equipment.

(2) The Secretary shall develop a method to evaluate the effectiveness of science and mathematics education programs provided by the Department of Energy and its laboratories, including specific evaluation criteria.

(3)(A)(i) The Director of the Office of Energy Research shall operate an Experimental Program to Stimulate Competitive Research (in this paragraph referred to as "EPSCoR") as part of the Department of Energy's University and Science Education Programs.

(ii) The objectives of EPSCoR shall be—

(I) to enhance the competitiveness of the peer-review process within academic institutions in eligible States; and

(II) to increase the probability of long-term growth of competitive funding to investigators at institutions from eligible States.

(iii) In order to carry out the objectives stated in clause (ii), EPSCoR shall provide for activities which may include (but not be limited to) competitive research awards and graduate traineeships.

(iv) EPSCoR shall assist those States that—

(I) historically have received relatively little Federal research and development funding; and

(II) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(B) For purposes of this paragraph, the term "eligible States" means States that received a Department-EPSCoR planning or traineeship grant in fiscal year 1991 or fiscal year 1992.

(C) No more than $5,000,000 of the funds appropriated to EPSCoR in any fiscal year, through fiscal year 1997, are authorized to be appropriated for graduate traineeships.

(c) TECHNOLOGY TRANSFER.—The Secretary shall support technology transfer activities conducted by the National Laboratories. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the adequacy of funding for such activities, along with a proposal recommending ways to reduce the length of time required to consummate cooperative research and development agreements.

(d) FACILITIES SUPPORT FOR MULTIPROGRAM ENERGY LABORATORIES.—

(1) FACILITY POLICY.—The Secretary shall develop and implement a least cost strategy for correcting facility problems, closing unneeded facilities, making facility modifications, and building new facilities at multiprogram energy laboratories.

(2) FACILITY PLAN.—Within 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at multiprogram energy laboratories. Such plan shall provide for facilities work in ac-

cordance with the following priorities, listed in descending order of priority:

(A) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(B) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration.

(C) Providing engineering design and construction services for those facilities which require modification or additions in order to meet the needs of new or expanded programs.

Such plan shall include plans for new facilities and facility modifications which will be required to meet the Department of Energy's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations. Such plan shall address the coordination of modernization and consolidation of facilities in order to meet changing mission requirements, and shall provide for annual reports to Congress on accomplishments, conformance to schedules, commitments, and expenditures.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for Supporting Research and Technical Analysis, including Basic Energy Sciences, Energy Research Analysis, University and Science Education, Technology Transfer, Advisory and Oversight Program Direction, and Facilities Support for Multiprogram Energy Laboratories, $966,804,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.

SEC. 2204. MATH AND SCIENCE EDUCATION PROGRAM.

(a) PROGRAM.—The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 417A through 417F of Public Law 89-329, as amended (20 U.S.C. 1070d through 1070d-1d).

(b) PURPOSE.—(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 417A of Public Law 89-329, as amended (20 U.S.C. 1070d-d), in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) SUPPORT.—(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activities under this section with the Secretary of Education and the Secretary.

(d) COOPERATION WITH QUALIFIED ENTITIES.—The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) REPORT.—Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) EFFECT ON EXISTING PROGRAMS.—The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) DEFINITION.—For purposes of this section, the term "qualified entity" means a nonprofit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, to be derived from section 2203(e) and the Environmental Restoration and Waste Management program, to carry out the purposes of this section.

SEC. 2205. INTEGRATION OF RESEARCH AND DEVELOPMENT.

Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare

and submit to Congress a 5-year program plan for improving the integration of basic energy research programs with other energy programs within the Department of Energy. Such program plan shall include—

(1) an evaluation of current procedures and mechanisms used to achieve such integration;

(2) an assessment of the role that the Department of Energy national laboratories play in such integration;

(3) an identification and evaluation of models that could enhance such integration;

(4) an identification and evaluation of new programs, mechanisms, and related policy options that could improve the integrating process, including—

(A) set aside funding for matching or leveraging basic and applied programs;

(B) more formal linkages; and

(C) program coordination;

(5) recommendations for expanded research and development and new technology areas; and

(6) budget estimates for activities under this section.

SEC. 2206. DEFINITIONS.

For purposes of this title—

(1) the term "advanced manufacturing technology" means processes, equipment, techniques, practices, and capabilities that are applied for the purpose of—

(A) improving the productivity, quality, or energy efficiency of the design, development, testing, or manufacture of a product; or

(B) expanding the technical capability to design, develop, test, or manufacture a product that is fundamentally different in character from existing products and that will result in improved energy efficiency;

(2) the term "advanced materials" means materials that are processed, synthesized, fabricated, and manufactured to develop high performance properties that exceed the corresponding properties of conventional materials for structural, electronic, magnetic, or photonic applications, or for joining, welding, bonding, or packaging components into complex assemblies, including—

(A) advanced monolithic materials such as metals, ceramics, and polymers;

(B) advanced composite materials such as metal matrix (including intermetallics), polymer matrix, ceramic matrix, continuous fiber ceramic composite, and carbon matrix composites; and

(C) advanced electronic, magnetic, and photonic materials, including superconducting, semiconductor, electrooptic, magnetooptic, thin-film, and special purpose coating materials used in technologies for energy efficiency, renewable energy, or electric power applications; and

(3) the term "United States" means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the

Northern Mariana Islands, and any other territory or possession of the United States.

TITLE XXIII—POLICY AND ADMINISTRATIVE PROVISIONS

SEC. 2301. POLICY ON MAJOR CONSTRUCTION PROJECTS.

(a) REPORT AND MANAGEMENT PLAN.—The Secretary shall submit to the Congress a report and management plan for any major construction project involving $100,000,000 or more, prior to the expenditure of those funds.

(b) CONGRESSIONAL REVIEW.—Expenditure of funds for a project described in subsection (a) may be made after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days prior to a day certain) has passed after receipt of the report and management plan by Congress.

SEC. 2302. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Research, Development, Demonstration, and Commercial Application Advisory Board (hereafter in this section referred to as the "Advisory Board").

(b) RESPONSIBILITIES.—The Advisory Board shall provide impartial technical advice to the Secretary to assist in the development of energy research, development, demonstration, and commercial application plans and reports under sections 6 and 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905 and 5914), under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), and as otherwise provided in titles XX through XXIII of this Act. The Advisory Board shall also periodically review such plans and reports and their implementation in relation to the goals stated in section 2001 of this Act, and report the results of such review to the Secretary and the Congress. Such report shall be included as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914).

(c) USE OF EXISTING ADVISORY BOARD.—The Secretary may use an existing advisory board to carry out the responsibilities described in subsection (b).

SEC. 2303. AMENDMENTS TO EXISTING LAW.

(a) FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974 AMENDMENTS.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) by striking "the Administrator" and inserting "the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), and titles XX through XXIII of the Energy Policy Act of 1992, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,";

(B) by striking "(to the early 1980's)" in paragraph (1) and inserting "(the period up to 5 years after submission of the plan or its annual revision)";

(C) by striking "(the early 1980's to 2000)" in paragraph (2) and inserting "(the period from 5 years to 10 years after submission of the plan or its annual revision)"; and

(D) by striking "(beyond 2000)" in paragraph (3) and inserting "(the period beyond 10 years after submission of the plan or its annual revision)";

(2) in subsection (b)—

(A) by striking "Administrator" in paragraphs (1) and (2) and inserting "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,";

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." at the end of paragraph (1);

(C) by striking "(to the early 1980's), middle-term (the early 1980's to 2000), and long-term (beyond 2000) time intervals" in paragraph (2) and inserting ", middle-term, and long-term time intervals described in subsection (a)(1) through (3)";

(D) by striking "and" at the end of paragraph (3)(P);

(E) by striking the period at the end of paragraph (3)(Q) and inserting a semicolon; and

(F) by adding at the end of paragraph (3) the following new subparagraphs:

"(R) to implement the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.); and

"(S) to implement titles XX through XXIII of the Energy Policy Act of 1992."; and

(3) in subsection (c)—

(A) by striking "Administrator" and inserting "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,"; and

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." after "and demonstration plans.".

(b) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY COMPETITIVENESS ACT OF 1989 AMENDMENT.—Section 9(b)(4) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12006(b)(4)) is amended by inserting "and the plan developed under section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905)" after "(42 U.S.C. 7321)".

SEC. 2304. MANAGEMENT PLAN.

(a) PLAN PREPARATION.—The Secretary, in consultation with the Advisory Board established under section 2302, shall prepare a management plan for the conduct of research, development, demonstration, and commercial application of energy technologies that is consistent with the goals stated in section 2001.

(b) CONTENTS OF PLAN.—The management plan under subsection (a) shall provide for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness.

(c) ENERGY TECHNOLOGY INVENTORY AND STATUS REPORT.—As part of the management plan, the Secretary, with the advice of the Advisory Board established under section 2302 of this Act, shall develop an inventory and status report of technologies to enhance energy supply and to improve the efficiency of energy end uses. The inventory and status report shall include fossil, renewable, nuclear, and energy conservation technologies which have not yet achieved the status of fully reliable and cost-competitive commercial availability, but which the Secretary projects may become available with additional research, development, and demonstration. The inventory and status report shall provide, for each technology—

(1) an assessment of its—

(A) degree of technological maturity; and

(B) principal research, development, and demonstration issues, including—

(i) the barriers posed by capital, operating, and maintenance costs;

(ii) technical performance; and

(iii) potential environmental impacts;

(2) the projected time frame for commercial availability, specifying at a minimum whether the technology will be commercially available in the near-term, mid-term, or long-term, whether there are too many uncertainties to project availability, or whether it is unlikely that the technology will ever be commercial; and

(3) a projection of the future cost-competitiveness of the technology in comparison with alternative technologies to provide the same energy service.

(d) PUBLIC COMMENT.—The Secretary shall publish the proposed management plan for a written public comment period of at least 90 days. The Secretary shall consider such comments and include a summary thereof in the management plan.

(e) PLAN SUBMISSION.—Within one year after the date of enactment of this Act, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially, at the time of submittal of the President's annual budget submission to the Congress.

SEC. 2305. COSTS RELATED TO DECOMMISSIONING AND THE STORAGE AND DISPOSAL OF NUCLEAR WASTE.

(a) AWARD OF CONTRACTS.—

(1) PRIME CONTRACTORS.—In awarding contracts to perform nuclear hot cell services, the Secretary, in evaluating bids for such contracts, shall exclude from consideration costs related to the decommissioning of nuclear facilities or the storage and disposal of nuclear waste, if—

(A) one or more of the parties bidding to perform such services is a United States company that is subject to such costs; and

(B) one or more of the parties bidding to perform such services is a foreign company that is not subject to comparable costs.

(2) SUBCONTRACTORS.—Any person awarded a contract subject to the restrictions described in paragraph (1) who subcontracts with a person to perform the services described in such paragraph shall be subject to the same restrictions in evaluating bids among potential subcontractors, as the Secretary was subject to in evaluating bids among prime contractors.

(b) ISSUANCE OF REGULATIONS.—The Secretary shall issue regulations not later than 90 days after the date of the enactment of this Act to carry out the requirements of subsection (a).

(c) DEFINITIONS.—As used in this section—

(1) the term "costs related to decommissioning of nuclear facilities" means any cost associated with the compliance with regulatory requirements governing the decommissioning of nuclear facilities licensed by the Nuclear Regulatory Commission;

(2) the term "costs related to storage and disposal of nuclear waste" means any costs, whether required by regulation or incurred as a matter of prudent business practice, associated with the storage or disposal of nuclear waste;

(3) the term "nuclear hot cell services" means services related to the examination of, or performance of various operations on, nuclear fuel rods, control assemblies, or other components that are emitting large quantities of ionizing radiation; and

(4) the term "nuclear waste" means any radioactive waste material subject to regulation by the Nuclear Regulatory Commission or the Department of Energy.

SEC. 2306. LIMITS ON PARTICIPATION BY COMPANIES.

A company shall be eligible to receive financial assistance under titles XX through XXIII of this Act only if—

(1) the Secretary finds that the company's participation in any program under such titles would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; an agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(A) the company is a United States-owned company; or

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

SEC. 2307. UNCOSTED OBLIGATIONS.

(a) REPORT.—Along with the submission of each of the President's annual budget requests to Congress, the Secretary shall submit to Congress a report which—

(1) identifies the amount of Department of Energy funds that were, as of the end of the previous fiscal year—

(A) committed uncosted obligations; and

(B) uncommitted uncosted obligations;

(2) specifically describes the purposes for which all such funds are intended; and

(3) explains the effect that information contained in the report has had on the annual budget request for the Department of Energy being simultaneously submitted.

(b) DEFINITIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing definitions of the terms "uncosted obligation", "committed uncosted obligation", and "uncommitted uncosted obligation" for purposes of reports to be submitted under subsection (a).

TITLE XXIV—NON-FEDERAL POWER ACT HYDROPOWER PROVISIONS

SEC. 2401. RIGHTS-OF-WAY ON CERTAIN FEDERAL LANDS.

Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended—

(1) by inserting in subsection (a) after "public lands" the following: "(including public lands, as defined in section 103(e) of this Act, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818))";

(2) in paragraph (4) of subsection (a), by striking "Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791) and inserting in lieu thereof "Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a-825r).";
and

(3) by adding the following new subsection at the end thereof:

"(d) With respect to any project or portion thereof that was licensed pursuant to, or granted an exemption from, part I of the Federal Power Act which is located on lands subject to a reservation under section 24 of the Federal Power Act and which did not receive

a permit, right-of-way or other approval under this section prior to enactment of this subsection, no such permit, right-of-way, or other approval shall be required for continued operation, including continued operation pursuant to section 15 of the Federal Power Act, of such project unless the Commission determines that such project involves the use of any additional public lands or National Forest lands not subject to such reservation.".

SEC. 2402. DAMS IN NATIONAL PARK SYSTEM UNITS.

After the date of enactment of this Act, the Federal Energy Regulatory Commission may not issue an original license under Part I of the Federal Power Act (nor an exemption from such Part) for any new hydroelectric power project located within the boundaries of any unit of the National Park System that would have a direct adverse effect on Federal lands within any such unit. Nothing in this section shall be construed as repealing any existing provision of law (or affecting any treaty) explicitly authorizing a hydroelectric power project.

SEC. 2403. THIRD PARTY CONTRACTING BY FERC.

(a) ENVIRONMENTAL IMPACT STATEMENTS.—Where the Federal Energy Regulatory Commission is required to prepare a draft or final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following) in connection with an application for a license under part I of the Federal Power Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work, to prepare such statement for the Commission. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(b) ENVIRONMENTAL ASSESSMENTS.—Where an environmental assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following) in connection with an application for a license under part I of the Federal Power Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(c) EFFECTIVE DATE.—This section shall take effect with respect to license applications filed after the enactment of this Act.

SEC. 2404. IMPROVEMENT AT EXISTING FEDERAL FACILITIES.

(a) STUDIES OF OPPORTUNITIES FOR INCREASED HYDROELECTRIC GENERATION.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform reconnaissance level studies of cost effective opportunities to increase hydropower production at existing federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within 2 years after the date of enactment of this Act and transmitted to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and to the Committee on Energy and Commerce, the Committee on Interior and Insular Affairs, and the Committee on Public Works and Transportation of the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural, or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs and the economic and environmental consequences of such measures.

(b) EXCEPTION FOR PREVIOUS STUDIES.—In those cases where studies of the type required by this section have been prepared by any agency of the United States and published within the ten years prior to the date of enactment of this Act, the Secretary may choose not to perform new studies but incorporate the information developed by such studies into the study reports required by this section.

(c) AUTHORIZATION.—There is authorized to be appropriated in each of the fiscal years 1993, 1994, and 1995 such sums as may be necessary to carry out the purposes of this section.

SEC. 2405. WATER CONSERVATION AND ENERGY PRODUCTION.

(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a

result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

(1) an analysis of the technical, environmental, and economic feasibility of reducing the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

(c) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

SEC. 2406. FEDERAL PROJECTS IN THE PACIFIC NORTHWEST.

Without further appropriation and without fiscal year limitation, the Secretaries of the Interior and Army are authorized to plan, design, construct, operate and maintain generation additions, improvements and replacements, at their respective Federal projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96-501 (16 U.S.C. 839a(14)), and to operate and maintain the respective Secretary's power facilities in the Region, that the respective Secretary determines necessary or appropriate and that the Bonneville Power Administrator subsequently determines necessary or appropriate, with any funds that the Administrator determines to make available to the respective Secretary for such purposes. Each Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: Provided, That, such funds shall continue to be exempt from sequestration pursuant to section 255(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

SEC. 2407. CERTAIN PROJECTS IN ALASKA.

(a) AUTHORITY TO ISSUE EXEMPTIONS.—Except as provided in subsection (b) or (c), upon receipt of an application under this section, the Federal Energy Regulatory Commission (hereinafter in this section referred to as the "Commission") may grant, notwithstanding the provisions of section 2402, an exemption in whole or in part from the requirements of part I of the Federal Power Act, including any license requirements contained in Part I of the Federal Power Act, to the following facilities located in the State of Alaska:

(1) a project located at Sitka, Alaska, with application numbered UL89-08-000;

(2) a project located at Juneau, Alaska, with preliminary permit numbered 10681-000; and

(3) a project located near Nondalton, Alaska, with application numbered EL88-25-001.

(b) CAPACITY LIMITATIONS.—No exemption under subsection (a) shall be applicable to any facility the installed capacity of which exceeds 5 megawatts.

(c) MANDATORY TERMS AND CONDITIONS.—In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the State agency exercising administration over the fish and wildlife resources of the State of Alaska, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

(1) such terms and conditions as the Fish and Wildlife Service, National Marine Fisheries Service, and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

(2) such terms and conditions as the Commission deems appropriate to ensure that such facility continues to comply with the provisions of this section and terms and conditions included in any such exemption.

(d) ENFORCEMENT.—Any violation of a term or condition of any exemption granted under subsection (a) shall be treated as a violation of a rule or order of the Commission under the Federal Power Act.

(e) FEES.—The Commission may establish fees which shall be paid by an applicant for a license or exemption for a project that is required to meet terms and conditions set by fish and wildlife agencies under subsection (c). Such fees shall be adequate to reimburse the fish and wildlife agencies referred to in subsection (c) for any reasonable costs incurred in connection with any studies or other reviews carried out by such agencies for purposes of compliance with this section. The fees shall, subject to annual appropriations Acts, be transferred to such agencies by the Commission for use solely for purposes of carrying out such studies and shall remain available until expended.

(f) EXPEDITED PROCESSING.—A completed application for an exemption under this section shall be acted on by the Commission in an expedited manner, in accordance with this section, within 6 months after the date on which the application for such exemption is applied for, or as promptly as practicable thereafter.

SEC. 2408. PROJECTS ON FRESH WATERS IN STATE OF HAWAII.

The Federal Energy Regulatory Commission, in consultation with the State of Hawaii, shall carry out a study of hydroelectric licensing in the State of Hawaii. For purposes of considering whether such licensing should be transferred to the State, within 18 months after the enactment of this Act, the Commission shall complete the study and submit a report containing the results of the study to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate. The study shall examine, and the report shall at a minimum contain an analysis of, each of the following:

(1) The State regulatory programs applicable to hydroelectric power production and the extent to which such programs are suitable as a substitute for regulation of such projects under the Federal Power Act, taking into consideration all aspects of such regulation, including energy, environmental, and safety considerations.

(2) Any unique geographical, hydrological, or other characteristics of waterways in Hawaii or any other aspects of hydroelectric power development and natural resource protection in Hawaii that would justify or not justify the permanent transfer of Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects to that State.

(3) The adequacy of mechanisms and procedures for consideration of fish and wildlife and other environmental values applicable in connection with hydroelectric power development in Hawaii under the State programs referred to in paragraph (1).

(4) Any national policy considerations that would justify or not justify the removal of Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects in Hawaii.

(5) The precedent-setting effect, if any, of provisions of law adopted by the Congress removing Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects in Hawaii.

SEC. 2409. EVALUATION OF DEVELOPMENT POTENTIAL.

The Act of August 30, 1935 (Public Law No. 409 of the 74th Congress), is amended by inserting "The Secretary shall undertake a demonstration project to evaluate the potential for hydropower development, utilizing tidal currents;" after "Document Numbered 15, Seventy-fourth Congress;".

TITLE XXV—COAL, OIL, AND GAS

SEC. 2501. HOT DRY ROCK GEOTHERMAL ENERGY.

(a) USGS PROGRAM.—The Secretary of the Interior, acting through the United States Geological Survey, and in consultation with the Secretary of Energy, shall establish a cooperative Government-private sector program with respect to hot dry rock geothermal energy resources on public lands (as such term is defined in section 103(e) of the Federal Land Policy and Management Act of 1976) and lands managed by the Department of Agriculture, other than any such public or other lands that are withdrawn from geothermal

leasing. Such program shall include, but shall not be limited to, activities to identify, select, and classify those areas throughout the United States that have a high potential for hot dry rock geothermal energy production and activities to develop and disseminate information regarding the utilization of such areas for hot dry rock energy production. Such information may include information regarding field test processes and techniques for assuring that hot dry rock geothermal energy development projects are developed in an economically feasible manner without adverse environmental consequences. Utilizing the information developed by the Secretary, together with information developed in connection with other related programs carried out by other Federal agencies, the Secretary, acting through the United States Geological Survey, may also enter into contracts and cooperative agreements with any public or private entity to provide assistance to any such entity to enable such entity to carry out additional projects with respect to the utilization of hot dry rock geothermal energy resources which will further the purposes of this section.

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

SEC. 2502. HOT DRY ROCK GEOTHERMAL ENERGY IN EASTERN UNITED STATES.

The United States Geological Survey, in collaboration with the Secretary of Energy, shall convene a workshop of interested governmental and private parties to discuss the regional potential for hot dry rock geothermal energy in the Eastern United States. The purpose of the workshop shall be to review the status of recoverability of hot dry rock energy in the Eastern United States and to determine what geologic, technological, and economic obstacles need to be overcome to make the utilization of hot dry rock energy feasible. The workshop shall be convened within 6 months after enactment of this Act and the United States Geological Survey shall submit a report to Congress within 6 months after the workshop containing a summary of the findings and conclusions of the workshop.

SEC. 2503. COAL REMINING.

(a) MODIFICATION OF PROHIBITION.—Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) MODIFICATION OF PROHIBITION.—After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(b)(20)(B) shall terminate on September 30, 2004.".

(b) PERIOD OF RESPONSIBILITY.—Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will be extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.".

(c) DEFINITIONS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).".

(d) ELIGIBILITY.—Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.".

(e) ABANDONED COAL REFUSE SITES.—(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocess-

ing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary of the Interior may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

SEC. 2504. SURFACE MINING ACT IMPLEMENTATION.

(a) SUBSIDENCE.—(1) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

"SEC. 720. SUBSIDENCE.

"(a) REQUIREMENTS.—Underground coal mining operations conducted after the date of enactment of this section shall comply with each of the following requirements:

"(1) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

"(b) REGULATIONS.—Within one year after the date of enactment of this section, the Secretary shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a).".

(2)(A) The Secretary of the Interior shall review existing requirements r ˈɹɑted to underground coal mine subsidence and natural gas and p ɔleum pipeline safety. Such review shall consider the fol-

lowing with respect to subsidence: notification; mitigation; coordination; requirements of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act; and the status of Federal, State and local laws, as well as common law, with respect to prevention or mitigation of damage from subsidence.

(B) The review shall also include a survey of the status of Federal, State, and local laws, as well as common law, with respect to the responsibilities of the relevant parties for costs resulting from damage due to subsidence or from mitigation efforts undertaken to prevent damage from subsidence.

(C) In conducting the review, the Secretary of the Interior shall consult with the Secretary of Transportation, the Attorney General of the United States, appropriate officials of relevant States, and owners and representatives of natural gas and petroleum pipeline companies and coal companies.

(D) The Secretary of the Interior shall submit a report detailing the results of the review to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within 18 months of enactment of this Act. Where appropriate, the Secretary of the Interior shall commence a rulemaking to address any deficiencies in existing law determined in the review under subparagraph (A) regarding notification, coordination and mitigation.

(b) VALID EXISTING RIGHTS.—During the 1-year period following the enactment of this Act, in administering the provisions of the Surface Mining Control and Reclamation Act of 1977 regarding valid existing rights, the Secretary of the Interior shall continue in force and effect the policies of the Office of Surface Mining as set forth in the November 10, 1986 Statement of Policy published in 51 Federal Register 41952.

(c) RESEARCH.—(1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumber the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. RESEARCH.

"The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of

Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).".

(d) COAL FORMATIONS.—(1) In furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551-558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall, upon application by a State, enter into a cooperative agreement with any such State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State. Any such cooperative agreement shall not be subject to review or approval by the Appalachian Regional Development Commission.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed $500,000 annually,".

(e) TECHNICAL AMENDMENT.—Section 403(b)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(b)(2)) is amended by inserting ", or as the case may be, the dates (and under the criteria) set forth under section 402(g)(4)(B)" after "1977" in each instance such date appears.

SEC. 2505. FEDERAL LIGNITE COAL ROYALTIES.

(a) COAL IN FORT UNION REGION.—Notwithstanding any other provision of law, or any regulation or guideline issued thereunder, the Secretary of the Interior may determine, with respect to lignite coal in the Fort Union region, a lesser royalty than the royalty specified under section 7 of the Mineral Leasing Act (30 U.S.C. 207). Any lesser royalty granted under this section, or under section 39 of the Mineral Leasing Act (30 U.S.C. 209) after March 29, 1990, for lignite coal in the Fort Union region shall continue for a term of at least 10 years from the effective date of such reduction.

(b) REVIEW AND EXTENSION.—Within 10 years after the date of enactment of this Act, the Secretary of the Interior shall review the effect of any royalty reduction pursuant to subsection (a) on the production of coal. If the Secretary determines that such royalty reduction has had no significant adverse impact on coal production, upon a request by a lignite coal operator in the Fort Union region, the Secretary may grant an additional royalty reduction for a period of 10 years, provided that the total term of the reduced royalty granted pursuant to subsection (a) and this subsection for a tract or lease does not exceed a period of 20 years.

SEC. 2506. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT.

(a) MINERAL RECEIPTS UNDER ACQUIRED LANDS ACT.—Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any payment to a State under this section shall be made by the Secretary of the

Interior and shall be made not later than the last business day of the month following the month in which such moneys or associated reports are received by the Secretary of the Interior, whichever is later. The Secretary shall pay interest to a State on any amount not paid to the State within that time at the rate prescribed under section 111 of the Federal Oil and Gas Royalty Management Act of 1982 from the date payment was required to be made under this subsection until the date payment is made.".

(b) AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.—The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) is amended by adding the following new section at the end thereof:

"SEC. 11. AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.

"Each department, agency and instrumentality of the United States which administers lands acquired by the United States with one or more existing mineral lease shall transfer to the Secretary of the Interior the authority to administer such lease and to collect all receipts due and payable to the United States under the lease. In the case of lands acquired on or before the date of the enactment of this section, the authority to administer the leases and collect receipts shall be transferred to the Secretary of the Interior as expeditiously as practicable after the date of enactment of this section. In the case of lands acquired after the date of enactment of this section, such authority shall be vested with the Secretary at the time of acquisition. The provisions of section 6 of this Act shall apply to all receipts derived from such leases where such receipts are due and payable to the United States under the lease in the same manner as such provisions apply to receipts derived from leases issued under the authority of this Act. For purposes of this section, the term 'existing mineral lease' means any lease in existence at the time land is acquired by the United States. Nothing in this section shall be construed to affect the existing surface management authority of any Federal agency.".

(c) CLARIFICATION.—Section 7 of the Act of August 18, 1941, ch. 377 (33 U.S.C. 701c-3) is amended by adding the following sentence at the end thereof: "For the purposes of this section, the term 'money' includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.".

SEC. 2507. RESERVED OIL AND GAS.

(a) IN GENERAL.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended as follows—

(1) In paragraph (1)(A), strike out "under paragraph (2)" and insert in lieu thereof "under paragraphs (2) and (3)".

(2) Adding at the end thereof the following new paragraph:

"(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being pro-

duced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

"(B) An election under this paragraph is effective—

"(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

"(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

"(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

"(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

"(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

"(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.

SEC. 2508. CERTAIN OUTSTANDING OIL AND GAS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (n):

"(o) CERTAIN OUTSTANDING OIL AND GAS.—(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to terms and conditions as provided under paragraph (2).

"(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

"(3) Advance notice under paragraph (2) shall include each of the following items of information:

"(A) A designated field representative.

"(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

"(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

"(D) A plan of erosion and sedimentation control.

"(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

"(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either—

"(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

"(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

"(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

"(B) This subsection shall only apply in the Allegheny National Forest.".

(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a).

SEC. 2509. FEDERAL ONSHORE OIL AND GAS LEASING.

The first sentence of section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) is amended by striking the phrase starting with "Competitive leases" and ending with "ten years: Provided, however," and inserting in lieu thereof the following: "Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: Provided, however,".

SEC. 2510. OIL PLACER CLAIMS.

Notwithstanding any other provision of law, in furtherance of the purposes of the Act of February 11, 1897, commonly referred to as the Oil Placer Act, and section 37 of the Mineral Leasing Act, the Secretary of the Interior is authorized and directed to, within 90 days after the enactment of this Act, (1) convey by quit-claim deed to the owner or owners, or (2) separately and as an alternative, disclaim and relinquish by a document in any form suitable for recordation in the county within which the lands are situated, all right, title and interest or claim of interest of the United States to those

lands in the counties of Hot Springs, Park and Washakie in the State of Wyoming, held pursuant to the Act of February 11, 1897, and which are currently producing covered substances under a cooperative or unit plan of development.

SEC. 2511. OIL SHALE CLAIMS.

(a) NOTICE.—Notwithstanding any other provision of law, within 60 days from the date of enactment of this Act, the Secretary of the Interior shall provide notice to each holder of an unpatented oil shale mining claim of the requirements of this Act. Such notice shall be made by registered mail and by publication in a newspaper of general circulation in the areas in which such claims are located.

(b) FULL PATENT.—The holder of a valid oil shale mining claim who has filed a patent application and received first half final certificate for patent by date of enactment of this Act, may obtain a patent pursuant to the general mining laws of the United States.

(c) PATENT.—(1) Notwithstanding any other provision of law, the holder of a valid oil shale mining claim who has filed a patent application which has been accepted for processing by the Department of the Interior by the date of enactment of this Act but has not received first half final certificate for patent by the date of enactment of this Act may receive only a patent limited to the oil shale and associated minerals, upon payment of $2.50 per acre. Title to the surface and to all other minerals, including, but not limited to, oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to enactment of this Act with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Maintenance of claims referred to in this subsection prior to patent issuance shall be in accordance with the requirements of applicable law prior to enactment of this Act.

(3) Any holder of a valid oil shale mining claim referred to in this subsection may maintain such claim in accordance with the requirements set forth in subsection (e)(2) in lieu of receiving a patent under this section.

(4) Notwithstanding any other provision of law, any person referred to in paragraph (1) who obtains compensation from the United States as a result of the application of this section being declared to be a taking of property within the meaning of the Fifth Amendment to the United States Constitution, may obtain a full patent upon tender to the Secretary of the amount of such compensation, not including interest, and upon the receipt of such amount, the Secretary shall convey to such person a patent in the form and manner provided under the general mining laws of the United States. Such tender may only be made within 3 years of obtaining such compensation.

(d) ELECTION.—(1) Notwithstanding any other provision of law, within 180 days from the date of which the Secretary provided notice under subsection (a), a holder of a valid oil shale mining claim for which a patent application was not filed and accepted for processing by the Department of the Interior prior to the date of enactment of this Act shall file with the Secretary a notice of election to—

(A) proceed to limited patent as provided in subsection (e)(1); or

(B) maintain the unpatented claim as provided for in subsection (e)(2).

(2) Failure to file the notice of election as required by paragraph (1) shall be deemed conclusively to constitute an abandonment of the claim by operation of law.

(3) Any claim holder who elects to proceed under paragraph (1)(A) must apply for a patent within 2 years from the date of election or notify the Secretary in writing prior to expiration of the 2-year period of a decision to maintain such claim as provided in paragraph (1)(B) or such claim shall be deemed conclusively to have been abandoned by operation of law.

(4) The provisions of this subsection shall be in addition to the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744).

(e) EFFECT OF ELECTION.—(1) Notwithstanding any other provisions of law, a claim holder subject to the election requirements of subsection (d) who elects to receive a limited patent shall receive title only to the oil shale associated minerals, upon payment of fair market value for the oil shale and associated minerals. Title to the surface and to all other minerals, including, but not limited to oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to the enactment of this Act with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Notwithstanding any other provision of law, a claim holder referred to in subsection (c) or a claim holder subject to the election requirements of subsection (d) who maintains or elects to maintain an upatented claim shall maintain such claim by complying with the general mining laws of the United States, and with the provisions of this section, except that the claim holder shall no longer be required to perform annual labor, and instead shall pay to the Secretary $550 per claim per year for deposit as miscellaneous receipts in the general fund of the Treasury, commencing with calendar year 1993. Such fee shall accompany the filing made by the claim holder with the Bureau of Land Management pursuant to section 314(a)(2) of the Federal Land Policy and Management Act (43 U.S.C. 1744(a)(2)).

(f) RECLAMATION.—In addition to other applicable requirements, any person who holds a limited patent or maintains a claim pursuant to this section shall be required to carry out reclamation as prescribed by the Secretary and to furnish a bond or other appropriate financial guarantee in an amount sufficient to ensure adequate reclamation of the lands to be disturbed by any aspect of the proposed mining activities.

(g) REAFFIRMATION OF REQUIREMENTS.—Without comment on the adequacy of current or former standards for determining validity of oil shale claims, Congress reaffirms the requirements of law that a patent may issue only to persons who hold valid claims and the need for careful review of any applications.

(h) ISSUANCE OF PATENTS.—Notwithstanding any other provision of law, with respect to any oil shale mining claim located

under the general mining laws of the United States, no patent for such claim shall be issued except as provided by this section.

SEC. 2512. HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PROGRAM.

(a) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PLAN.—(1) Every 5 years, the Secretary of the Interior, acting through the Director of the Bureau of Mines (hereinafter in this section referred to as the "Director"), shall develop a Plan for Health, Safety, and Mining Technology Research (hereinafter in this subsection referred to as the "Plan").

(2) The Plan shall identify the goals and objectives of the Health, Safety, and Mining Technology program of the Bureau of Mines, and shall guide research and technology development under such program, over each 5-year period.

(3) In preparing the proposed Plan referred to in paragraph (1), the Director shall solicit suggestions, comments and proposals for research and technology development projects from the mining industry, labor, academia and other concerned groups and individuals.

(b) TECHNICAL AMENDMENT.—For the purposes of section 501(b) of Public Law 91-173, as amended, activities in the field of coal or other mine health under such section shall also be carried out by the Secretary of the Interior acting through the Director of the Bureau of Mines. Nothing in this subsection is intended to preclude or duplicate the ongoing research activities of the Bureau of Mines on health hazards safety technology or research conducted by the National Institute of Occupational Safety and Health on coal mine safety and health effects.

SEC. 2513. ASSISTANCE TO SMALL COAL OPERATORS.

(a) ASSISTANCE.—Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c) ASSISTANCE TO SMALL COAL OPERATORS.—(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory or such other public or private qualified entity designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) REIMBURSEMENT OF COSTS.—Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) REIMBURSEMENT OF COSTS.—A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

SEC. 2514. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) GRANTS.—The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall—

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources.".

SEC. 2515. AMENDMENT TO SURFACE MINING ACT.

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "1995" and inserting in lieu thereof "2004, after which time the fee shall be established at a rate to continue to provide for the deposit referred to in subsection (h)".

TITLE XXVI—INDIAN ENERGY RESOURCES

SEC. 2601. DEFINITIONS.

For purposes of this title—

(1) the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(2) the term "Indian reservation" includes Indian reservations; public domain Indian allotments; former Indian reservations in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

SEC. 2602. TRIBAL CONSULTATION.

In implementing the provisions of this Act, the Secretary of Energy shall involve and consult with Indian tribes to the maximum extent possible and where appropriate and shall do so in a manner that is consistent with the Federal trust and the Government-to-Government relationships between Indian tribes and the Federal Government.

SEC. 2603. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.

(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in consultation with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry on Indian reservations, in order to increase development of the substantial energy resources located on such Indian reservations. Such program shall include, but not be limited to, the following components:

(1) The Secretary shall provide development grants to Indian tribes or to joint ventures which are 51 percent or more controlled by an Indian tribe to assist Indian tribes in obtaining the managerial and technical capability needed to develop the energy resources on Indian reservations. Such grants shall include provisions for management training for tribal or village members, improving the technical capacity of the Indian tribe, and the reduction of tribal unemployment. Each grant shall be for a period of 3 years.

(2) The Secretary shall provide grants, not to exceed 50 percent of the project costs, for vertical integration projects. For purposes of this paragraph, the term "vertical integration project" means a project that promotes the vertical integration of the energy resources on an Indian reservation, so that the energy resources are used or processed on such Indian reservation. Such term includes, but is not limited to, projects involving solar and wind energy, oil refineries, the generation and transmission of electricity, hydroelectricity, cogeneration, natural gas distribution, and clean, innovative uses of coal.

(3) The Secretary shall provide technical assistance (and such other assistance as is appropriate) to Indian tribes for energy resource development and to promote the vertical integration of energy resources on Indian reservations.

(b) LOW INTEREST LOANS.—

(1) IN GENERAL.—The Secretary shall establish a program for making low interest loans to Indian tribes. Such loans shall be used exclusively by Indian tribes in the promotion of energy resource development and vertical integration on Indian reservations.

(2) TERMS.—The Secretary shall establish reasonable terms for loans made under this section which are to be used to carry out the purposes of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (a)(1);

(2) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (a)(2); and

(3) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (b).

SEC. 2604. INDIAN ENERGY RESOURCE REGULATION.

(a) GRANTS.—The Secretary of the Interior is authorized to make annual grants to Indian tribes for the purpose of assisting Indian tribes in the development, administration, implementation, and enforcement of tribal laws and regulations governing the development of energy resources on Indian reservations.

(b) PURPOSE.—The purposes for which funds provided under a grant awarded under subsection (a) may be used include, but are not limited to—

(1) the training and education of employees responsible for enforcing or monitoring compliance with Federal and tribal laws and regulations;

(2) the development of tribal inventories of energy resources;

(3) the development of tribal laws and regulations;

(4) the development of tribal legal and governmental infrastructure to regulate environmental quality pursuant to Federal and tribal laws; and

(5) the enforcement and monitoring of Federal and tribal laws and regulations.

(c) OTHER ASSISTANCE.—The Secretary of the Interior and the Secretary of Energy shall cooperate with and provide assistance to Indian tribes for the purpose of assisting Indian tribes in the development, administration, and enforcement of tribal programs. Such cooperation and assistance shall include the following:

(1) Technical assistance and training, including the provision of necessary circulars and training materials.

(2) Assistance in the preparation and maintenance of a continuing inventory of information on tribal energy resources and tribal operations. In providing assistance under this paragraph, Federal departments and agencies shall make available to Indian tribes all relevant data concerning tribal energy resource

development consistent with applicable laws regarding disclosure of proprietary and confidential information.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of this section.

SEC. 2605. INDIAN ENERGY RESOURCE COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Indian Energy Resource Commission (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of—

(1) 8 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribes with developable energy resources, at least 4 of whom shall be elected tribal leaders;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States that have Indian reservations with developable energy resources;

(3) 2 members appointed by the Secretary of the Interior from among individuals in the private sector with expertise in tribal and State taxation of energy resources;

(4) 2 members appointed by the Secretary of the Interior from individuals with expertise in oil and gas royalty management administration, including auditing and accounting;

(5) 2 members appointed by the Secretary of the Interior from individuals in the private sector with expertise in energy development;

(6) 1 member appointed by the Secretary of the Interior from recommendations submitted by National environmental organizations;

(7) the Secretary of the Interior, or his designee; and

(8) the Secretary of Energy, or his designee.

(c) APPOINTMENTS.—Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this title.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(f) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) ORGANIZATION MEETING.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after the members are first appointed to the Commission.

(h) COMPENSATION.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission, not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each

member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(i) TRAVEL.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees under sections 5702 and 5703 of title 5, United States Code.

(j) COMMISSION STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) ADDITIONAL PERSONNEL.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate of basic pay payable for level 15 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as it authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(4) PERSONNEL DETAIL AUTHORIZED.—Upon the request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

(k) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop proposals to address the dual taxation by Indian tribes and States of the extraction of mineral resources on Indian reservations;

(2) make recommendations to improve the management, administration, accounting and auditing of royalties associated with the production of oil and gas on Indian reservations;

(3) develop alternatives for the collection and distribution of royalties associated with production of oil and gas on Indian reservations;

(4) develop proposals on incentives to foster the development of energy resources on Indian reservations;

(5) identify barriers or obstacles to the development of energy resources on Indian reservations, and make recommendations designed to foster the development of energy resources on Indian reservations and promote economic development;

(6) develop proposals for the promotion of vertical integration of the development of energy resources on Indian reservations; and

(7) develop proposals on taxation incentives to foster the development of energy resources on Indian reservations including, but not limited to, investment tax credits and enterprise zone credits.

(l) POWERS OF THE COMMISSION.—The powers of the Commission shall include the following:

(1) For the purpose of carrying out its duties under this section, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out its duties under this section.

(m) COMMISSION REPORT.—

(1) IN GENERAL.—The Commission shall, within 12 months after funds are made available to carry out this section, prepare and transmit to the President, the Committee on Interior and Insular Affairs of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate, a report containing the recommendations and proposals specified in subsection (k).

(2) REVIEW AND COMMENT.—Prior to submission of the report required under this section, the Chairman shall circulate a draft of the report to Indian tribes and States that have Indian reservations with developable energy resources and other interested tribes and States for review and comment.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission $1,000,000 to carry out this section. Such sum shall remain available, without fiscal year limitation, until expended.

(o) TERMINATION.—The Commission shall terminate 30 days after submitting the final report required by subsection (m).

SEC. 2606. TRIBAL GOVERNMENT ENERGY ASSISTANCE PROGRAM.

(a) FINANCIAL ASSISTANCE.—The Secretary may grant financial assistance to Indian tribal governments, or private sector persons working in cooperation with Indian tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects on Indian reservations. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial, or management issues identified by the applicants for such grants.

(b) CONDITIONS.—Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

(c) CONSIDERATIONS.—In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to the development, or the quality of the environment, of the affected Indian reservations; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

(d) COST-SHARE.—With the exception of grants awarded for the purpose of feasibility studies, the Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the development and implementation of the program established by this section.

TITLE XXVII—INSULAR AREAS ENERGY SECURITY

SEC. 2701. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96-597, as amended by Public Law 98-213 (48 U.S.C. 1492), is amended by adding at the end the following new subsection:

"(g) FINANCIAL ASSISTANCE.—(1) The Secretary of Energy may grant financial assistance, not to exceed $2,000,000 annually, to insular area governments or private sector persons working in cooperation with insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the insular areas on imported fuels, improve the quality of the environment, and promote development in the insular areas.

"(2) Any applicant for financial assistance under this subsection must evidence coordination and cooperation with, and support from, the affected local energy institutions.

"(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

"(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

"(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

"(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were

identified in the 1982 Territorial Energy Assessment or that are identified by the Secretary as consistent with the purposes of this subsection;

"(D) whether the measure will contribute significantly to development and the quality of the environment in the insular area; and

"(E) any other factors which the Secretary may determine to be relevant to a particular project.

"(4) Notwithstanding the requirements of section 501(d) of Public Law 95-134 (48 U.S.C. 1469a(d)), the Secretary shall require at least 20 percent of the costs of any project under this subsection to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

"(5) For the purposes of this subsection—

"(A) the term 'insular area' means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands; and

"(B) the term '1982 Territorial Energy Assessment' means the comprehensive energy plan prepared by the Secretary of Energy pursuant to subsection (c).".

SEC. 2702. DEFINITION.

For amendment of the definition of the term "State" for purposes of the nuclear waste negotiation provisions of title IV of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10241 et seq.), see section 802(b).

SEC. 2703. ELECTRICITY REQUIREMENTS IN TRUST TERRITORY OF THE PACIFIC ISLANDS.

Not later than 3 months after the completion of the Palau National Master Development Plan developed pursuant to the Department of the Interior Secretary's Order No. 3142, the Secretary of the Interior shall, in consultation with the Government of Palau, submit a plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives to provide electric service in Palau that is consistent with determinations made in developing the Palau National Master Development Plan, with regard to the need for and financing and scheduling of the availability of such service.

SEC. 2704. PCB CLEANUP IN MARSHALL ISLANDS AND FEDERATED STATES OF MICRONESIA.

Section 105(h) of Public Law 99-239 is amended by adding at the end the following new paragraph:

"(5) The programs and services of the Environmental Protection Agency regarding PCB's shall, to the extent applicable, as appropriate, and in accordance with applicable law, be construed to be made available to such islands.".

TITLE XXVIII—NUCLEAR PLANT LICENSING

SEC. 2801. COMBINED LICENSES.

Section 185 of Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended—

(1) in the heading for such section by adding "and Operating Licenses" after "Permits";

(2) by adding a subsection designator "a." before "All applicants for licenses"; and

(3) by adding at the end the following new subsection:

"b. After holding a public hearing under section 189 a. (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 189 a. (1)(B).".

SEC. 2802. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.

Section 189 a. (1) of Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended—

(1) by adding a subparagraph designator "(A)" before "In any proceeding under this Act,"; and

(2) by adding after subparagraph (A) the following new subparagraph:

"(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185 b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under clause (i) shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under clause (i), the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under clause (i), and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 2803. RULEMAKING.

The Nuclear Regulatory Commission shall modify part 52 of title 10, Code of Federal Regulations, to conform with sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, not later than 1 year after the date of the enactment of this Act.

SEC. 2804. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.

Section 189 a. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(2)) is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 2805. JUDICIAL REVIEW.

Section 189 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 2806. EFFECT ON PENDING PROCEEDINGS.

Sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, shall apply to all proceedings involving a combined license for which an application was filed after May 8, 1991, under such sections.

SEC. 2807. CONFORMING AMENDMENT.

The table of contents of the Atomic Energy Act of 1954 is amended by amending the item related to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

TITLE XXIX—ADDITIONAL NUCLEAR ENERGY PROVISIONS

SEC. 2901. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF NRC REGULATORY CONCERN.

(a) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting after section 275 the following new section:

"SEC. 276. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF REGULATORY CONCERN OF NUCLEAR REGULATORY COMMISSION.

"(a) IN GENERAL.—No provision of this Act, or of the Low-Level Radioactive Waste Policy Act, may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the disposal or off-site incineration of low-level radioactive waste, if the Nuclear Regulatory Commission, after the date of the enactment of the Energy Policy Act of 1992 exempts such waste from regulation.

"(b) RELATION TO OTHER STATE AUTHORITY.—This section may not be construed to imply preemption of existing State authority. Except as expressly provided in subsection (a), this section may not be construed to confer on any State any additional authority to regulate activities licensed by the Nuclear Regulatory Commission.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'low-level radioactive waste' means radioactive material classified by the Nuclear Regulatory Commission as low-level radioactive waste on the date of the enactment of the Energy Policy Act of 1992.

"(2) The term 'off-site incineration' means any incineration of radioactive materials at a facility that is located off the site where such materials were generated.

"(3) The term 'State' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) REVOCATION OF RELATED NRC POLICY STATEMENTS.—The policy statements of the Nuclear Regulatory Commission published in the Federal Register on July 3, 1990 (55 Fed. Reg. 27522) and August 29, 1986 (51 Fed. Reg. 30839), relating to radioactive waste below regulatory concern, shall have no effect after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. 2011 prec.) is amended by inserting after the item relating to section 275 the following new item:

"Sec. 276. State authority to regulate radiation below level of regulatory concern of Nuclear Regulatory Commission.".

SEC. 2902. EMPLOYEE PROTECTION FOR NUCLEAR WHISTLEBLOWERS.

(a) INTERNAL WHISTLEBLOWERS; EMPLOYERS.—Section 210(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)) is amended—

(1) by inserting "(1)" after "SEC. 210. (a)";

(2) by striking ", including" and all that follows through "licensee or applicant,";

(3) by inserting after the dash the following new subparagraphs:

"(A) notified his employer of an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(B) refused to engage in any practice made unlawful by this Act or the Atomic Energy Act of 1954, if the employee has identified the alleged illegality to the employer;

"(C) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this Act or the Atomic Energy Act of 1954;";

(4) by redesignating paragraphs (1) through (3) as subparagraphs (D) through (F), respectively; and

(5) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term 'employer' includes—

"(A) a licensee of the Commission or of an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021);

"(B) an applicant for a license from the Commission or such an agreement State;

"(C) a contractor or subcontractor of such a licensee or applicant; and

"(D) a contractor or subcontractor of the Department of Energy that is indemnified by the Department under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), but such term shall not include any contractor or subcontractor covered by Executive Order No. 12344.".

(b) TIME PERIOD FOR FILING COMPLAINT.—Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended by striking "thirty days" and inserting "180 days".

(c) INTERIM RELIEF.—Section 210(b)(2)(A) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(2)(A)) is amended by inserting before the last sentence the following: "Upon the conclusion of such hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B), but may not order compensatory damages pending a final order.".

(d) AVOIDANCE OF FRIVOLOUS COMPLAINTS.—Section 210(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1), and shall not conduct the investigation required under paragraph (2), unless the complainant has made a prima facie showing that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A), no investigation required under paragraph (2) shall be conducted if the employer demonstrates, by clear and convincing evidence, that it would have taken the same unfavorable personnel action in the absence of such behavior.

"(C) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant has demonstrated that any behavior described in subparagraphs (A) through (F) of subsection

(a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(D) Relief may not be ordered under paragraph (2) if the employer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.".

(e) NONPREEMPTION.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is amended by adding at the end the following new subsection:

"(h) This section may not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by the employer against the employee.".

(f) POSTING REQUIREMENT.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(i) The provisions of this section shall be prominently posted in any place of employment to which this section applies.".

(g) DUTY OF NRC TO INVESTIGATE SUBSTANTIVE ALLEGATIONS.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(j)(1) The Commission or the Department of Energy shall not delay taking appropriate action with respect to an allegation of a substantial safety hazard on the basis of—

"(A) the filing of a complaint under subsection (b)(1) arising from such allegation; or

"(B) any investigation by the Secretary, or other action, under this section in response to such complaint.

"(2) A determination by the Secretary under this section that a violation of subsection (a) has not occurred shall not be considered by the Commission or the Department of Energy in its determination of whether a substantial safety hazard exists.".

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The title heading of title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended to read as follows:

"TITLE II—NUCLEAR REGULATORY COMMISSION; NUCLEAR WHISTLEBLOWER PROTECTION".

(2) Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended—

(A) by striking "(hereinafter in this subsection referred to as the 'Secretary')" and inserting "(in this section referred to as the 'Secretary')"; and

(B) by striking "and the Commission" and inserting ", the Commission, and the Department of Energy".

(3) The second of the two sections of the Energy Reorganization Act of 1974 that is numbered 210 (42 U.S.C. 5851) is redesignated as section 211.

(i) APPLICABILITY.—The amendments made by this section shall apply to claims filed under section 211(b)(1) of the Energy Reorgani-

zation Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act.

SEC. 2903. EXEMPTION OF CERTAIN RESEARCH AND EDUCATIONAL LICENSEES FROM ANNUAL CHARGES.

(a) IN GENERAL.—Section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)) is amended—

(1) in paragraph (1), by striking "Any licensee" and inserting "Except as provided in paragraph (4), any licensee"; and

(2) by adding at the end the following new paragraph:

"(4) EXEMPTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

"(B) RESEARCH REACTOR.—For purposes of subparagraph (A), the term 'research reactor' means a nuclear reactor that—

"(i) is licensed by the Nuclear Regulatory Commission under section 104 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a thermal power level of 10 megawatts or less; and

"(ii) if so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

"(I) a circulating loop through the core in which the licensee conducts fuel experiments;

"(II) a liquid fuel loading; or

"(III) an experimental facility in the core in excess of 16 square inches in cross-section.".

(b) APPLICABILITY.—The amendments made in subsection (a) shall apply to annual charges assessed under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 for fiscal year 1992 or any succeeding fiscal year.

(c) POLICY REVIEW.—The Nuclear Regulatory Commission shall review its policy for assessment of annual charges under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990, solicit public comment on the need for changes to such policy, and recommend to the Congress such changes in existing law as the Commission finds are needed to prevent the placement of an unfair burden on certain licensees of the Commission, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes.

SEC. 2904. STUDY AND IMPLEMENTATION PLAN ON SAFETY OF SHIPMENTS OF PLUTONIUM BY SEA.

(a) STUDY.—The President, in consultation with the Nuclear Regulatory Commission, shall conduct a study on the safety of shipments of plutonium by sea. The study shall consider the following:

(1) The safety of the casks containing the plutonium.

(2) The safety risks to the States of such shipments.

(3) Upon the request of any State, the adequacy of that State's emergency plans with respect to such shipments.

(4) The Federal resources needed to assist the States on account of such shipments.

(b) REPORT.—The President shall, not later than 60 days after the date of the enactment of this Act, transmit to the Congress a report on the study conducted under subsection (a), together with his recommendations based on the study.

(c) IMPLEMENTATION PLAN.—The President, in consultation with the Nuclear Regulatory Commission, shall establish a plan to implement the recommendations contained in the study conducted under subsection (a) and shall, not later than 90 days after transmitting the report to the Congress under subsection (b), transmit to the Congress that implementation plan.

(d) DEFINITION.—As used in this section, the term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

TITLE XXX—MISCELLANEOUS

Subtitle A—General Provisions

SEC. 3001. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION ACTIVITIES.

(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—(1) Except as otherwise provided in this Act, research, development, and demonstration activities under this Act may be carried out under the procedures of the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901–5920), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other Act under which the Secretary is authorized to carry out such activities, but only to the extent the Secretary is authorized to carry out such activities under each such Act. An objective of any demonstration program under this Act shall be to determine the technical and commercial feasibility of energy technologies.

(2) Except as otherwise provided in this Act, in carrying out research, development, and demonstration programs and activities under this Act, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980, grants, joint ventures, and any other form of agreement available to the Secretary.

(b) COMMERCIAL APPLICATION.—Except as otherwise provided in this Act, in carrying out commercial application programs and commercial application activities under this Act, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980, grants, joint ventures, and any other form of agreement available to the Secretary. An objective of any commercial application program under this Act shall be to accelerate the transition of technologies from the research and development stage.

(c) DEFINITION.—For purposes of this section, the term "joint venture" has the meaning given the term "joint research and development venture" under section 2 (a)(6) and (b) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 (a)(6) and (b)), except

that such term may apply under this section to research, development, demonstration, and commercial application joint ventures.

(d) PROTECTION OF INFORMATION.—Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980, relating to the protection of information, shall apply to research, development, demonstration, and commercial application programs and activities under this Act.

(e) GUIDELINES AND PROCEDURES.—The Secretary shall provide guidelines and procedures for the transition, where appropriate, of energy technologies from research through development and demonstration under subsection (a) to commercial application under subsection (b). Nothing in this section shall preclude the Secretary from—

(1) entering into a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary under this section that relates to research, development, demonstration, and commercial application; or

(2) extending a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that relates to research, development, and demonstration to cover commercial application.

(f) APPLICATION OF SECTION.—This section shall not apply to any contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that is in effect as of the date of the enactment of this Act.

SEC. 3002. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this Act, for research and development programs carried out under this Act, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this Act, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this Act to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(d) TENNESSEE VALLEY AUTHORITY.—Funds derived by the Tennessee Valley Authority from its power program may be used for all or part of any cost sharing requirements under this section, except to the extent that such funds are provided by annual appropriation Acts.

Subtitle B—Other Miscellaneous Provisions

SEC. 3011. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978 REPEAL.

Section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373(c)) is repealed.

SEC. 3012. ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976 REPEAL.

(a) REPEAL.—Section 7(a)(5) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e(a)(5)) is repealed.

(b) ABOLITION OF OFFICE OF FEDERAL INSPECTOR OF CONSTRUCTION.—The Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System, created pursuant to the paragraph repealed by subsection (a) of this section, is abolished. All functions and authority vested in the Inspector are hereby transferred to the Secretary of Energy.

(c) REVOCATION OF CERTAIN OFI REGULATIONS.—Regulations applicable to the Office of Federal Inspector of the Alaska Natural Gas Transportation System, as set forth in chapter 15 of title 10, Code of Federal Regulations, are hereby revoked.

SEC. 3013. GEOTHERMAL HEAT PUMPS.

The Secretary shall—

(1) encourage States, municipalities, counties, and townships to consider allowing the installation of geothermal heat pumps, and, where applicable, and consistent with public health and safety, to permit public and private water recipients to utilize the flow of water from, and back into, public and private water mains for the purpose of providing sufficient water supply for the operation of residential and commercial geothermal heat pumps; and

(2) not discourage any local authority which allows the use of geothermal heat pumps from—

(A) inspecting, at any reasonable time, geothermal heat pump connections to the water system to ensure the exclusive use of the public or private water supply to the geothermal heat pump system; and

(B) requiring that geothermal heat pump systems be designed and installed in a manner that eliminates any risk of contamination to the public water supply.

SEC. 3014. USE OF ENERGY FUTURES FOR FUEL PURCHASES.

(a) FUEL STUDY.—The Secretary shall conduct a study—

(1) to ascertain if the use of energy futures and options contracts could provide cost-effective protection for Government entities (including Government purchases for military purposes and for the Strategic Petroleum Reserve) and consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk) from unanticipated surges in the price of fuel; and

(2) to ascertain how such Government entities or consumer cooperatives may be educated in the prudent use of energy futures and options contracts to maximize their purchasing effectiveness, protect themselves against unanticipated surges in the price of fuel, and minimize fuel costs.

(b) REPORT.—The Secretary, no later than 12 months after the date of the enactment of this Act, shall transmit the study required in this section to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) PILOT PROGRAM.—The Secretary shall conduct a pilot program, commencing not later than 30 days after the transmission of the study required in subsection (b), to educate such governmental entities, consumer cooperatives, or other organizations on the prudent and cost-effective use of energy futures and options contracts to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 3015. ENERGY SUBSIDY STUDY.

(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of the enactment of this Act; or

(2) have been in effect prior to the date of the enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of the enactment of this Act; or

(ii) reasonably foreseeable on the date of the enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1993 and 1994.

SEC. 3016. TAR SANDS.

(a) POLICY.—It is the policy of the United States to promote the development and production, by all means consistent with sound engineering, economic, and environmental practices, of deposits of tar sands.

(b) DEFINITION.—(1) For purposes of this section, the term "tar sands" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either—

(A) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or

(B) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(2) Nothing in this section is intended or shall be construed to affect in any way the definition of the term tar sands under any other provision of Federal law.

(c) STUDY.—The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the House of Representatives and the Committee on Energy and Natural Resources of the Senate within one year after the date of enactment of this Act. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sand sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 and 1994 to carry out this section.

SEC. 3017. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (21) the following:

"(21A) 'farmout agreement' means a written agreement in which—

"(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

"(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property;".

(b) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end,

(2) in paragraph (3) by striking the period at the end and inserting "or", and

(3) by adding at the end the following:

"(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

"(A) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any

written agreement directly related to a farmout agreement; and

"(B) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a)(3) of this title.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 3018. RADIATION EXPOSURE COMPENSATION.

Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by adding at the end the following new subsection:

"(l) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 3019. STRATEGIC DIVERSIFICATION.

The Office of Barter within the United States Department of Commerce and the Interagency Group on Countertrade shall within six months from the date of enactment report to the President and the Congress on the feasibility of using barter, countertrade and other self-liquidating finance methods to facilitate the strategic diversification of United States oil imports through cooperation with the former Soviet Union in the development of its energy resources. The report shall consider among other relevant topics the feasibility of trading American grown food for Soviet produced oil, minerals or energy.

SEC. 3020. CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT.

(a) FINDINGS.—The Congress finds that—

(1) there is growing mutual economic interdependence among the countries of the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must consider existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would severely constrain future opportunities for sustainable economic development and growth in each of these member countries; and

(7) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

(b) DEFINITION.—For purposes of this section, the term "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment.

(c) NEGOTIATIONS.—The President is authorized to direct the United States representative to the Organization of American States to initiate negotiations with the Organization of American States for the establishment of a Consultative Commission on Western Hemisphere Energy and Environment under the auspices of the Organization of American States.

(d) THE COMMISSION.—In the course of the negotiations, the following shall be pursued:

(1) OBJECTIVES.—The objectives of the Commission shall be—

(A) to evaluate from the viewpoint of the Western Hemisphere as a whole the energy and environmental situations, trends, and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies, and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world.

(2) COMPOSITION OF THE COMMISSION.—The Commission shall include representatives of—

(A) the respective foreign energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters; and

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise.

(3) SECRETARIAT.—A small secretariat shall be chosen by the participating governments for their expertise in the areas of energy and the environment.

(4) SUNSET PROVISION.—The Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(e) REPORT.—The President shall, within one year after the date of enactment of this Act, report to the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate, on the progress toward the establishment of the Commission and achievement of the purposes of this section.

SEC. 3021. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—To the extent practicable, the head of each agency shall provide that the obligation of not less than 10 percent of the total combined amounts obligated for contracts and subcontracts by each agency under this Act and amendments made by this Act pursuant to competitive procedures within the meaning of either the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), or chapter 137 of title 10, United States Code, shall be expended either with—

(1) small business concerns controlled by socially and economically disadvantaged individuals or women;

(2) historically Black colleges and universities; or

(3) colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632). However, for purposes of contracts and subcontracts requiring engineering services the applicable size standard shall be that established for military and aerospace equipment and military weapons.

(2) The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

And the Senate agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill (except title XIX), and the Senate amendment (except title XX), and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
EDWARD J. MARKEY,
BILLY TAUZIN,
EDOLPHUS TOWNS,
AL SWIFT,
MIKE SYNAR,
NORMAN F. LENT,

CARLOS J. MOORHEAD,

Provided, that Mr. Bliley is appointed only for consideration of titles I, VII, XII, XVII, and XXXI of the House bill, and titles V, VI, and XV of the Senate amendment:

TOM BLILEY,

Mr. Fields is appointed only for consideration of titles III, IV, V, XIV, XVIII, and XX of the House bill, and titles IV and XVI of the Senate amendment:

JACK FIELDS,

Mr. Oxley is appointed only for consideration of titles II, VI, VIII, IX, X, XI, XIII, XV, XVI, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, and XXX of the House bill, and titles I, II, VIII, IX, X, XI, XII, XIII, XIV, XVII, XVIII, XIX, and XXI of the Senate amendment; and in lieu of Mr. Lent for title VII of the House bill and title XV of the Senate amendment:

MICHAEL G. OXLEY,

From the Committee on Ways and Means, for consideration of title XIX of the House bill, and section 19108 and title XX of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,

As additional conferees from the Committee on Ways and Means, for that portion of section 1101 of the House bill which adds new sections 1701 and 1702 to the Atomic Energy Act of 1974, and that portion of section 10103 of the Senate amendment which adds new sections 1701 and 1702 to the Atomic Energy Act of 1954, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,

As additional conferees from the Committee on Education and Labor, for consideration of section 20141, 20142, 20143 (except those portions which add new sections 9702(a)(4), 9704, 9705(a)(4), 9706, and 9712(d)(5) to the Internal Revenue Code of 1986) of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM CLAY,
GEORGE MILLER,
DALE E. KILDEE,

As additional conferees from the Committee on Education and Labor, for consideration of those portions of section 901 which add new sections 1305 and 1312 to the Atomic Energy Act of 1954, that portion of section 1101 which adds a new section 1704 to the Atomic Energy Act of 1954, and section 3004 of the House bill and sections 4402, 6601-

04, 10104, 13119, and 19113 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT WILLIAMS,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1205, 1208, 1213–14, 1302–05, 1606, and 903 of the House bill, and sections 5101–04, that portion of section 5201 which adds a new section 6 to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, 14108–09, and 14301–02, of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
HOWARD WOLPE,
MEL LEVINE,
EDWARD FEIGHAN,
HARRY JOHNSTON,
ELIOT L. ENGEL,
WILLIAM BROOMFIELD,
TOBY ROTH,
JOHN MILLER,
AMO HOUGHTON,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1211, 1607, 2481, and 2704 of the House bill, and sections 1201, 6701–02, 10223(b), 13102, 17101–02, 19101, and 19109 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
WILLIAM BROOMFIELD,

As additional conferees from the Committee on Government Operations, for consideration of sections 121 (e) and (f), 122, 127, and 128 of the House bill, and sections 6207, 6216, 6218, and 6220–6221 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
ALBERT G. BUSTAMANTE,
BILL CLINGER,

As additional conferees from the Committee on Government Operations, for consideration of sections 302 and 304–306 of the House bill, and sections 4102, 4105–4106, 4112–4113, 4116, and 4119 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,
AL MCCANDLESS,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of sections 133, 1314, 1607, 3002, 3004, 3009, 3101, 3102, and 3104 and titles VIII–XI and XXIV–XXIX of the House bill, and sections 5302–5304, 5308, 6303, 6501, 6506, 13115, 13118, 13120–13121, 14114, 19110, 19112 and titles IX, X, XII, XVIII of the

Senate amendment, and modifications committed to conference:

GEORGE MILLER,
NICK RAHALL,
BRUCE F. VENTO,
RON DE LUGO,
SAM GEJDENSON,
BARBARA F. VUCANOVICH
(I concur in the Conference Report and the Statement of Managers except for section 801),
JOHN J. RHODES,

Provided, Mr. Murphy is appointed in lieu of Mr. DeFazio for consideration of title XXV of the House bill and section 14114 of the Senate amendment only and Mr. Abercrombie is appointed in lieu of Mr. DeFazio for consideration of section 2481 of the House bill only:

AUSTIN J. MURPHY,
NEIL ABERCROMBIE,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of that portion of section 723(h) which adds a new section 212(h) to the Federal Power Act, 1312–1313, 1403, 2012, 2113(g), 2307, and 3008 of the House bill, and sections 19104, and 20143(b) and titles VIII and XXI of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
NICK RAHALL,

As additional conferees from the Committee on the Judiciary, for consideration of section 3010 of the House bill, and section 19102 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
DAN GLICKMAN,
EDWARD FEIGHAN,
HARLEY O. STAGGERS, Jr.,
HOWARD L. BERMAN,
CRAIG WASHINGTON,
HAMILTON FISH, Jr.,
HENRY J. HYDE,
TOM CAMPBELL,
LAMAR SMITH,

As additional conferees from the Committee on the Judiciary, for consideration of section 11107 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,

As additional conferees from the Committee on the Judiciary, for consideration of section 19106 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
BARNEY FRANK,

GEORGE W. GEKAS,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of section 1607, and title XXIV of the House bill, and title XII of the Senate amendment, and modifications committed to conference:

GERRY STUDDS,
DENNIS M. HERTEL,
BOB DAVIS,
JACK FIELDS,
JAMES M. INHOFE,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 205, 1602, 1701(b) of the House bill, and sections 5204, 5302, 5304, and 11103 and title XXI of the Senate amendment, and modifications committed to conference:

GERRY STUDDS,
BOB DAVIS,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 121–128, 132, 411, 2453, 2461–2464, 2705, 3102, and 3104 and title XVIII of the House bill, and sections 4120, 4401, 5303, 5308, 6101, 6201–6224, 6304, and 10224 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
NORMAN Y. MINETA,
HENRY J. NOWAK,
DOUGLAS APPLEGATE,
RON DE LUGO,
GUS SAVAGE,
ROBERT A. BORSKI,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
THOMAS E. PETRI,
JAMES M. INHOFE,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 164(h), that portion of section 723 which adds a new section 212(i) to the Federal Power Act, 410, and 1316 of the House bill, and sections 12103, 12204, and 14113 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
NORMAN Y. MINETA,
JOHN PAUL HAMMERSCHMIDT,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 901–02, 1203, 1207, 1301, 1306–09, 1318–19, 1315, 2471, 2502–03, 2513, 3005, 3007, 3009 and titles VI and XX–XXIII of the House bill, and sections 4201–18, 4305, 4401, 5201–02, 5204–06, 6104, 6501, 6506, 19103, and titles II, VIII, subtitle A of title X, except those portions adding new sections 1511, 1601, 1606, 1607, 1701–1703 to the Atomic Energy Act of

1954, XIII, and XIV of the Senate amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
MARILYN LLOYD,
JAMES H. SCHEUER,
HOWARD WOLPE,
RICHARD H. STALLINGS,
TIMOTHY ROEMER,
DICK SWETT,
ROBERT S. WALKER,
DON RITTER,
SID MORRISON,
HARRIS W. FAWELL,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 5207, 6101-6103 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
MARGE ROUKEMA,

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 1934 of the House bill, and modifications committed to conference:

G.V. MONTGOMERY,
DON EDWARDS,
DOUGLAS APPLEGATE,
HARLEY O. STAGGERS, Jr.,
BOB STUMP,
JOHN PAUL HAMMERSCHMIDT,

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 6101 and 6102 of the Senate amendment, and modifications committed to conference:

G.V. MONTGOMERY,
HARLEY O. STAGGERS, Jr.,
BOB STUMP,

Managers on the Part of the House.

From the Committee on Energy and Natural Resources, for all titles except title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions):

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL H. FORD,
JEFF BINGAMAN,
TIM WIRTH,
KENT CONRAD,
RICHARD SHELBY,
MALCOLM WALLOP,
MARK O. HATFIELD,
PETE V. DOMENICI,
DON NICKLES,
CONRAD BURNS,

From the Committee on Governmental Affairs, conferees for subtitle B of title VI of the Senate amendment (Federal energy management):

JOHN GLENN,
TED STEVENS,

From the Committee on Commerce, Science, and Transportation, conferees for subtitles A, B, and C of title XII of the Senate amendment (Outer Continental Shelf revenue sharing), pipeline safety issues (as contained in Senate amendment No. 2785):

ERNEST F. HOLLINGS,

From the Committee on Banking, Housing, and Urban Affairs, conferees for title XV of the Senate amendment (Public Utility Holding Company Act reform):

DON RIEGLE,
JAKE GARN,

From the Committee on Veterans' Affairs, conferees on sections 6101 and 6102 of title VI of the Senate amendment (building energy efficiency):

ALAN CRANSTON,
ARLEN SPECTER,

From the Committee on Finance, conferees on title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions):

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
DAVID L. BOREN,
TOM DASCHLE,
JOHN BREAUX,
BOB PACKWOOD,
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 776) to provide for improved energy efficiency submit the following joint statement to the House and the Senate in explanation of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—ENERGY EFFICIENCY

SUBTITLE A—BUILDINGS

Sec. 101. Building Energy Efficiency Standards

Section 101(c) would amend the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625) to ensure that the Secretary of Housing and Urban Development develops energy efficiency standards for new homes financed through Federal mortgage programs as required by that Act. The subsection also expands the coverage of the standards from HUD insured mortgages only, to the mortgage insurance and guarantee programs of the Departments of Agriculture and Veterans Affairs. Such standards shall meet or exceed the requirements of the Council of American Building Officials Model Energy Code 1992 (CABO-MEC 1992) or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers standards (ASHRAE 90.1-1989), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. The Conferees believe that these consensus standards are cost-effective with respect to construction and operating costs on a life-cycle cost basis. If, in carrying out their responsibilities under this subsection, the Secretaries wish to conduct life-cycle cost analyses, they should use a 25 or 30 year term to reflect the facts that houses have long useful lives and are commonly financed through 30 year mortgages.

SUBTITLE B—UTILITIES

Sec. 111. Encouragement of Investments in Conservation and Energy Efficiency by Electric Utilities

This section would amend the Public Utility Regulatory Policies Act of 1978 to require utilities and public utility commissions to consider requiring three new Federal standards:

1. integrated resource planning which compares supply and demand-side options on a systematic and comparable basis;

2. cost recovery for energy efficiency programs and measures that makes them at least as profitable as supply side measures; and

3. rate changes that encourage investments in efficiency measures in generation, transmission and distribution of power.

Whether or not utilities and public utility commissions choose to implement these policies, they must hold a public hearing and state why they will not implement them. The Conferees recognize that a number of States have already implemented some or all of the standards encouraged under this section. The Conferees do not intend that such States go through additional rulemaking proceedings simply to satisfy the procedural requirement above, nor do they intend that States repeat such proceedings in the future. These States are encouraged to demonstrate that they have implemented the standards by referencing actions they have already taken. States have substantial discretion in how they implement the standards encouraged under this section.

It is the intent of this subtitle to promote energy efficiency, in particular by encouraging utilities, which have a unique relationship with their customers, to expand demand-side management (DSM) programs. It is also intended that utility commissions must consider the impact which these expanded DSM programs may have on small businesses already engaged in similar activities, and shall implement these standards so as to assure that utility actions will not provide utilities with unfair competitive advantages over such small businesses. It is further intended that whenever practicable and consistent with energy efficiency goals, utility commissions will encourage approaches to the implementation of DSM activities that would be mutually beneficial to utilities and small businesses, such as through joint utility-small business arrangements using rebates or vouchers.

The subsection dealing with small business protection neither precludes, nor mandates, the adoption of competitive bidding for demand-side management services. By adding this provision, the Conferees do not intend that utilities be precluded from engaging in energy conservation, energy efficiency or other demand-side measures.

Whether utilities engage in such activities should continue to be determined by state laws and state regulatory commissions, keeping in mind the requirements of this subsection. The Conferees intend that nothing in this subsection in any way interfere with the ability of utilities to assure safe and reliable service. State regulatory commissions are encouraged to utilize their existing authority in implementing this subsection; the implementation of this subsection is not intended to require the creation of new administrative or regulatory procedures.

Sec. 114. Amendment of Hoover Power Plant Act

Section 114 would amend the Hoover Power Plant Act of 1984 to require the Western Area Power Administration (WAPA) to issue rules requiring all but its smallest customers to engage in integrated resource planning (IRP). The Conferees recognize the efforts that many customers have already undertaken with respect to IRP. The Conferees further recognize that these customers vary in

size and capability to plan, and therefore intend that regulations be flexible enough to allow for reasonable variations in compliance requirements.

In section 204(b) of such Act, as amended by this section, the customer is required, in preparation and development of the IRP, to provide for full public participation, including participation of governing boards. This language reflects the sound policy that better decisions result when the affected customers are involved in the resource planning process. Preference entities serve the public and are accountable to their consumers. By allowing the consumer to participate in the IRP preparation and development process, recognition of the public interest is assured.

Section 204(c), as amended, would direct the Administrator to accept integrated resource plans that are currently being implemented by customers under other programs as fulfilling the requirements of this provision "to the extent such plan substantially complies with requirements of this title." The Conferees intend for the Administrator to be flexible in determining what satisfies the "substantial compliance" standard. IRP plans to take significant resources to plan and implement.

Finally, it is not the Conferees' intent that WAPA force changes in customers' approved IRP plans. WAPA should accept good faith efforts to comply with approved plans as generally satisfying compliance standards.

Sec. 115. Encouragement of Investments in Conservation and Energy Efficiency by Gas Utilities

This section would amend the natural gas provisions of the Public Utility Regulatory Policies Act of 1978 to require utilities and State regulatory commissions to consider requiring two new Federal standards:

1. implement integrated resource planning for State regulated gas utilities; and

2. allow State regulated gas utilities to earn a profit on investments in energy efficiency.

States may choose not to implement these requirements, but they must hold a hearing and state why they are not implementing them.

The Conferees recognize that a number of States have already implemented some or both of the standards encouraged under this section. The Conferees do not intend that such States go through additional rulemaking proceedings simply to satisfy the procedural requirements above. These States are encouraged to demonstrate that they have implemented the standards by referencing actions they have already taken. The Conferees believe that States should have substantial discretion in how they implement the standards encouraged under this section.

It is intended that Integrated Resource Planning (IRP) be considered only for local gas distribution companies who directly serve ultimate users of gas. In examining natural gas supply options under IRP, it is not intended that the sources, conditions, or other characteristics of the upstream supply of gas be analyzed. Rather, the IRP is intended to examine and compare demand-side options

with the general option of additional supplies to end use customers by the local gas distribution company.

The subsection in this section regarding the competitive impact of the implementation of these standards on small businesses has the same intent as that described under section 111.

SUBTITLE C—STANDARDS

In general

The provisions of this subtitle would significantly expand the coverage of the appliance energy efficiency standards program and the energy labeling program under the Energy Policy and Conservation Act (EPCA). It is the intent of the Conferees that the Secretary shall seek to harmonize these standards internationally, particularly with standards established or under development in Canada and Mexico, nations with which the United States conducts substantial trade. Such harmonization will simplify enforcement, reduce impediments to trade, and will reduce burdens on manufacturers.

In addition, the Conferees have concerns regarding the adequacy of the current enforcement penalties under EPCA. These penalties were established many years ago. Accordingly, the conferees expect the Secretary to review the adequacy of the enforcement provisions of these programs and to recommend changes to the Congress, if appropriate.

Sec. 121. Energy Efficiency Labeling for Windows and Window Systems

The National Fenestration Rating Council (NFRC) is initially directed to develop this voluntary rating program according to commonly accepted procedures for the development of national testing procedure and labeling programs. Such commonly accepted procedures are those recognized by the Federal Trade Commission (FTC), or that are consistent with FTC policy.

In addition, it is intended that, should NFRC develop this program, its implementation and administration also will be in accordance with commonly accepted procedures. Such procedures must assure, at a minimum, that NFRC has sufficient oversight and authority to assure that accreditation and certification procedures result in compliance with its program.

Sec. 125. Energy Efficiency Labeling for Commercial Office Equipment

This section would require the Secretary to provide financial assistance to support the development of a voluntary national testing and information program for commercial office equipment in accordance with commonly accepted procedure for the development of such testing and information programs. Such commonly accepted procedures are those recognized by the Federal Trade Commission or consistent with FTC policy.

If such a voluntary program is not established within 3 years, then the Secretary and the Federal Trade Commission are directed to develop test procedures and labeling rules for commercial office equipment.

Sec. 126. Energy Efficiency Labeling for Luminaries

This section would require the Secretary to provide financial assistance to support the development of a voluntary national testing and information program for luminaries in accordance with commonly accepted procedures for the development of such testing and information programs. Such commonly accepted procedures are those recognized by the Federal Trade Commission or that are consistent with FTC policy.

Sec. 127. Report on the Potential of Cooperative Advanced Appliance Development

This section would require the Secretary, in consultation with the Administrator of EPA, to prepare and submit a report to Congress on the potential for the development and commercialization of appliances which are substantially more efficient that those required by Federal or State law. Any recommendations relate to the commercialization of such advanced appliances should take into account any issues regarding the marketing of such appliances.

The Conferees are aware that the Environmental Protection Agency is already engaged in supporting industry efforts to develop high efficiency refrigerators and other products and do not intend this study to delay those ongoing efforts. The study should particularly focus on those appliances and products that EPA is not currently working on. In addition, it is intended that the two agencies will coordinate their efforts in this area and avoid duplication of effort.

SUBTITLE F—FEDERAL AGENCY ENERGY MANAGEMENT

Sec. 155. Energy Savings Performance Contracts

This section would amend title VIII of the National Energy Conservation Policy Act to further promote the use of energy performance contracts.

It is estimated that the Federal government could reduce its energy costs by approximately $1 billion annually through the installation of energy efficiency measures in its buildings. However, the budget deficit has prevented the necessary investments from being made by the government.

Energy savings performance contracts are a mechanism through which private sector funds can finance Federal energy efficiency improvements. The Conferees recognize that these contracts differ significantly from traditional Federal procurement contracts. Under these contracts, the contractor is expected to bear the risk of performance, make a significant initial capital investment, guarantee significant energy savings to the government agency, and from these savings the agency, in effect, makes payment to the contractor.

Because these contracts differ significantly from traditional Federal contracts, existing contracting regulations may be inconsistent. Current regulations were not formulated for application to energy performance contracts. Accordingly, this provision authorizes and directs the Secretary, with the concurrence of the Federal Acquisition Regulation (FAR) Council, to develop procedures and methods for the implementation of such contracts. To maximize

the benefits to the government of such contracts, the Secretary, with the concurrence of the FAR Council, is given wide latitude to develop substitute regulations where existing procurement regulations are inconsistent with the goal of promoting energy performance contracts. These substitute regulations must, however, be consistent with Federal procurement laws.

The section requires new procurement regulations be issued within 180 days, and the Conferees expect prompt action to carry out this requirement consistent with public participation.

It is also the expectation of the Conferees that uniform regulations will be developed both to relieve Federal agencies of the need to individually develop performance contract procedures and methods and to encourage energy service companies to contract with Federal agencies on a uniform basis.

Finally, subsection (a)(2)(D)(ii) authorizes multiyear contracts for up to 25 years, provided funds are available for payments to the contractor in the first year. The section creates special protections for the taxpayer in view of the risk inherent in committing the Federal government to such multi-year contracts. For example, the government may be liable for payment of a substantial cancellation fee. Accordingly, subsection (a)(2)(D)(iii) requires that a Federal agency must notify the appropriate authorizing and appropriating committees of the Congress before signing such a contract if it contains a clause permitting a cancellation charge in excess of $750,000. Subsection (a)(2)(D)(i) also provides that such contracts be awarded in a competitive manner, and the Conferees intend that Federal agencies endeavor to secure the broadcast participation by qualified firms.

TITLE II—NATURAL GAS

The Conferees agreed not to include most of the text of title II of H.R. 776, regarding natural gas pipelines, in the conference report. The one exception is that the conference report includes an amended section 201 regarding fewer restrictions on certain natural gas imports and exports.

The decision not to include most of title II includes section 214 of the House bill regarding State regulation of the production of natural gas, *i.e.,* prorationing. However, the Conferees included a new section 202, stating the sense of the Congress that natural gas consumers and producers, and the national economy, are best served by a competitive natural gas wellhead market. One of the reasons that Conferees decided not to include section 214 is the recognition that, under existing law, a state cannot use its proration authority for the purpose of restricting supplies and raising the price of natural gas. *E.g., Northwest Central Pipeline Corp.* v. *State Corporation Commission of Kansas,* 489 U.S. 493 (1989); *Transcontinental Gas Pipe Line Corp.* v. *State Oil and Gas Board of Miss.,* 474 U.S. 409 (1986). The Conferees recognize that both the Congress and the U.S. Supreme Court have long recognized the necessity of state-administered systems for defining and enforcing property rights in natural gas reservoirs. Still, states may not regulate natural gas production without regard to the effect that such regulation may have on interstate commerce. Under existing law, a method of

regulating production must: (1) achieve or advance the legitimate state interests in conserving natural resources, preventing waste, and protecting correlative rights; and (2) not be preempted by, or overly disruptive of, Federal law. Should a state use its proration authority for the purpose of restricting supplies and raising the price of natural gas, the Conferees do not believe that such regulation would satisfy the standard under existing law. The Conferees believe that the new section 202, stating the sense of the Congress, is consistent with existing law.

TITLE IV—ALTERNATIVE FUELS AND NON-FEDERAL PROGRAMS

Section 408 authorizes the Federal Energy Regulatory Commission (FERC), under the Natural Gas or Federal Power Acts, to consider the environmental and other benefits of research and development efforts on Alternative Fuel Vehicles (AFV) by the Gas Research Institute (GRI) or the Electric Power Research Institute.

If the benefits exceed the direct costs of the research and development, the FERC may allow natural gas pipelines and electric utilities to recover the costs in their "just and reasonable" rate filings under the Natural Gas and the Federal Power Acts.

Cost sharing is required to the maximum practicable extent. This section recognizes that cost sharing may not be practicable for all natural gas transportation, pollution control, and emissions reduction projects.

The cofunding provisions are intended to become effective for new projects initiated after the date of enactment of this legislation and would not require GRI to cancel existing contracts to comply with the cofunding provision.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

The intent of section 501(a)(1) is *not* to cover all affiliates or divisions of the many large energy companies which have some, but not all, of their corporate units engaged in alternative fuels operations.

For example, the oil and gas production affiliate or division of a major energy company described in 501(a)(1)(C) would be covered; so might a propane pipeline unit or a natural gas processing division, if the "substantially engaged" test is met.

But an oil tanker division, a gasoline marketing affiliate, or a petrochemical unit whose major operations are the production of plastics, for example, would not be covered.

The Secretary has broad discretion to define the coverage of this provision. For example, he may in his discretion exempt some crude oil-related operations of an oil and gas production affiliate (but not the gas-related operations), or the petrochemical operations of a covered methanol unit (but not the methanol-related business).

Under current law, the Securities and Exchange Commission has authority to permit, on a case-by-case basis, certain utility functions outside the United States. Further, new section 32 of PUHCA allows exempt wholesale generators located outside the United States to engage in both wholesale and retail generation. The provisions of new section 33 supplement these foreign options for utility operations and do not in any way limit any person's ability to pursue SEC approval under current law or the EWG course.

The definition of an EWG has been drafted to permit an EWG to sell wholesale power that it has not generated itself. Buyers of wholesale power may desire to purchase capacity in increments that exceed what the most economical unit would produce. Consequently, the legislation would permit an EWG, for example, to generate 350 Megawatts and purchase an additional 50 Megawatts in order to met a purchaser's 400 MW capacity need.

The definition of an exempt wholesale generator contained in section 32(a)(1) permits an exempt wholesale generator to own facilities and goods, such as fuel and related transportation, storage and handling facilities, reasonably necessary for the operation of its business.

Rates, charges, terms, and conditions for wholesale transmission services ordered under section 211 in all cases shall be just and reasonable, and not unduly discriminatory or preferential. The Conferees intend the term "associated services" to mean the cost of ancillary services such as back-up power, interconnection costs, and radial lines.

New section 212(h) of the Federal Power Act contains a savings clause for State laws dealing with retail wheeling. Thus, State laws that either prohibit or permit retail wheeling are unaffecting by this subsection. And, if otherwise valid, remain in full force and effect.

The Conferees do not intend to limit or modify the authority of State commissions to review the prudence or imprudence of wholesale purchases by retail utilities under their jurisdiction.

The Bonneville Power Administration (BPA) has set policies from time to time for furnishing transmission service on the Federal Columbia River Transmission System. BPA has done so under the laws which define its authority and obligations concerning transmission, which laws remain fully effective and applicable. It is expected that, when the FERC exercises its authority under section 211 to require BPA to provide transmission service, it will do so consistent with the laws governing BPA. Transmission contracts entered into in accordance with BPA's policies which are in existence on the date of enactment of this Act are unaffected by the FERC's new authority to order access to transmission controlled by BPA. Similarly, BPA's short-term transmission service allocation methodology for economy energy trades is also unaffected by the FERC's new authority to order access to transmission controlled by BPA. However, the FERC is not bound by the transmission policy choices BPA has made or may make in the future as to new firm transmission service requests.

A primary BPA obligation under the laws that define BPA's authority and obligations is to provide transmission service over available capacity for its customers within the Pacific Northwest as that region is defined in 16 U.S.C. section 839a(14). Historically, Bonneville Power Administration has built most of the intraregional bulk transmission facilities in the Pacific Northwest. This was done on the basis of a regional consensus and the understanding that BPA would make these transmission facilities available for transmission of power for BPA's power and transmission customers located in the Pacific Northwest. The utilities of the Pacific Northwest have relied and continue to rely on that transmission. BPA's use of its transmission system for firm transmission service contracts for generating resources serving BPA customer loads within the Pacific Northwest is not affected by any new authority under this Act to provide access for interregional arrangements.

The FERC shall not issue any order for transmission services under section 211 which is likely to cause the uncompensated spill of water from Federal or non-Federal reservoirs which otherwise could be used to generate electric energy, because of its displacement from a transmission system by energy transmitted under such an order. Such spill shall be deemed contrary to the public interest unless full compensation is provided to those entities suffering such spill. Nothing in the preceding sentences should be understood to limit such ability as the FERC may otherwise have under this Act to prevent or compensate other adverse impacts that may result from an order issued under section 211 or this section.

Rates for transmission services provided by BPA under an order issued under section 211 are to be established by BPA and reviewed by the FERC through the same process and using the same statutory requirements as are applicable to all other transmission rates established by BPA, with the additional requirement that such rates for transmission services must also be just and reasonable and not unduly discriminatory or preferential as determined by the FERC, taking into account BPA's other statutory authorities and responsibilities. Nothing in the Federal Power Act or BPA's organic legislation should be construed to prohibit the FERC from approving rates, terms and conditions for transmission services pursuant to section 211 which provide for the recovery of any increased costs or lost revenues due to foregone sales or purchases or other operating impacts resulting from such services, provided that similar approvals are in general accorded to utilities subject to sections 205 and 206.

BPA may establish rates of general applicability for FERC-ordered transmission service which, once approved by the FERC, will not be subject to review in individual cases but will be periodically reviewed and, as appropriate, revised along with BPA's general wholesale power and transmission rates. BPA may also establish, and the FERC may approve, terms and conditions of general applicability and sufficient specificity for FERC-ordered transmission services.

BPA's rates, terms and conditions for transmission services ordered by the FERC may differ from those required by the FERC of other entities subject to this Act. However, the effect of any trans-

mission services ordered by the FERC under section 211 cannot be materially more or less favorable for BPA than for other entities subject to the FERC's transmission service orders pursuant to this Act with respect to: (1) overall cost recovery by the transmitting utility, and (2) economic impact on the transmitting utility.

The FERC has the responsibility to implement this Act, including section 212(i), and to consider and apply BPA's other federal statutes.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

Section 801 addresses the Environmental Protection Agency's (EPA) generally applicable standards for protection of members of the public from release of radioactive materials into the accessible environment as a result of the disposal of spent nuclear fuel or high-level or transuranic radioactive waste. The Administrator's authority to establish these standards is embodied in section 161b. of the Atomic Energy Act of 1954, Reorganization Plan No. 3 of 1970, and section 121(a) of the Nuclear Waste Policy Act of 1982.

Section 801 builds upon this existing authority of the Administrator to set generally applicable standards and directs the Administrator to establish health-based standards for protection of the public from release or radioactive materials that may be stored or disposed of in a repository at the Yucca Mountain site. The provisions of section 801 make clear that the standards established by the authority in this section would be the only such standards for protection of the public from releases of radioactive materials as a result of the disposal of spent nuclear fuel or high-level radioactive waste in a repository at the Yucca Mountain site. Any other generally applicable standards established pursuant to the Administrator's authority under section 161b. of the Atomic Energy Act of 1954, Reorganization Plan No. 3 of 1970, and section 121(a) of the Nuclear Waste Policy Act of 1982 would not apply to the Yucca Mountain site.

The provisions adopted by the Conferees in section 801 require the Administrator to promulgate health-based standards for protection of the public from releases of radioactive materials from a repository at Yucca Mountain, based upon and consistent with the findings and recommendations of the National Academy of Sciences. These standards shall prescribe the maximum annual dose equivalent to individual members of the public from releases to the accessible environment from radioactive materials stored or disposed of in the repository. The provisions of section 801 do not mandate specific standards but rather direct the Administrator to set the standards based upon and consistent with the findings and recommendations of the National Academy of Sciences.

The Administrator is directed to contract with the National Academy of Sciences to conduct a study to provide findings and recommendations on reasonable standards for protection of the public health and safety by not later than December 31, 1993. In carrying out the study, the National Academy of Sciences is asked to address three questions: whether a health-based standard based upon doses to individual members of the public from releases to the accessible environment will provide a reasonable standard for pro-

tection of the health and safety of the general public; whether it is reasonable to assume that a system for post-closure oversight of the repository can be developed, based upon active institutional controls, that will prevent an unreasonable risk to breaching the repository barriers or increasing the exposure of individual members of the public to radiation beyond allowable limits; and whether it is possible to make scientifically supportable predictions of the probability that the repository's engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years. In looking at the question of human intrusion, the Conferees believe that it is also appropriate to look at issues related to predications of the probability of natural events.

In carrying out the study, the National Academy of Sciences would not be precluded from addressing additional questions or issues related to the appropriate standards for radiation protection at Yucca Mountain beyond those that are specified. For example, the study could include an estimate of the collective dose to the general population that could result from the adoption of a health-based standard based upon doses to individual members of the public. The purpose of the listing of specific issues is not to limit the issues considered by the National Academy of Sciences but rather to attempt to focus the study on concerns that have been raised by the scientific community.

Under the provisions of section 801, the Administrator is directed to promulgate standards within one year of receipt of the findings and recommendations of the National Academy of Sciences, based upon and consistent with those recommendations. The Conferees do not intend for the National Academy of Sciences, in making its recommendations, to establish specific standards for protection of the public but rather to provide expert scientific guidance on the issues involved in establishing those standards. Under the provisions of section 801, the authority and responsibility to establish the standards, pursuant to a rulemaking, would remain with the Administrator, as is the case under existing law. The provisions of section 801 are not intended to limit the Administrator's discretion in the exercise of his authority related to public health and safety issues.

The provisions to modify its technical requirements and criteria for licensing of a repository to be consistent with the standards promulgated by the Administrator within one year of the promulgation of those standards. In modifying its technical requirements and criteria, the Nuclear Regulatory Commission (NRC) is directed to assume, to the extent consistent with the findings and recommendations of the National Academy of Sciences, that civilization will continue to exist and that post-closure oversight of the repository will continue, and to include in its technical requirements and criteria, engineered barriers to prevent human intrusion. As with the Administrator, the provisions of section 801 are not intended to limit the Commission's discretion in the exercise of its authority related to public health and safety.

The provisions of section 801 address only the standards of the Environmental Protection Agency, and comparable regulations of the Nuclear Regulatory Commission, related to protection of the public from releases of radioactive materials stored or disposed of

at the Yucca Mountain site pursuant to authority under the Atomic Energy Act, Reorganization Plan No. 3 of 1970, the Nuclear Waste Policy Act of 1982, and this Act. The provisions of section 801 are not intended to affect in any way the application of any other existing laws to activities at the Yucca Mountain site.

TITLE X—REMEDIAL ACTION AND URANIUM REVITALIZATION

SUBTITLE A–REMEDIAL ACTION AT ACTIVE PROCESSING SITES

Funds made available under this program are intended to be provided for all costs that result from the disposition of byproduct material at active processing sites (subject to the limitations of Sec. 1001(b)), including groundwater remediation, treatment of contaminated soil, disposal of process wastes, removal actions, air pollution studies, mill and equipment decommissioning, site monitoring, administrative expenses, and additional expenditures required by related standards and regulations. An example of remediation costs would be cleaning up wind-blown by-product material in the vicinity of the commingled site. The availability of such funds under this program shall be considered by the Nuclear Regulatory Commission in determining the sufficiency of the financial surety arrangements that must be established by mill operators for reclamation, decontamination, and decommissioning pursuant to 10 C.F.R. Pt. 40, Appendix A (criteria 10 and 11).

TITLE XII—RENEWABLE ENERGY

Section 1202 amends P.L. 101–218, the Renewable Energy and Energy Efficiency Technology Competitiveness Act, by restructuring the former joint venture program, the management plan, and the R&D goals. The program retains as its basic goal the acceleration of the commercialization of renewable energy and energy efficiency technologies through collaboration between industry and government on a cost-shared basis.

There are two major changes. First, the technologies will be chosen for Federal support on a competitive basis, as opposed to the original statute, which mandated joint ventures in specific technology areas. Second, the Secretary has been given wider latitude to choose financial mechanisms, including interest rate buydowns, to use in implementing the demonstration and commercial application program. The Secretary may utilize a financial intermediary for advice or assistance in the implementation of the program.

Elements of the revised program are modeled on the Clean Coal Technology program. The Secretary is directed to issue a solicitation and evaluate and select projects for financial assistance on the basis of DOE-developed criteria.

Section 1210. It is the understanding of the conference committee that the authorities established under Section 1210(a) will be implemented only when the monies authorized under Section 1210(b) are appropriated.

TITLE XVI—GLOBAL CLIMATE CHANGE

Sec. 1605. National Inventory and Voluntary Reporting of Greenhouse Gases

The guidelines for the voluntary reporting of greenhouse gases and the national inventory shall address coalbed methane emissions, inventories and reductions. Persons who wish to establish baselines shall be provided an opportunity to do so.

TITLE XVII—ADDITIONAL FEDERAL POWER ACT PROVISIONS

Section 1701(b) vacates the Federal Energy Regulatory Commission's (FERC) current regulatory definition of the term "fishway" without prejudice to any definition or interpretation of the term by rule and requires the Commission to obtain the concurrence of the Secretaries of Commerce and the Interior in issuing any new regulatory rulemaking definition. It also indicates what may constitute a "fishway" under section 18 when a new rule is developed and promulgated. However, the section does not affect the authority of the Commission to continue to issue license orders that could include fishway prescriptions under section 18.

In essence, the provision returns the Commission and the Secretaries to the position they were in under section 18 of the Federal Power Act prior to the FERC adopting by regulation the fishway definition. The role of the Secretaries under the Act and this section would continue to be as it was prior to the definition and the role of the Commission in issuing licenses with conditions would also be as it was before the rule. Nothing in this amendment is intended to limit the roles or authorities of either the Secretaries or the Commission.

TITLE XVIII—OIL PIPELINE REGULATORY REFORM

Sec. 1803. Protection of Certain Existing Rates

Subsection (a) of section 1803 identifies oil pipeline rates that will be deemed just and reasonable by operation of law. Paragraph (1) of subsection (a) provides that rates in effect for a 365-day period before enactment of this legislation are deemed to be just and reasonable for purposes of the Interstate Commerce Act (ICA) if the rates were not subject to protest, investigation or complaint within that 365-day period. Paragraph (2) of subsection (a) provides that rates that were in effect on the 365th day preceding the date of the enactment of this legislation are deemed to be just and reasonable for purposes of the ICA even if the rates were not in effect throughout the 365-day period preceding enactment, because an intervening rate filing was made during the 365-day period, so long as the rates in effect 365 days before enactment were not subject to protest, investigation or complaint during the noted period. Consistent with the foregoing, the Conferees intend that a person may file a complaint up to, and including, the day preceding enactment and that such a complaint need only comply with the FERC's existing regulations in order to satisfy the statutory requirement. So long as a complaint filed during the period described above meets

this standard, it will be sufficient to preclude a rate from being deemed just and reasonable under section 1803(a). In view of the fact that, but for the exceptions provided in subsections (b) and (c) of section 1803, this will be complainants' last chance to challenge such rates as well as the FERC's last chance to review such rates before they are deemed just and reasonable, the conferees expect that the FERC will review such complaints carefully.

TITLE XIX—ENERGY REVENUE PROVISIONS

A. Energy Conservation and Production Incentives

1. EMPLOYER-PROVIDED TRANSPORTATION BENEFITS

Present law

Under Treasury regulations, transit passes, tokens, fare cards, vouchers, and cash reimbursements provided by an employer to defray an employee's commuting costs are excludable from the employee's income (for both income and payroll tax purposes) as a de minimis fringe benefit if the total value of the benefit does not exceed $21 per month. If the total value of the benefit exceeds $21 per month, the full value of the benefit is includible in income.

Parking at or near the employer's business premises that is paid for by the employer is excludable from the income of the employee (for both income and payroll tax purposes) as a working condition fringe benefit, regardless of the value of the parking. This exclusion does not apply to any parking facility or space located on property owned or leased by the employee for residential purposes.

House bill

Under the House bill, gross income and wages (for both income and payroll tax purposes) does not include qualified transportation fringe benefits. In general, a qualified transportation fringe is (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment, (2) a transit pass, or (3) qualified parking. Cash reimbursements made by the employer for such expenses under a bona fide reimbursement arrangement also qualify for the exclusion.

The maximum amount of qualified parking that is excludable from an employee's gross income is $160 per month (regardless of the total value of the parking). Other qualified transportation fringes are excludable from gross income to the extent that the aggregate value of the benefits does not exceed $60 per month (regardless of the total value of the benefits). The $60 and $160 limits are indexed for inflation, rounded down to the next whole dollar.

A commuter highway vehicle is a highway vehicle with the capacity to seat at least 6 adults (not including the driver) and at least 80 percent of the mileage use of which is for transporting employees between their residences and their place of employment using at least one-half of the adult seating capacity of the vehicle (not including the driver). Transportation furnished in a commuter highway vehicle operated by or for the employer is considered provided by the employer.

A transit pass includes any pass, token, farecard, voucher, or similar item entitling a person to transportation on mass transit facilities (whether publicly or privately owned). Types of transit facilities that may qualify for the exclusion include, for example, rail, bus, and ferry.

Qualified parking is parking provided to an employee on or near the business premises of the employer, or on or near a location from which the employee commutes to work by mass transit, in a commuter highway vehicle, or by carpool. As under present law, the exclusion does not apply to any parking facility or space located on property owned or leased by the employee for residential purposes.

Effective date.—The provision applies to benefits provided by the employer on or after January 1, 1993.

Senate amendment

The Senate amendment is generally the same as the House bill, except that the parking cap is $145 per month, rather than $160 per month. In addition, the $60 and $145 limits are indexed for inflation in $5 increments.

Under the Senate amendment, cash reimbursements for transit passes do not qualify for the transit exclusion if vouchers that are exchangeable only for transit passes are readily available to the employer.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement follows the Senate amendment, except that the parking cap is $155 per month.

2. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES

Present law

Section 8217(i) of the National Energy Conservation Policy Act provided that the value of any subsidy provided by a utility to a residential customer for the purchase or installation of a residential energy conservation measure was excluded from gross income. That exclusion expired on June 30, 1989.

House bill

For taxable years beginning after 1992, the bill provides an exclusion from the gross income of a residential customer of a public utility for the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure.

For this purpose, an energy conservation measure is (1) any residential energy conservation measure with respect to a dwelling unit or (2) any commercial energy conservation measure with respect to dwelling units in a building or structure that contains five or more dwelling units. The term "residential energy conservation measure" has the meaning given to such term by section 210(11) of the National Energy Conservation Policy Act (as in effect on the date of the enactment of this provision). The term "commercial energy conservation measure" means an installation or modifica-

tion of an installation which is primarily designed to reduce the consumption of petroleum, natural gas, or electric power, including the items listed in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986).

For taxable years beginning after 1993, the bill provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 65 percent of the value of any subside provided by the utility for the purchase or installation of an energy conservation measure. For this purpose, an energy conservation measure is (1) any commercial energy conservation measure (as defined above) with respect to property that is not a dwelling unit or (2) any specially defined energy property. The term "specially defined energy property" has the meaning given to such term by section 48(1)(5) of the Code (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

The bill does not apply to payments made to or from a qualified cogeneration facility or a qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

The bill denies a deduction or credit to a taxpayer (or in appropriate cases requires a reduction in the adjusted basis of property of a taxpayer) for any expenditure to the extent that a subsidy related to the expenditure was excluded from the gross income of the taxpayer.

Effective date.—The bill is effective for amounts received after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill, with the following exceptions.

For taxable years beginning after 1993, the amendment provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 80 percent (rather than 65 percent as under the House bill) of the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to the property that is not a dwelling unit.

Under the Senate amendment, the term "energy conservation measure" means an installation or modification of an installation which is primarily designed to reduce consumption of electricity or natural gas or improve the management of energy demand.

Under the Senate amendment, the term "public utility" includes regulated public utilities, rural electric cooperatives, and utilities that are owned and operated by the Federal Government or a State or local government or any instrumentality or political subdivision thereof.

The amendment applies to the value of any subsidy provided by a public utility to a third party for the purchase or installation of an energy conservation measure with respect to a customer of the utility in the same manner as if the subsidy had been provided directly to the customer.

The amendment applies to payments by a public utility to a taxpayer for the acquisition of State tax benefits granted to the

taxpayer by the State pursuant to a State-sponsored energy conservation program.

Effective date.—The amendment is effective for amounts received after December 31, 1992.

Conference agreement

The conference agreement generally follows the Senate amendment with the following modifications.

For subsidies received in 1995, the conference agreement provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 40 percent (rather than 80 percent as under the Senate amendment) of the value of any subsidy provided by the utility of the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit. For subsidies received in 1996, the 40 percent exclusion becomes a 50 percent exclusion. For subsidies received after 1996, the 50 percent exclusion becomes a 65 percent exclusion.

In addition, the conference agreement deletes the provision applicable to the value of any subsidy provided by a public utility to a third party for the purchase or installation of an energy conservation measure. In deleting the provision, the conferees believe that third party contractors should not be at a competitive advantage or disadvantage with respect to the tax benefits provided by the exclusion. In addition, the conferees believe that when a utility provides a payment to a third party contractor, the utility is indirectly providing the subsidy to the person for whom the contractor is providing the energy conservation measure and the exclusion should apply to such person. Thus, the conference agreement provides that the exclusion applies to any subsidy provided directly or indirectly to a utility customer, if such subsidy otherwise would be included in income. For example, if a public utility provides a subsidy to a customer to partially offset the cost of the installation of an energy conservation measure on the customer's premises, the provision applies to exclude all or a portion of the value of such subsidy. Likewise, if the public utility provides a payment to an independent contractor so that the contractor can provide for the installation of an energy conservation measure on the utility customer's premises at a reduced price, the exclusion applies to the customer for the indirect subsidy supplied to the customer.

Finally, the conference agreement deletes the provision that applies to payments by a public utility to a taxpayer for the acquisition of State tax benefits granted to the taxpayer by the State pursuant to a State-sponsored energy conservation program.

3. TREATMENT OF CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY

Present law

Present law does not provide a special deduction or other income tax benefit for investing in a motor vehicle that may be propelled by a clean-burning fuel or for investing in property that is used to refuel a motor vehicle that may be propelled by a clean-burning fuel.

House bill

In general

The House bill provides a deduction for a portion of the cost of certain motor vehicles that may be propelled by a clean-burning fuel. In addition, the House bill provides a deduction of up to $100,000 per location for the cost of certain property that is used in the storage of clean-burning fuel or the delivery of clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel.

Deduction for qualified clean-fuel vehicle property

The House bill allows a deduction for the cost of qualified clean-fuel vehicle property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle property is defined as a motor vehicle that is produced by an original equipment manufacturer and that is designed so that the vehicle may be propelled by a clean-burning fuel (an "original equipment manufacturer's vehicle"), but only to the extent of the portion of the basis of the vehicle that is attributable to: (1) an engine which may use the clean-burning fuel; or (2) any property which may be used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel.

In addition, qualified clean-fuel vehicle property is defined as any property that is installed on a motor vehicle which is propelled by a fuel that is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel (a "retrofitted vehicle"), but only if the property is an engine (or modification thereof) which may use the clean-burning fuel or only to the extent that the property may be used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel. For this purpose, the cost of the original installation of the engine or any other such property is to be treated as part of the cost of the engine or such property.

In order for property to qualify as qualified clean-fuel vehicle property, the property must be acquired for use by the taxpayer (and not for resale) and the original use of the property must commence with the taxpayer. In addition, the motor vehicle of which the property is a part must satisfy any applicable Federal or State emissions standards with respect to each fuel by which the vehicle is designed to be propelled or, in the case of property installed on a retrofitted vehicle, the property must satisfy any applicable Federal or State emissions-related certification, testing, and warranty requirements.[1]

In the case of any motor vehicle that may be propelled by both a clean-burning fuel and any other fuel, the cost of any qualified clean-fuel vehicle property that may be used by both the clean-burning fuel and the other fuel is to be taken into account in determining the amount of the deduction only to the extent that the cost of such property exceeds the cost of the property which would

[1] In the event that there are no Federal or State emissions-related standards or requirements that apply to a motor vehicle (or to property installed on a motor vehicle) at the time of the purchase of the motor vehicle (or property), this requirement is not to be construed to deny a deduction for property that would otherwise constitute qualified clean-fuel vehicle property.

have been used had the vehicle been propelled solely by the fuel that is not a clean-burning fuel.

The cost that may be taken into account in determining the amount of the deduction with respect to any motor vehicle is limited based on the type of the motor vehicle. In the case of a truck [2] or van with a gross vehicle weight rating that is greater than 26,000 pounds or a bus which has a seating capacity of at least 20 adults (not including the driver), the limitation is $50,000. In the case of a truck or van with a gross vehicle weight rating that is greater than 10,000 but not greater than 26,000 pounds, the limitation is $5,000. In the case of any other motor vehicle, the limitation is $2,000.

The cost limitations are reduced for qualified clean-fuel vehicle property that is placed in service after December 31, 2001. The otherwise applicable limitations are reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No deduction is allowed with respect to qualified clean-fuel vehicle property that is placed in service after December 31, 2004.

Deduction for qualified clean-fuel vehicle refueling property

The House bill also allows a deduction for the cost of qualified clean-fuel vehicle refueling property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle refueling property is defined to include any property (other than a building or its structural components) that is used for the storage or dispensing of a clean-burning fuel (other than electricity) into the fuel tank of a motor vehicle propelled by the fuel, but only if the storage or dispensing (as the case may be) of the fuel is at the point where the fuel is delivered into the fuel tank of the motor vehicle.[3]

In order for property to qualify as qualified clean-fuel vehicle refueling property, the original use of the property must commence with the taxpayer and the property must be of a character that is subject to the allowance for depreciation (i.e., unlike qualified clean-fuel vehicle property, qualified clean-fuel vehicle refueling property is required to be used in a trade or business of the taxpayer).

The aggregate cost that may be taken into account in determining the amount of the deduction with respect to qualified clean-fuel vehicle refueling property that is placed in service at any location is not to exceed the excess (if any) of (1) $100,000, over (2) the aggregate amount taken into account under the provision by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years. For this purpose, a person is treated as related to another person if the person bears a relationship to the other person that is specified in section 267(b) or section 707(b)(1).

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[2] For purposes of the bill, a truck is to include a tractor that is used on public streets or highways to tow a vehicle such as a trailer or semi-trailer.

[3] For this purpose, qualified clean-fuel vehicle property includes any property that is used to compress natural gas into a usable fuel for motor vehicles provided that the property is located on the site that the fuel is delivered into motor vehicles.

Definition of clean-burning fuel and motor vehicle

Clean-burning fuel is defined as natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel if at least 85 percent of the fuel is methanol, ethanol, any other alcohol, ether, or any combination of the foregoing. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

Other rules

The basis of any property with respect to which a deduction is allowed under this provision is reduced by the portion of the cost of the property that is taken into account in determining the amount of the deduction that is allowed with respect to the property. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the benefit of the deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property if the property ceases to be property eligible for the deduction.

The deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property is not allowed with respect to property that is used predominantly outside the United States or property that is owned or leased by governmental units or certain tax-exempt organizations. In addition, the deduction for such property is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.

The deduction for qualified clean-fuel vehicle property is not subject to the luxury automobile depreciation limitations of section 280F (unlike the deduction allowed under section 179).[4] In addition, the deduction for qualified clean-fuel vehicle property is allowed as an adjustment to gross income rather than as an itemized deduction. Consequently, the deduction is not subject to the 2-percent adjusted gross income floor that otherwise applies to miscellaneous itemized deductions or to the limitation on itemized deductions that applies to taxpayers with adjusted gross income in excess of a specified amount ($105,250 for taxable years beginning in 1992).

Effective date.—The provision applies to property that is placed in service after June 30, 1993, and before January 1, 2005.

Senate amendment

The Senate amendment is the same as the House bill, except as provided below.

Deduction for qualified clean-fuel vehicle property

The Senate amendment does not contain the provision of the House bill which provides that in the case of a motor vehicle that may be propelled by both a clean-burning fuel and any other fuel, only the incremental cost of permitting the use of the clean-burn-

[4] The depreciation deductions allowed with respect to any such property, however, continue to be subject to the limitations of section 280F.

ing fuel is to be taken into account. Instead, the Senate amendment provides that in the case of an original equipment manufacturer's vehicle,[5] the amount of the deduction is determined based on whether the motor vehicle may be propelled by (1) only a clean-burning fuel (a "dedicated clean-fuel vehicle"), or (2) both a clean-burning fuel and any other fuel (a "fuel-flexible vehicle" or "dual-fuel vehicle").

In the case of an original equipment manufacturer's vehicle that is a dedicated clean-fuel vehicle, the amount of the deduction equals the cost of the motor vehicle, but no more than the cost limitation applicable to the vehicle as provided in the House bill. In the case of an original equipment manufacturer's vehicle that is a fuel-flexible or dual-fuel vehicle, the amount of the deduction equals $1,200, or, if greater, the incremental cost of permitting the use of the clean-burning fuel,[6] but no more than the cost limitation applicable to the vehicle as provided in the House bill.

The Senate amendment also provides that qualified clean-fuel vehicle property does not include an electric vehicle that qualifies for the 15-percent credit described below.

Deduction for qualified clean-fuel vehicle refueling property

The Senate amendment provides a $75,000 per location limitation on the amount of the deduction for qualified clean-fuel vehicle refueling property. In addition, the Senate amendment provides that qualified clean-fuel vehicle refueling property is to include any property (other than a building or its structural components) that is dedicated to the recharging of motor vehicles propelled by electricity but only if the property is located at the point where the motor vehicles are recharged. For this purpose, qualified clean-fuel vehicle refueling property generally includes any equipment that is used to provide electricity to the battery of a motor vehicle that is propelled by electricity (e.g., low-voltage recharging equipment, quick (high-voltage) charging equipment, or ancillary connection equipment such as inductive charging equipment) but does not include any property that is used to generate electricity (e.g., solar panels or windmills) and does not include the battery used in a motor vehicle propelled by electricity.

Income tax credit for qualified electric vehicles

The Senate amendment also provides an income tax credit equal to 15 percent of the cost of a qualified electric vehicle for the taxable year that the vehicle is placed in service.[7] A qualified elec-

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[5] An original equipment manufacturer's vehicle is to include any motor vehicle that is capable of being propelled by a clean-burning fuel prior to the original use of the vehicle. Any motor vehicle that is not capable of being propelled by a clean-burning fuel prior to the original use of the vehicle but is later modified so that it may be propelled by a clean-burning fuel is to be treated as a retrofitted vehicle.

[6] The incremental cost of permitting the use of a clean-burning fuel is the excess of the cost of the vehicle over what the cost of the vehicle would have been had the vehicle been propelled solely by the fuel that is not a clean-burning fuel. It is anticipated that the incremental cost will be determined under regulations or other guidance to be published by the Internal Revenue Service and that such regulations or other guidance will require the seller or other appropriate person to certify the amount of the incremental cost to the person that qualifies for the deduction.

[7] The credit is phased out for qualified electric vehicles placed in service after December 31, 2001. The otherwise allowable credit is reduced by: (1) 25 percent for property that is placed in

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tric vehicle is defined as a motor vehicle (1) that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current; (2) the original use of which commences with the taxpayer; and (3) that is acquired for use by the taxpayer and not for resale. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

The credit for qualified electric vehicles for any taxable year is not to exceed the excess (if any) of (1) the regular tax for the taxable year reduced by the credits allowable under Subpart A and sections 27, 28 and 29 of the Code, over (2) the tentative minimum tax for the taxable year.

The basis of a qualified electric vehicle is reduced by the amount of the credit that is allowable with respect to the vehicle. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the credit if the vehicle ceases to be a qualified electric vehicle.

The credit for a qualified electric vehicle is not allowed with respect to property that is used predominantly outside the United States or property that is owned or leased by governmental units or certain tax-exempt organizations. In addition, the credit is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.[8]

Conference agreement

The conference agreement follows the House bill with the following modifications.

Deduction for qualified clean-fuel vehicle property

The conference agreement provides that qualified clean-fuel vehicle property does not include an electric vehicle that qualifies for the 10-percent credit described below.

Deduction for qualified clean-fuel vehicle refueling property

The conference agreement provides that in addition to the property described in the House bill, qualified clean-fuel vehicle refueling property is to include any property (other than a building or its structural components) that is dedicated to the recharging or motor vehicles propelled by electricity but only if the property is located at the point where the motor vehicles are recharged. For this purpose, qualified clean-fuel vehicle refueling property generally includes any equipment that is used to provide electricity to the battery of a motor vehicle that is propelled by electricity (e.g., low-voltage recharging equipment, quick (high-voltage) charging equipment, or ancillary connection equipment such as inductive charging equipment) but does not include any property that is used to generate electricity (e.g., solar panels or windmills) and does not include the battery used in a motor vehicle propelled by electricity.

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service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No credit is allowed with respect to a qualified electric vehicle that is placed in service after December 31, 2004.

[8] The credit is to equal 15 percent of the excess of (1) the cost of the motor vehicle, over (2) the cost of such motor vehicle that is taken into account under section 179.

Income tax credit for qualified electric vehicles

The conference agreement also provides an income tax credit equal to 10 percent of the cost of a qualified electric vehicle for the taxable year that the vehicle is placed in service. The maximum amount of credit allowed with respect to any qualified electric vehicle is not to exceed $4,000. The credit is phased out for qualified electric vehicles placed in service after December 31, 2001. The otherwise allowable credit (as determined after the application of the $4,000 per vehicle limitation) is reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No credit is allowed with respect to a qualified electric vehicle that is placed in service after December 31, 2004.

A qualified electric vehicle is defined as a motor vehicle (1) that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current; (2) the original use of which commences with the taxpayer; and (3) that is acquired for use by the taxpayer and not for resale. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

The credit for qualified electric vehicles for any taxable year is not to exceed the excess (if any) of (1) the regular tax for the taxable year reduced by the credits allowable under Subpart A and sections 27, 28, and 29 of the Code, over (2) the tentative minimum tax for the taxable year.

The basis of a qualified electric vehicle is reduced by the amount of the credit that is allowable with respect to the vehicle. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the credit if the vehicle ceases to be a qualified electric vehicle.

The credit for a qualified electric vehicle is not allowed with respect to property that is used predominantly outside the United States or property that is owned or leased by governmental units or certain tax-exempt organizations. In addition, the credit is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.[9]

Recapture of deduction or credit

The conferees intend that the benefit of the deduction for qualified clean-fuel vehicle property will be recaptured (i.e., included in gross income) under the provision only if at any time within three years after the date that the property is placed in service, the motor vehicle of which the property is a part is modified so that it may no longer be propelled by a clean-burning fuel.[10] The amount

[9] The credit is to equal 10 percent of the excess of (1) the cost of the motor vehicle, over (2) the cost of such motor vehicle that is taken into account under section 179.

[10] The conferees intend that no recapture is to occur under the provision upon the sale or other disposition (including a disposition by reason of an accident or other casualty) of the motor vehicle. If, however, the motor vehicle is (or has been) property of a character that is subject to an allowance for depreciation, then the rules of section 1245 are to apply upon the sale or other

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of the benefit to be recaptured is to be determined as follows: (1) if the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel within one year after it is placed in service, then 100 percent of the deduction is to be recaptured; (2) if the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel within one year after the close of the period described in (1), then 67 percent of the deduction is to be recaptured; and (3) if the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel within one year after the close of the period described in (2), then 33 percent of the deduction is to be recaptured.

The adjusted basis of the property is to be increased by the amount of the benefit that is recaptured under the provision. If the property to which the recapture rules apply is of a character that is subject to an allowance for depreciation, then the additional basis is to be recovered over the remaining recovery period for the property beginning with the taxable year of recapture.

Similar recapture rules are to apply to the credit for qualified electric vehicles (except that the amount of the benefit that is recaptured is to increase the amount of tax due) and to the deduction for qualified clean-fuel vehicle refueling property. In the case of qualified clean-fuel vehicle refueling property, however, recapture under the provision is to occur only if at any time before the end of the recovery period for the property, the property is no longer used predominantly in a trade or business of the taxpayer of dispensing clean-burning fuel into the fuel tank of a motor vehicle propelled by the fuel (or, in the case of property used in the recharging of electric vehicles, the property is no longer used predominantly in a trade or business of the taxpayer of recharging motor vehicles propelled by electricity). As described above for clean-fuel vehicle property, the amount of the deduction for clean-fuel vehicle refueling property is to vest ratably over the recovery period for the property.

4. INCOME TAX CREDIT FOR ELECTRICITY GENERATED USING CERTAIN RENEWABLE RESOURCES

Present law

An investment-type tax credit is allowed against income tax liability for investments in property producing energy from certain specified renewable sources. The nonrefundable credit, which is referred to as the business energy credit, equals 10 percent of the cost of qualified solar or geothermal energy property. Solar energy property that qualifies for this tax credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but in the case of electricity generated geothermal power, only property used up to (but not including) the transmission stage.

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disposition of the vehicle. In applying section 1245, the deduction allowed under the provision is to be treated as a deduction allowed for depreciation.

The business energy credit is a component of the general business credit. The general business credit may not exceed for any taxable year the excess of the taxpayers's net income tax over the greater of: (1) 25 percent of net regular tax liability above $25,000; or (2) the tentative minimum tax. Any unused general business credit generally may be carried back to the three previous taxable years and carried forward to the subsequent 15 taxable years.

A production-type tax credit is allowed against income tax liability for the production of certain nonconventional fuels. For 1991, the credit amount is equal to $5.35 per barrel of oil or BTU oil equivalent. (This credit amount is adjusted for inflation.) Qualified fuels must be produced from a well drilled, or facility placed in service, before January 1, 1993, and must be sold before January 1, 2003. Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressurized brine, Devonian shale, coal seams, a tight formation, or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

House bill

The House bill provides for a production-type credit against income tax liability for electricity produced from either qualified wind energy or qualified "closed-loop biomass" facilities. The credit equals 1.5 cents (adjusted for inflation) per kilowatt hour of electricity produced from these qualified sources during the 10-year period after the facility is placed in service. This production credit is part of the general business credit, subject to the carryforward, carryback, and the limitation rules of the general business credit (except that the production credit from closed-loop biomass facilities may not be carried back to a taxable year ending before January 1, 1993, and the production credit from qualified wind energy facilities may not be carried back to a taxable year ending before January 1, 1994).

Closed-loop biomass is defined as the use of plant matter on a renewable basis as an energy source to generate electricity, where the plants are grown for the sole purpose of being used to generate electricity. Accordingly, the credit is not available for the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste) to generate electricity. Moreover, the credit is not available to a taxpayer who uses standing timber to produce electricity.

The credit is proportionately phased out over a three-cent per kilowatt hour range if the national average price of electricity from the renewable source exceeds a threshold price of 8 cents per kilowatt hour. (This threshold is adjusted for inflation.) Thus, the credit will not be available if the national average price of electricity from the renewable source is greater than three cents per kilowatt hour above the threshold price.

A facility which has received the business energy credit or the investment credit is not eligible for the production credit. In addition, the credit is reduced proportionately for any governmental grants or subsidized financing received (including the use of tax-exempt bonds).

Effective date.—The credit applies to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before July 1, 1999, and to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before July 1, 1999.

Senate amendment

The Senate amendment is the same as the House bill, except that: (1) the beginning threshold for the phaseout range for the credit is the national average price of electricity from the renewable source that is attributable to contracts entered into after December 31, 1989; and (2) the inflation adjustment is based on the Gross Domestic Product implicit price deflator.

Conference agreement

The conference agreement follows the Senate amendment. In addition, the conference agreement makes two clarifications. First, in order to claim the credit, a taxpayer must own the facility and sell the electricity produced by that facility to an unrelated party. Accordingly, a public utility which owns and operates a qualified facility would be able to claim the credit to the extent that the utility ultimately sells the electricity generated to unrelated parties. Second, the proportional reduction in credit that results when a taxpayer receives subsidized financing through a governmental program applies whether the subsidized financing is directly or indirectly provided. In particular, governmental programs to compensate financial intermediaries for extending low-interest loans to taxpayers who purchase or construct qualifying facilities are an example of subsidized financing.

5. REPEAL OF CERTAIN MINIMUM TAX PREFERENCES RELATING TO OIL AND GAS PRODUCTION

Present law

Taxpayers who pay or incur intangible drilling or development costs ("IDCs") in the development of domestic oil or gas properties may elect either to expense or capitalize these amounts. If an election to expense IDCs is made, the taxpayer deducts the amount of the IDCs as an expense in the taxable year the cost is paid or incurred. Generally, if IDCs are not expensed, but are capitalized, they can be recovered through depletion or depreciation, as appropriate; or at the election of the taxpayer, they may be amortized over a 60-month period.

The difference between the amount of a taxpayer's IDC deductions and the amount which would have been currently deductible had IDCs been capitalized and recovered over a 10-year period is an item of tax preference for the alternative minimum tax ("AMT") to the extent that this amount exceeds 65 percent of the taxpayer's net income from oil and gas properties for the taxable year (the "excess IDC preference"). In addition, for purposes of computing the adjusted current earnings ("ACE") adjustment of the corporate AMT, IDCs are capitalized and amortized over the 60-month period beginning with the month in which they are paid or incurred.

Independent producers and royalty owners generally are allowed a deduction for percentage depletion in computing their taxable income. A taxpayer's overall deduction for percentage depletion is limited to an amount that is equal to 65 percent of the taxpayer's pre-depletion taxable income for the taxable year. The amount by which the depletion deduction exceeds the adjusted basis of the property is an AMT preference (the "excess percentage depletion preference"). Corporations must use cost depletion in computing their ACE adjustment.

A taxpayer other than an integrated oil company is entitled to an "energy deduction" for certain IDC and depletion items. The energy deduction is the sum of 75 percent of the portion of the IDC preference [11] attributable to qualified exploratory costs and 15 percent of the remaining IDC preference plus 50 percent of the marginal production depletion preference.[12] The energy deduction may not reduce the taxpayer's alternative minimum taxable income by more than 40 percent.

House bill

For taxpayers other than integrated oil companies, the House bill repeals (1) the excess IDC preference and (2) the excess percentage depletion preference for oil and gas. The repeal of the excess IDC preference, however, may not result in more than a 40 percent reduction (30 percent for taxable years beginning in 1993) in the amount of the taxpayer's alternative minimum taxable income computed as if the present-law excess IDC preference had not been repealed.

In addition, for corporations other than integrated oil companies, the House bill repeals the ACE adjustments [13] for (1) IDCs paid or incurred in taxable years beginning after December 31, 1992, and before January 1, 1998, and (2) percentage depletion for oil and gas.

The House bill also suspends the minimum tax energy deduction for taxable years beginning after December 31, 1992, and before January 1, 1998.

Effective date.—Except as provided above regarding the repeal of the ACE treatment of IDCs, the House bill applies to taxable years beginning after December 31, 1992, and before January 1, 1998.

Senate amendment

The Senate amendment is the same as the House bill, except for the effective date.

Effective date.—Except as provided below, the Senate amendment applies to taxable years beginning after December 31, 1992. In the case of the ACE treatment of IDCs, the Senate amendment

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[11] The IDC preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess IDC preference and the ACE IDC adjustment.

[12] The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess depletion preference and the ACE depletion adjustment related to marginal property.

[13] Under the provision, the adjustment described in sec. 56(g)(4)(C)(i) (with respect to the disallowance of deductions for items not deductible for earnings and profits purposes) will not apply to percentage depletion for oil and gas.

applies to IDCs paid or incurred in taxable years beginning after December 31, 1992.

Conference amendment

The conference agreement follows the Senate Amendment.

6. DETERMINATION OF INDEPENDENT OIL AND GAS PRODUCERS STATUS

Present law

Under present law, persons owning economic interests in oil and gas producing properties may deduct an allowance for depletion in computing taxable income. Independent producers and royalty owners are permitted to claim the greater of cost or percentage depletion on the production of up to 1,000 barrels per day of crude oil and natural gas produced from domestic sources. The percentage depletion allowance for oil and gas is computed as a fixed percentage (i.e., 15 percent) of the taxpayer's gross income from the oil or gas property, subject to net income and taxable income limitations.

Also under present law, taxpayers are permitted the option to elect to deduct intangible drilling and development costs (IDCs) in the case of domestically located oil and gas wells (sec. 263(c)). For taxpayers other than independent oil and gas producers (i.e., integrated producers), however, 30 percent of the otherwise deductible amount of IDCs must be capitalized and recovered over a 60-month period.

Present law also provides a deduction from alternative minimum taxable income for a portion of a taxpayer's AMT preferences and adjustments related to IDCs and percentage depletion from marginal properties. This AMT energy deduction is available to independent producers, but not to integrated companies.

A producer of oil or natural gas is considered an independent producer unless that person (or a related person) also is engaged in a significant amount of either retailing or refining activity. A taxpayer meets the retailing exception (sec. 613A(d)(2)), and is thus not considered an independent producer, if the taxpayer directly, or through a related person, sells oil or natural gas (excluding bulk sales of such items to commercial or industrial users) or any product derived from oil or natural gas (excluding bulk sales of aviation fuels to the Department of Defense) through a retail outlet operated by the taxpayer (or a related person).[14] The retailer exception does not apply to a taxpayer with combined gross receipts from retail sales of oil, natural gas, or petroleum products for a taxable year of not more than $5 million.

A taxpayer is treated as a refiner, and thus is excluded from independent producer status, if the taxpayer or a related person engages in the refining of crude oil and on any day during the tax-

[14] In addition, sales by the taxpayer to any person (1) obligated under an agreement or contract with the taxpayer to use a trademark, trade name, or service mark or name of the taxpayer in marketing the oil, natural gas, or product derived therefrom, or (2) given authority, pursuant to an agreement or contract with the taxpayer (or related person) to occupy any retail outlet owned, leased, or controlled by the taxpayer, are treated as retail sales made by the taxpayer for this purpose.

able year the refinery runs of the taxpayer (and related persons) exceed 50,000 barrels.

For purposes of the retailer and refiner exceptions, a person is a related person with respect to the taxpayer if a significant ownership interest (i.e., 5 percent or more) in either the taxpayer or such person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person.

House bill

No provision.

Senate amendment

The Senate amendment amends the operation of both the retailer and refiner exceptions in determining whether a taxpayer is an independent oil and gas producer. With respect to the retailer exception, the Senate amendment permits gross receipts from retail sales of natural gas and products derived therefrom by a regulated public utility to be disregarded in determining whether a taxpayer is a retailer. For this purpose, a regulated public utility is as defined in section 7701(a)(33) of the Code, except that the company must generate at least one-half of its gross income for the taxable year from sources described in subparagraphs (A), (B), and (C) of that section.

Also under the Senate amendment, for purposes of determining significant refining activity under the refining exception, the requirement that a refinery run in excess of 50,000 barrels occur on any day during the taxable year is eliminated. Instead, the bill requires that the taxpayer's average daily refinery runs for the taxable year exceed 50,000 barrels in order not to treat the taxpayer as an independent producer under the refiner exception.

Effective date.—Taxable years beginning after December 31, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

7. BUSINESS ENERGY TAX CREDITS FOR SOLAR AND GEOTHERMAL PROPERTY

Present law

Nonrefundable business energy tax credits are allowed for 10 percent of the cost of qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission stage.[15]

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[15] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

The business energy tax credits expired with respect to property placed in service after June 30, 1992.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

House bill

The House bill permanently extends the credits for qualified investments in solar and geothermal property.

Effective date.—July 1, 1992.

Senate amendment

The Senate amendment is the same as the House bill, except that it adds a credit equal to 10 percent of the cost of qualified ocean thermal property placed in service by a taxpayer after June 30, 1992. For this purpose, qualified ocean thermal property is equipment which converts ocean thermal energy to usable energy. Qualified ocean thermal property is property located at either of two locations designated by the Secretary of Treasury after consultation with the Secretary of Energy.

Conference agreement

The conference agreement follows the House bill.

8. TREATMENT OF NUCLEAR DECOMMISSIONING FUNDS

Present law

A taxpayer that is required to decommission a nuclear power plant may elect to deduct certain contributions that are made to a nuclear decommissioning fund. A nuclear decommissioning fund is a segregated fund the assets of which are to be used exclusively to pay nuclear decommissioning costs, taxes on fund income, and certain administrative costs. The assets of a nuclear decommissioning fund that are not currently required for these purposes must be invested in (1) public debt securities of the United States, (2) obligations of a State or local government that are not in default as to principal or interest, or (3) time or demand deposits in a bank or an insured credit union located in the United States. These investment restrictions are the same restrictions which apply to Black Lung trusts that are established under section 501(c)(21) of the Code.

The income of a nuclear decommissioning fund is subject to tax at the highest rate of tax that applies to corporations (34 percent under present law).

House bill

The House bill repeals the present-law investment restrictions that apply to nuclear decommissioning funds. In addition, the House bill reduces the rate of tax imposed on the income of nucle-

ar decommissioning funds to 22 percent for taxable years beginning in 1994 and 1995 and to 20 percent for taxable years beginning after 1995.

Effective date.—The provision of the House bill that repeals the investment restrictions of present law is effective for taxable years beginning after December 31, 1992. The tax rate of 22 percent is effective for taxable years beginning in 1994 and 1995 and the tax rate of 20 percent is effective for taxable years beginning after 1995.

Senate amendment

The Senate amendment is the same as the House bill, except that the Senate amendment does not reduce the rate of tax imposed on the income of nuclear decommissioning funds.

Conference agreement

The conference agreement follows the House bill.

9. BINDING CONTRACT RULE FOR NONCONVENTIONAL FUELS PRODUCTION CREDIT

Present law

Nonconventional fuels are eligible for a production credit equal to $3 per barrel or Btu oil barrel equivalent.[16] (The credit amount generally is adjusted for inflation, except for gas produced from a tight formation.) Qualified fuels must be produced domestically from a well drilled, or a facility placed in service, before January 1, 1993. The production credit is available for qualified fuels sold to unrelated persons before January 1, 2003.

Qualified fuels include (1) oil produced from shale and tar sands, (2) gas produced from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass (i.e., any organic material other than oil, natural gas, or coal (or any product thereof), and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

House bill

Under the House bill, a facility that produces gas from biomass or produces liquid, gaseous, or solid synthetic fuels from coal (including lignite) will qualify for the credit if it is placed in service before January 1, 1996, pursuant to a written binding contract in effect on December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows a modified version of the House bill. Under the conference agreement, a facility that produces gas from biomass or produces liquid, gaseous, or solid synthetic fuels from coal (including lignite) generally will be treated as

[16] A barrel-of-oil equivalent generally means that amount of the qualifying fuel which has a Btu content of 5.8 million.

being placed in service before January 1, 1993, if it is placed in service by the taxpayer before January 1, 1997, pursuant to a written binding contract in effect before January 1, 1996. In the case of a facility that produces coke or coke gas, however, this provision of the conference agreement applies only if the original use of the facility commences with the taxpayer.

If a facility that qualifies for the above-stated binding contract rule is originally placed in service after December 31, 1992, production from the facility may qualify for the credit if sold before January 1, 2008.

10. TAX-EXEMPT BONDS FOR FACILITIES FOR THE LOCAL FURNISHING OF ELECTRICITY

Present law

Interest on certain private activity bonds is exempt from Federal regular individual and corporate income tax. However, issuance of most such bonds is subject to annual State private activity bond volume limitations. One type of tax-exempt private activity bond is an exempt-facility bond to finance facilities for the local furnishing of electricity.

The use of exempt-facility bonds for this purpose is limited to financing of facilities for electric systems the service area of which does not exceed either (1) two contiguous counties or (2) a city and a contiguous county. The local furnishing exception does not apply to bonds for facilities that are part of an integrated system to supply electricity to a region.

House bill

The House bill authorizes the Federal Energy Regulatory Commission ("FERC") to order electric utilities (including those qualifying under the local furnishing exception) to provide transmission ("wheeling") services to other parties that generate electricity. These FERC orders also may require the utilities to enlarge their transmission systems.

The House bill further provides that the local furnishing exception is not violated by wheeling activities conducted pursuant to such FERC orders if no tax-exempt bond financing is provided for the non-local furnishing activities.

Effective dates.—Date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with technical clarifications. First, the conferees wish to clarify that the determination of whether a facility which is subject to a FERC wheeling order is used in local furnishing activities is to be made on the basis of the facts and circumstances of each case, as under present law.

Second, the escrow requirement for defeasance of outstanding bonds in the event of non-local-furnishing uses of bond-financed facilities pursuant to the FERC orders is modified to clarify its appli-

cation to partial uses. Finally, the conferees wish to clarify their intent that this escrow requirement is to apply only to circumstances involving disqualification of outstanding bonds as a result of the FERC orders authorized under the conference agreement; no inference is intended as to the appropriate treatment of bonds the interest on which becomes taxable in other circumstances.

11. EXPAND EXCEPTION TO PRO RATA DISALLOWANCE OF BANK INTEREST EXPENSE RELATED TO INVESTMENT IN TAX-EXEMPT BONDS

Present law

Banks and other financial institutions generally are denied a deduction for the portion of their interest expense (e.g., interest paid to depositors) that is attributable to investments in tax-exempt bonds acquired after August 7, 1986. This disallowance is computed using a pro rata formula that compares the institution's average adjusted basis in tax-exempt bonds acquired after that date with the average adjusted basis of all assets of the institution.

An exception to this pro rata disallowance rule is permitted for governmental bonds and qualified 501(c)(3) bonds issued by or on behalf of governmental units that issue no more than $10 million of such bonds during a calendar year.

House bill

The House bill increases from $10 million to $20 million the amount of bonds that an issuer may issue in a year without becoming ineligible for this exception to the interest expense deduction pro rata disallowance rule.

Effective date.—Bonds issued after December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

12. TAX-EXEMPT BOND FINANCING OF CERTAIN HYDRO-ELECTRIC GENERATION FACILITIES

Present law

Interest on certain private activity bonds is exempt from Federal regular individual and corporate income taxes. However, issuance of the bonds is subject to annual State private activity bond volume limitations. One type of tax-exempt private activity bond is an exempt-facility bond. Exempt-facility bonds are bonds the proceeds of which are used to finance the following: airports; docks and wharves; mass commuting facilities or high-speed intercity rail facilities; water, sewage, solid waste, or hazardous waste disposal facilities; facilities for the local furnishing of electricity or gas; local district heating or cooling facilities; and certain low-income rental housing projects.

House bill

No provision.

Senate amendment

The Senate amendment authorizes a new type of exempt-facility bond for environmental enhancement of hydroelectric generation facilities. At least 80 percent of the net proceeds of each bond issue must be used to finance property for the promotion of fisheries or other wildlife resources. Qualifying expenditures must be related to a governmentally owned and operated hydroelectric facility and may not include amounts which increase or allow an increase in the capacity of the existing generation equipment. Issuance of these bonds is not subject to the annual State private activity bond volume limitations.

Effective date.—Bonds issued after date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

13. BONDS FOR HIGH-SPEED INTERCITY RAIL FACILITIES

Present law

High-speed intercity rail facilities qualify for tax-exempt bond financing if trains operating on the facility carry passengers and their baggage at average speeds in excess of 150 miles per hour between stations. Such facilities need not be governmentally-owned, but the owner must irrevocably elect not to claim depreciation or any tax-credit with respect to bond-financed property.

Twenty-five percent of each bond issue for high-speed intercity rail facilities must receive an allocation from a State private activity bond volume limitation. If facilities are located in two or more States, this requirement must be met on a State-by-State basis for the financing of facilities located in each State.

House bill

No provision.

Senate amendment

The Senate amendment repeals the requirement that 25 percent of each high-speed intercity rail facility bond issue receive an allocation of a State private activity bond volume limitation if the bond-financed property is governmentally owned.

Effective date.—Bonds issued after December 31, 1993.

Conference agreement

The conference agreement does not include the Senate amendment.

14. PARTIAL EXCISE TAX EXEMPTION FOR CERTAIN GASOLINE MIXTURES WITH ETHANOL OR OTHER ALCOHOL

Present law

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation and by motor-

boats (14.1 cents per gallon). A Federal excise tax also is imposed on diesel fuel used in highway transportation (20.1 cents per gallon).

A 5.4-cents-per-gallon excise tax exemption is allowed from the excise taxes on gasoline, diesel fuel, and special motor fuels for mixtures of any of these fuels with at least 10-percent ethanol. A 6-cents-per-gallon excise tax exemption is allowed for mixtures with at least 10-percent alcohol that is other than ethanol. Because blended fuels are generally 10 percent alcohol, a reduction of 5.4 or 6 cents per gallon of gasohol or other blend is equivalent to a subsidy of 54 or 60 cents per gallon of qualifying alcohol.

For purposes of the partial excise tax exemption, the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 190.

The partial excise tax exemption is scheduled to expire after September 30, 2000.

House bill

No provision.

Senate amendment

The Senate amendment modifies the partial excise tax exemption for gasoline that is mixed with ethanol or other alcohol to extend its application to 5.7- or 7.7-percent alcohol blends. The current 5.4- and 6-cents-per-gallon exemptions for alcohol mixtures are pro-rated to maintain the subsidy level of 54 or 60 cents per gallon, respectively, for ethanol or other alcohol that is mixed with gasoline.

Effective date.—Gasoline removed or entered after September 30, 1992.

Conference agreement

The conference agreement follows the Senate amendment. The conferees wish to reiterate that the purpose of this provision, as stated in the legislative history of the Senate amendment, is to provide taxpayers with greater flexibility to mix alcohol with gasoline to meet the mandated targets of the Clean Air Act.

15. APPLICATION OF ALCOHOL FUELS TAX CREDIT AGAINST ALTERNATIVE MINIMUM TAX

Present law

An income tax credit is provided for alcohol used in certain mixtures of alcohol and gasoline (e.g., gasohol), diesel fuel, or any other liquid fuel which is suitable for use in an internal combustion engine if the mixture is sold by the producer in a trade or business for use as a fuel or is so used by the producer (sec. 40). The credit also is permitted for alcohol (e.g., qualified methanol fuel) which is not in a mixture with gasoline, diesel, or other liquid fuel which is suitable for use in an internal combustion engine, provided that the alcohol is used by the taxpayer as a fuel in a trade or business or is sold by the taxpayer at retail to a person and placed in the fuel tank of the purchaser's vehicle. The credit

generally is equal to 60 cents for each gallon of alcohol (at least 190 proof) used by the taxpayer in the production of a qualified mixture or as a fuel; the credit generally is 45 cents per gallon of 150 to 190 proof alcohol fuel.[17] The credit is scheduled to expire with respect to sales or uses after December 31, 2000.

In addition, a 10-cents-per-gallon income tax credit is allowed to eligible small ethanol producers. For this purpose, a small ethanol producer is any fuel ethanol producer with productive capacity to produce less than 30 million gallons of alcohol per year. This credit is limited to the first 15 million gallons of ethanol for use as a fuel produced per year by such a small producer.

The amount of any taxpayer's alcohol fuels tax credit is reduced to take into account any benefit received with respect to the alcohol under the special reduced excise tax rates for alcohol fuel mixtures of alcohol fuels. For purposes of the credit (other than with respect to the determination of the productive capacity of an ethanol producer), the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 150.

The alcohol fuels tax credit is a component of the general business credit (sec. 38(b)(1)). The alcohol fuels tax credit, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

House bill

No provision.

Senate amendment

The Senate amendment provides that taxpayers claiming the alcohol fuels tax credit may utilize that credit to offset a portion of their alternative minimum tax liability. Specifically, the bill allows the alcohol fuels credit to offset up to 50 percent of a taxpayer's pre-credit alternative minimum tax.[18] As under present law, any unused credit would be available for a 3-year carryback and a 15-year carryover.

Effective date.—Taxable years beginning after September 30, 1992. However, the Senate amendment is limited to alcohol fuels credits actually generated in those years. That is, the Senate amendment does not allow an alcohol fuels credit generated in a taxable year beginning on or before September 30, 1992, and carried forward to a taxable year beginning after September 30, 1992, to offset alternative minimum tax in that later year. Similarly, it does not allow an alcohol fuels tax credit generated in a taxable year beginning after September 30, 1992, to be carried back and

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[17] In the case of any credit with respect to any alcohol which is ethanol, a rate of 54 cents per gallon applies instead of the 60-cent-per-gallon rate, and a rate of 40 cents per gallon applies instead of the 45-cent-per-gallon rate (sec. 40(h)).

[18] Other components of the general business credit would not be permitted to offset the alternative minimum tax under the bill.

used to reduce alternative minimum tax in a taxable year beginning on or before September 30, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

16. ALLOWANCE OF CREDIT FOR AMOUNTS TRANSFERRED FROM THE TRANS-ALASKA PIPELINE LIABILITY FUND INTO THE OIL SPILL LIABILITY TRUST FUND

Present Law

The Trans-Alaska Pipeline Liability Trust Fund ("TAPS Fund") was established by the Trans-Alaska Pipeline System Authorization Act. The TAPS Fund was financed by a fee of five cents per barrel on oil that was loaded on a vessel from the pipeline. Amounts in the TAPS Fund are to be transferred to the Oil Spill Liability Trust Fund ("Oil Spill Fund") after all outstanding claims against the TAPS Fund have been resolved. At the time of the transfer, contributors to the TAPS Fund are to be provided a credit for amounts paid to the TAPS Fund, and interest accrued on these amounts, prior to January 1, 1987. Each contributor's credit cannot exceed its pro rata share of such amounts (i.e., the contributions and interest prior to January 1, 1987) transferred from the TAPS Fund into the Oil Spill Fund.

The TAPS Fund credit is available only against the excise tax on petroleuum products that is used to finance the Oil Spill Fund. Under present law, that excise tax is not applicable after December 31, 1994, or if the unobligated balance in the Oil Spill Fund exceeds $1 billion.

House bill

No provision.

Senate amendment

The Senate amendment permits taxpayers to use TAPS credits against regular corporate income taxes to the extent that the credits may not be used against the oil spill excise tax by reason of the lapse of that tax. The TAPS credits used against corporate income taxes cannot be carried back to taxable years before the lapse occurs.

Effective date.—Date of enactment.

Conference agreement

The conference agreement, follows the Senate amendment with two modifications. First, the agreement limits the aggregate income tax credits and petroleum excise tax credits for any taxpayer to an amount not exceeding the petroleum excise tax credits that could have been claimed between December 31, 1989, and the date that the petroleum excise tax expires by lapse of time (currently scheduled for December 31, 1994). The limit is calculated assuming that (i) the balance of the Oil Spill Fund did not exceed $1 billion during that period, and (ii) the amounts in the TAPS Fund actually transferred to the Oil Spill Fund were instead transferred

on January 1, 1990. This limitation is in addition to the present-law limitations on a contributor's credit. Second, the agreement provides for transfers of funds from the Oil Spill Fund to the general fund equal to the amount of the TAPS credits claimed as income tax credits; however, these transfers are not to be made to the extent they would reduce the balance of the Oil Spill Fund below $1 billion.

B. Revenue-Offset Provisions

1. INCREASE BASE TAX RATE ON OZONE-DEPLETING CHEMICALS

Present law

An excise tax is imposed on certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax rate applicable for calender year by ozone-depleting factor assigned to the chemical. Certain chemicals are subject to reduced rate of tax for years prior to 1994.

Between 1992 and 1995 there are two base tax rates applicable, depending upon whether the chemicals were initially listed in the Omnibus Budget Reconciliation Act of 1989 or whether they were newly listed in the Omnibus Budget Reconciliation Act of 1990. The base tax rate applicable to initially listed chemicals is $1.67 per pound for 1992, $2.65 per pound for 1993 and 1994, and an additional 45 cents per pound per year for each year thereafter. The base tax rate applicable to newly listed chemicals is $1.37 per pound for 1992, $1.67 per pound for 1993, $3.00 per pound for 1994, $3.10 per pound for 1995, and an additional 45 cents per pound per year for each year thereafter.

House bill

Base tax amount.—The House increases and applies the same base tax amount to both initially listed chemicals and newly listed chemicals. The new base tax amount would be $1.85 per pound in 1992, $2.75 per pound in 1993, $3.65 per pound in 1984, $4.55 per pound in 1995. For years after 1995, the base tax amount would increase by 45 cents per pound per year.

Rigid foam insulation and halons.—The House bill reduces the applicable percentage for certain ozone-depleting chemicals used in rigid foam insulation, and certain halons. In The case of rigid foam insulation the applicable percentage is reduced from 15 percent to 13.5 percent for 1992 and from 10 percent to 9.6 percent in 1993. For Halon-1211 the applicable percentage would be 4.5 percent for 1992 and 3.0 percent for 1993. For Halon-1301 the applicable percentage would be 1.4 percent for 1992 and 0.9 percent for 1993. For Halon-2402 the applicable percentages would be 2.3 percent for 1992 and 1.5 percent for 1993.

Medical sterilants.—The House bill provides for a reduced rate of tax for certain ozone-depleting chemical used as medical sterilants for 1992 and 1993. The applicable percent for such chemicals for 1992 is 90.3 percent and is 60.7 percent for 1993.

Effective date.—The provision is effective for taxable chemicals sold or used on or after July 1, 1992. Floor stocks taxes are imposed

on taxed chemicals held on the effective dates of changes in the tax rate.

Senate amendment

The Senate amendment is the same as the House bill except for the effective date. The Senate amendment is effective for taxable chemicals sold or used on or after October 1, 1992. Floor stocks taxes are imposed on taxed chemicals held on the effective dates of changes in the base tax rate.

Conference agreement

The conference agreement follows the House bill and Senate amendment with several modifications.

Base tax amount.—The conference agreement increases and applies the same base tax amount to both initially listed chemicals and newly listed chemicals. The new base tax amount will be $3.35 per pound in 1993, $4.35 per pound in 1994, and $5.35 per pound in 1995. For years after 1995, the base tax amount will increase by 45 cents per pound per year as under present law.

Rigid foam insulation and halons.—The House bill reduces the applicable percentage for certain ozone-depleting chemicals used in rigid foam insulation, and certain halons. In the case of rigid foam insulation the applicable percentage is reduced from 10 percent to 7.46 percent in 1993. For Halon-1211, the new applicable percentage is 2.49 percent for 1993. For Halon-1301, the new applicable percentage is 0.75 percent for 1993. For Halon-2402, the new applicable percentage is 1.24 percent for 1993.

Medical sterilants and propellants for metered dose inhalers.—The conference agreement provides for a reduced rate of tax for certain ozone-depleting chemicals used as medical sterilants for 1993 and for ozone-depleting chemicals used as propellants for metered dose inhalers for years after 1992. The reduced rate of tax is $1.67 per pound for qualifying chemicals.

Metered dose inhalers are aerosol devices that deliver precisely-measured doses of therapeutic drugs directly to the lungs. Such devices are used primarily for the treatment of asthma and chronic obstructive pulmonary diseases, including chronic bronchitis and emphysema.

Methyl chloroform.—The conference agreement provides for a separate rate of tax for methyl chloroform for sales and uses in 1993. The rate of tax applicable for 1993 is determined by multiplying the base tax amount applicable for the calendar year by the ozone-depleting factor assigned to methyl chloroform, and multiplying this result by 63.02 percent. Thus, the rate of tax applicable for methyl chloroform for 1993 is the base tax amount of $3.35 per pound, multiplied by the ozone-depleting factor for methyl chloroform of 0.1, multiplied by 0.6302 for a total of $0.211 per pound.

Effective date.—The provision is effective for taxable chemicals sold or used on or after January 1, 1993. Floor stocks taxes are imposed on taxed chemicals held on the effective dates of changes in the base tax amount.

2. DENY DEDUCTION FOR CLUB DUES

Present law

No deduction is permitted for club dues unless the taxpayer establishes that his or hers use of the club was primarily for the furtherance of the taxpayer's trade or business and the specific expense was directly related to the active conduct of that trade or business. No deduction is permitted for an initiation or similar fee that is payable only upon joining a club if the useful life of the fee extends over more than one year. Such initiation fees are nondeductible capital expenditures.[19]

House bill

No provision.

Senate amendment

Under the Senate amendment, no deduction is permitted for club dues. This rule applies to all types of clubs: business, social, athletic, luncheon, or sporting clubs. Specific business expenses (e.g., meals) incurred at a club would be deductible only to the extent they otherwise satisfy present-law standards for deductibility.

Effective date.—The provision is effective for club dues paid after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment. (However, the conference agreement on H.R. 11 includes the Senate amendment.)

3. REQUIRE REPORTING OF TAXPAYER IDENTIFICATION NUMBERS OF PARTIES IN SELLER-FINANCED MORTGAGE TRANSACTIONS

Present law

Taxpayers are generally allowed an itemized deduction from adjusted gross income for the amount of qualified residence interest paid. If qualified residence interest is paid to an individual, the name and address (but not the taxpayer identification number[20]) of the interest recipient must be reported on Schedule A of the payor's tax return.

Individuals receiving taxable interest in excess of $400 are required to report the amounts received and the names (but not the addresses or taxpayer identification numbers) of the payors on Schedule B of the payee's tax return.

House bill

The House bill provides that if any taxpayer claims a deduction for qualified residence interest on any seller-provided financing, such taxpayer (the buyer) shall include on his or her tax return the name, address, and taxpayer identification number of

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[19] *Kenneth D. Smith*, 24 TCM 899 (1965).

[20] An individual's taxpayer identification number is generally that individual's Social Security number.

the person (the seller) to whom the interest is paid or accrued. In general, this information must be furnished on Schedule A of the buyer's tax return for every year in which the buyer deducts this interest.

The House bill further provides that if any person receives or accrues interest from seller-provided financing, such person (the seller) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the buyer) from whom the interest is received or accrued. In general, this information must be furnished on Schedule B of the seller's tax return for every year in which the seller is required to include this interest in income.

If any person involved in seller-provided financing is required to include on his or her tax return the taxpayer identification number of another person, such other person is required to furnish his or her taxpayer identification number to such person. Information would not be required to be reported under this provision to the extent it would be duplicative of existing information reporting requirements.

Failure to meet the requirements for information reporting described above are subject to information reporting penalties under section 6723. In general, these penalties are $50 for each failure.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The conferees anticipate that all parties to real estate closings will make every effort to inform both buyers and sellers of the requirements of this provision, and will also facilitate (to the maximum extent possible) the exchange of taxpayer identification numbers between buyers and sellers.

4. EXPANSION OF 45-DAY INTEREST-FREE PERIOD FOR CERTAIN REFUNDS

Present law

No interest is paid by the Government on a refund arising from an income tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed (sec. 6611(e)).

There is no parallel rule for refunds of taxes other than income taxes (i.e., employment, excise, and estate and gift taxes), for refunds of any type of tax arising from amended returns, or for claims for refunds of any type of tax.

If a taxpayer files a timely original return with respect to any type of tax and later files an amended return claiming a refund, and if the IRS determines that the taxpayer is due a refund on the basis of the amended return, the IRS will pay the refund with interest computed from the due date of the original return.

House bill

No interest is to be paid by the Government on a refund arising from any type of original tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed.

A parallel rule applies to amended returns and claims for refunds: if the refund is issued by the 45th day after the date the amended return or claim for refund is filed, no interest is to be paid by the Government for that period of up to 45 days (interest would continue to be paid for the period from the due date of the return to the date the amended return or claim for refund is filed). If the IRS does not issue the refund by the 45th day after the date the amended return or claim for refund is filed, interest would be paid (as under present law) for the period from the due date of the original return to the date the IRS pays the refund.

A parallel rule also applies to IRS-initiated adjustments (whether due to computational adjustments or audit adjustments). With respect to these adjustments, the IRS is to pay interest for 45 fewer days than it otherwise would.

Effective date.—The extension of the 45-day processing rule is effective for returns required to be filed (without regard to extensions) on or after July 1, 1992. The amended return rule is effective for amended returns and claims for refunds filed on or after July 1, 1992 (regardless of the taxable period to which they relate). The rule relating to IRS-initiated adjustments is applicable to refunds paid on or after July 1, 1992 (regardless of the taxable period to which they relate).

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision. (However, the conference agreement on H.R. 11 includes the House bill provision (with a different effective date).)

5. ACCESS TO TAX INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS

Present law

The Internal Revenue Code prohibits disclosure of tax returns and return information of taxpayers, with exceptions for authorized disclosure to certain Governmental entities in certain enumerated instances (Code sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).

Among the disclosures permitted under the Code is disclosure to the Department of Veterans Affairs (DVA) of self-employment tax information and certain tax information supplied to the IRS and SSA by third-parties. Disclosure is permitted to assist DVA in determining eligibility for, and establishing correct benefit amounts under, certain of its needs-based pension and other pro-

grams (sec. 6103(1)(7)(viii)). The income tax returns filed by the veterans themselves are not disclosed to DVA.

The DVA disclosure provision expired after September 30, 1992.

House bill

The House bill extends the authority to disclose tax information to the DVA for five years.

Effective date.—The DVA disclosure provision is effective October 1, 1992, and expires after September 30, 1997.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

6. DEDUCTION FOR MOVING EXPENSES

Present law

An employee or self-employed individual may deduct from gross income certain expenses incurred as a result of moving to a new residence in connection with beginning work at a new location. For a taxpayer to claim a moving expense deduction, the new principal place of work has to be at least 35 miles farther from his or her former residence than was the former principal place of work (or his or her former residence, if he or she has no former place of work).

House bill

No provision.

Senate amendment

The Senate amendment increases the mileage threshold for the moving expense deduction to 55 miles.

Effective date.—Taxable years beginning after December 31, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

7. PERCENTAGE DEPLETION DEDUCTION FOR MERCURY, ASBESTOS, URANIUM, AND LEAD

Present law

Taxpayers are allowed to deduct a reasonable allowance for depletion relating to the acquisition and certain related costs of mines or other hard mineral deposits. The depletion deduction for any taxable year is calculated under either the cost depletion method or the percentage depletion method, whichever results in the greater allowance for depletion for the year.

Under the cost depletion method, the taxpayer deducts that portion of the adjusted basis of the property which is equal to the ratio of the units sold from that property during the taxable year, to the estimated total units remaining at the beginning of that year.

Under the percentage depletion method, a deduction is allowed in each taxable year for a statutory percentage of the taxpayer's gross income from the property. The statutory percentage for mercury, asbestos, uranium, and lead is 22 percent, except that in the case of mercury and lead mined outside the United States the rate is 14 percent, and in the case of asbestos mined outside the United States the rate is 10 percent. The percentage depletion deduction for these minerals may not exceed 50 percent of the net income from the property for the taxable year (computed without allowance for deletion). Percentage depletion is not limited to the taxpayer's basis in the property; thus, the aggregate amount of percentage depletion deductions claimed may exceed the amount expended by the taxpayer to acquire and develop the property.

House bill

The House bill repeals the percentage depletion deduction for mercury, asbestos, uranium, and lead. Thus, the depletion deduction for these minerals would be determined under the cost depletion method.

Effective date.—Taxable years beginning after December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement does not contain the House bill provision.

8. TELEPHONE EXCISE TAX EXEMPTION FOR NEWS SERVICES

Present law

A three-percent excise tax is imposed on amounts paid for local and toll (long-distance) telephone service and teletypewriter exchange service. Certain exemptions are provided, including an exemption for certain communications services furnished to news services for the use in collection or dissemination of news (except local telephone service to news services).

House bill

The House bill repeals the exemption from the telephone excise tax for communications services furnished to news services for use in collection or dissemination of news.

Effective date.—The provision is effective for service after December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the provision.

9. EXCISE TAX ON CERTAIN INSURANCE PREMIUMS PAID TO CERTAIN FOREIGN PERSONS

Present law

An excise tax generally is imposed by Code section 4371 on any insurance policy covering U.S. risks that is issued by a foreign insurer not engaged in business in the United States. The tax is imposed at the following rates: (1) 4 percent of the premium paid on a casualty insurance policy or indemnity bond; (2) 1 percent of the premium paid on a policy of life, sickness, or accident insurance, or annuity contracts on the lives or hazards to the person of a U.S. citizen or resident; and (3) 1 percent of the premium paid on a policy of reinsurance covering any of the contracts taxable under (1) or (2).

House bill

No provision.

Senate amendment

The Senate amendment revises the excise tax imposed on insurance premiums paid to foreign insurance companies by raising to 4 percent the excise tax on certain premiums paid to foreign persons for reinsurance covering casualty insurance and indemnity bonds. The Senate amendment subjects premiums to the increased excise tax unless (1) the premiums are paid to a foreign insurer or reinsurer that is a resident of a foreign country, (2) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed under the Code on similar premiums received by U.S. reinsurers, and (3) the insured risk is not reinsured (whether directly or through a series of transactions or business relationships or practices having the same effect) by a resident of another foreign country who is not subject to a substantial tax (as defined in condition (2)) on the income. In cases where all three conditions are satisfied, the excise tax is imposed at the present-law rate of 1 percent.

The Senate amendment authorizes such collection and enforcement mechanisms (e.g., closing agreements) as the Secretary may specify in order to ensure that any excise tax due on any reinsurance of the U.S. risk is collected.

Effective date.—The provision applies to premiums paid after the date of the bill's enactment, but only to the extent that they are allocable to reinsurance coverage for periods after December 31, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

10. CHANGES IN WITHHOLDING ON GAMBLING WINNINGS

Present law

In general, proceeds from a wagering transaction are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000 and if the amount of such proceeds is at least 300 times as large as the amount wagered. The proceeds from a wagering transaction are determined by subtracting from the amount received the amount wagered. Any non-monetary proceeds that are received are taken into account at fair market value.

In the case of State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $5,000, regardless of the odds of the wager. This rule applies only if the wager is placed with the State agency conducting the lottery or with its authorized agents or employees.

In the case of sweepstakes, wagering pools, or lotteries other than State-conducted lotteries, proceeds from a wager are subject to withholding at a rate of 20 percent if such proceeds exceed $1,000, regardless of the odds of the wager.

No withholding tax is imposed on winnings from a slot machine, bingo, or keno.

House bill

No provision in H.R. 776. (However, H.R. 5660 as passed by the House contains a provision for an increase in the rate of withholding similar to that included in the conference agreement below.)

Senate amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement below.)

Conference agreement

The conference agreement increases the rate of withholding on gambling winnings from 20 percent to 28 percent. The conference agreement also increases the threshold for withholding on proceeds from a wagering transaction from $1,000 to $5,000. The additional requirement for withholding that the proceeds of the wager be at least 300 times the amount of the wager applies to the same extent as under present law.

Effective date.—The provision is effective for payments made after December 31, 1992.

11. INCREASE BACKUP WITHHOLDING RATE

Present law

Under section 3406, a payor is required to withhold on "reportable payments", such as interest and dividends, at a rate of 20 percent if: (1) the payee fails to furnish his taxpayer identification number (TIN) to the payor; (2) the IRS notifies the payor that the payee's TIN is incorrect; (3) a notified payee underreporting has occurred (as described in sec. 3406(c)); or (4) a payee certification failure with respect to reportable payments has occurred (as described in sec. 3406(d)).

House bill

No provision.

Senate amendment

No provision. (However, H.R. 11, as amended by the Senate, contains the same provision that is included in the conference agreement below.)

Conference agreement

The conference agreement increases the rate of withholding with respect to backup withholding from 20 percent to 31 percent.

Effective date.—The conference agreement is effective for amounts paid after December 31, 1992.

12. CLASSIFICATION OF CERTAIN INTERESTS IN CORPORATIONS AS STOCK OR INDEBTEDNESS

Present law

There presently is no definition in the Internal Revenue Code or the income tax regulations which can be used to determine whether an interest in a corporation constitutes debt or equity for Federal income tax purposes. The characterization of an investment in a corporation as debt or equity for Federal income tax purposes generally is determined under principles developed in case law by reference to numerous factors intended to identify the economic substance of the investor's interest in the corporation.

House bill

No provision in H.R. 776. (However, section 3 of H.R. 5641 as passed by the House contains a similar provision as included in the conference agreement below.)

Senate amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement below.)

Conference agreement

The conference agreement provides that the characterization (as of the time of issuance) of a corporate instrument as stock or debt by the corporate issuer is binding on the issuer and on all holders. This characterization, however, is not binding on the Secretary of the Treasury. Neither a holder nor an issuer is excused from any interest or penalties that might result under present law from an improper characterization.

Except as provided in regulations, a holder who treats such instrument in a manner inconsistent with such characterization must disclose the inconsistent treatment on such holder's tax return.

The Secretary of the Treasury is authorized to require such information as is deemed necessary to implement the provision.

Effective date.—Instruments issued after the date of enactment.

13. TREATMENT OF PRE-CONTRIBUTION GAIN IN CERTAIN PARTNERSHIP REDEMPTIONS

Present law

If property contributed to a partnership by a partner is subsequently distributed to another partner within 5 years of the contribution, the contributing partner generally recognizes gain as if the property had been sold for its fair market value at the time of the distribution. Present law generally does not require a partner who contributes appreciated property to a partnership to recognize pre-contribution gain upon a subsequent distribution of other property to that partner even if the value of that other property exceeds the partner's basis in his partnership interest.

House bill

No provision in H.R. 776. (However, H.R. 11 as passed by the House contains the same provision as included in the conference agreement below.)

Senate amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement below.)

Conference agreement

The conference agreement requires a partner who contributes appreciated property to a partnership to include pre-contribution gain in income to the extent that the value of other property distributed by the partnership to that partner exceeds his adjusted basis in his partnership interest. The provision applies whether or not the contributing partner's interest in the partnership is reduced in connection with the distribution. In accordance with the 5-year limitation of present law, the provision applies only if the distribution is made within 5 years after the contribution of the appreciated property. The conference agreement provides rules for taking into consideration multiple contributions by the same partner within the five-year period and generally permits the netting of pre-contribution losses against pre-contribution gains. Generally, the character of the gain is determined by reference to the character of the net pre-contribution gain.

For example, assume A and B form a partnership. A contributes appreciated property X and B contributes property Y, which has a basis equal to its value at the time of contribution. Y is distributed to A within 5 years, at a time when there have been no intervening distributions or dispositions of property by the partnership. Under the provision, A includes in income his pre-contribution gain with respect to X to the extent the value of Y exceeds A's basis in his partnership interest.

Appropriate basis adjustments are to be made in the basis of the distributee partner's interest in the partnership and the partnership's basis in the contributed property to take account of gain recognized by the distributee partner.

Gain recognition generally is not required to the extent the partnership distributes property which had been contributed by the

distributee partner. Rules are provided, however, to prevent avoidance of pre-contribution gain (under this provision and under the recognition provisions of present law) through the use of entities.

Under these rules, if the property distributed consists of an interest in an entity, gain recognition is required to the extent that the value of the interest in the entity is attributable to property contributed to the entity after the interest in it was contributed to the partnership. Similarly, the conference agreement provides that if contributed property is distributed indirectly to a partner other than its contributor, the contributing partner is subject to tax on the pre-contribution gain as if the property had been distributed directly rather than indirectly.

For example, assume that A and B form a partnership. A contributes appreciated property X and B contributes property Y, which is also appreciated. A also contributes the stock of C, a corporation with no substantial assets. Instead of distributing Y to A, the partnership contributes Y to C, then distributes the stock of C back to A. Under the provision, A must include in income pre-contribution gain with respect to X to the extent the value of the C stock (taking into account the volume of Y) exceeds his basis in his partnership interest. In addition, B must include in income pre-contribution gain with respect to Y.

The conferees intend that the provision be coordinated with the rules governing partnership terminations (sec. 708).[21] Pre-contribution gain otherwise required to be recognized under the provision is not triggered by a constructive termination under section 708(b)(1)(B). A constructive termination does not change the application of the sharing requirements of 704(c) of present law to pre-contribution gain with respect to property contributed to the partnership before the termination. Partners will recognize gain in connection with any distribution of partnership property within 5 years following the constructive termination, to the extent of their respective shares of the pre-termination appreciation in the value of the partnership property that is not already required to allocated to the original contributor (if any) of the property.

Effective date.—The provision applies to partnership distributions on or after June 25, 1992.

14. DENY DEDUCTION FOR TRAVEL EXPENSES PAID OR INCURRED IN CONNECTION WITH EMPLOYMENT LASTING ONE YEAR OR MORE

Present law

Unreimbursed ordinary and necessary travel expenses paid or incurred by an individual in connection with temporary employment away from home (e.g., transportation costs, and the cost of meals and lodging) are generally deductible, subject to the two-percent floor on miscellaneous itemized deductions. Travel expenses

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[21] This coordination is intended to be consistent with the coordination provided with respect to the present-law pre-contribution gain rules in the case of a partnership termination. See Report of the Committee on the Budget, House of Representatives, Omnibus Budget Reconciliation Act of 1989 (Sept. 20, 1989) at 1357; and Senate Finance Committee, Committee Print, Revenue Reconciliation Act of 1989 (Oct. 12, 1989) at 197–198.

paid or incurred in connection with indefinite employment away from home, however, are not deductible.[22]

The position of the Internal Revenue Service as to whether employment is temporary or indefinite is as follows:

(1) If a taxpayer anticipates employment to last for less than one year, whether such employment is temporary or indefinite will be determined on the basis of the facts and circumstances.

(2) If a taxpayer anticipates employment to last for one year or more and that employment does, in fact, last for one year or more, there is a presumption that the employment is not temporary but rather is indefinite, and that the taxpayer is not away from home during the indefinite period of employment. However, under certain circumstances, this one-year presumption of indefiniteness may be rebutted where the employment is expected to, and does, last for one year or more, but less than two years.

(3) An expected or actual stay of two years or longer will be considered an indefinite stay, regardless of any other facts and circumstances.[23]

House bill

No provision.

Senate amendment

No provision. (However, H.R. 11 as amended by the Senate contains the same provision that is included in the conference report below.)

Conference Agreement

The conference agreement treats a taxpayer's employment away from home in a single location as indefinite rather than temporary if it lasts for one year or more. Thus, no deduction would be permitted for travel expenses paid or incurred in connection with such employment. As under present law, if a taxpayer's employment away from home in a single location lasts for less than one year, whether such employment is temporary or indefinite would be determined on the basis of the facts and circumstances. This change is not intended to alter present law with respect to volunteer individuals providing voluntary services to charities described in section 501(c)(3).

Effective date.—The provision is effective for costs paid or incurred after December 31, 1992.

15. REPORTING OF AMOUNTS OF PROPERTY TAX REIMBURSEMENTS PAID TO SELLERS OF RESIDENCES

Present law

Individual taxpayers who itemize deductions may deduct State and local real property taxes. Under Code section 164(d)(1), if real property is sold during any real property tax year, the part of the real property tax that is properly allocable to that part of the year

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[22] *Peurifoy* v. *Commissioner*, 358 U.S. 59 (1958), *aff'g*, 254 F.2d 483 (4th Cir. 1957), *rev'g*, 27 T.C. 149 (1957).

[23] Rev. Rul. 83-82, 1983-1 C.B. 45.

that ends on the day before the date of sale is treated as imposed on the seller. The part of the real property tax that is properly allocable to that part of the year that begins on the date of sale is treated as imposed on the buyer.

Under present law, real estate transactions are required to be reported on a return to the IRS and on statements to the customers. In general, the primary responsibility for reporting is on the "real estate reporting person," that is, the person responsible for closing the transactions, including any title company or attorney who closes the transaction. If there is no person responsible for closing the transaction, the real estate reporting person is the first person who exists in the following order: the mortgage lender, the seller's broker, the buyer's broker, or such other person designated in regulations prescribed by the Secretary.

House bill

No provision in H.R. 776. (However, H.R. 5638 as passed by the House contains the same provision as included in the conference agreement below.)

Senate amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement below.)

Conference agreement

The conference agreement provides that in the case of a real estate transaction involving a residence, the real estate reporting person is required to include on an information return and on the customer statements the portion of any real property tax that is treated as a tax imposed on the purchaser. The conferees expect that the Treasury will promptly provide guidance with respect to the reporting requirement imposed by the bill. In connection therewith, the conferees anticipate that such guidance will permit the real estate reporting person to report such portion by reference to specified line items on the HUD-1 form or any comparable form provided at the closing of the transaction.

Effective date.—The provision is effective for transactions after December 31, 1992.

16. USE OF 501(C)(21) BLACK LUNG TRUST ASSETS TO FUND RETIREE HEALTH BENEFITS

Present law

A qualified black lung benefit trust described in section 501(c)(21) of the Internal Revenue Code is exempt from Federal income taxation, In addition, a deduction is allowed for contributions to a qualified black lung benefit trust to the extent such contributions are necessary to fund the trust.

Under present law, no assets of a qualified black lung benefit trust may be used for, or diverted to, any purpose other than (1) to satisfy liabilities, or pay insurance premiums to cover liabilities, arising under the Black Lung Acts, (2) to pay administrative costs of operating the trust, or (3) investment in U.S., State, or local se-

curities and obligations, or in time demand deposits in a bank or insured credit union.

Under present law, excess trust assets may be paid into the national Black Lung Disability Trust Fund, or into the general fund of the U.S. Treasury.

House bill

No provision in H.R. 776. (However, H.R. 11 as passed by the House included the provision described in the conference agreement below.)

Senate amendment

No provision in H.R. 776. (However, H.R. 11 as passed by the Senate included the provision described in the conference agreement below.)

Conference agreement

The conference agreement allows excess assets in qualified black lung benefit trusts to be used to pay accident and health benefits or premiums for insurance for such benefits (including administrative and other incidental expenses relating to such benefits) for retired coal miners and their spouses and dependents. The amount of assets available for such purpose is subject to a yearly limit as well as an aggregate limit. The yearly limit is to be the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the preceding taxable year of the trust. The aggregate limit is the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the taxable year of the trust ending prior to the effective date, plus earnings thereon. Each of these determinations is required to be made by an independent actuary.

The amounts used to pay retiree accident or health benefits are not includible in the income of the company, nor is a deduction allowed for such amounts.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

17. INCLUSION OF PROPERTY QUALIFYING FOR THE MARITAL DEDUCTION IN THE GROSS ESTATE

Present law

A marital deduction against the estate and gift tax generally is permitted for the value of property passing between spouses. No marital deduction is permitted, however, if, upon termination of the spouse's interest, possession or enjoyment of the property passes to another person (the "terminable interest rule"). Certain exceptions to this rule may apply if the spouse receives a general power of appointment over, or an income interest in, a "specific portion" of property (sec. 2056(b)(5), (6), (7)). The spouse is subject to transfer tax on property over which he or she holds a general power of appointment.

A Treasury regulation defines a "specific portion" to be a fractional or percentage share of a property interest (Treas. Reg. sec.

20.2056(b)–5(c)). Finding this regulation invalid, courts have held that the term "specific portion" includes a fixed dollar amount. See *Northeastern Pennsylvania National Bank & Trust Co.* v. *United States,* 387 U.S. 213 (1967); *Estate of Alexander* v. *Commissioner,* 82 T.C. 34 (1984), *aff'd,* No. 8401600 (4th Cir. April 3, 1985). Under the court holdings, appreciation in certain marital deduction property may be includible in neither spouse's estate.

House bill

No provision in H.R. 776. (However, H.R. 11 as passed by the House contains the same provision as included in the conference agreement described below).

Senate amendment

No provision in H.R. 776. (However, H.R. 11 as amended by the Senate contains the same provision as included in the conference agreement described below).

Conference agreement

The conference agreement provides that, for purposes of the marital deduction, a "specific portion" only includes a portion determined on a fractional or percentage basis. Thus, a trust does not qualify under the exceptions to the terminable interest rule unless the required income interest and general power of appointment are expressed as a fraction or a percentage of the property.

It is intended that no inference be drawn from the provision with respect to the definition of "specific portion" under present law. The conference agreement does not generally affect the marital deduction allowed for a pecuniary formula marital deduction bequest. See, e.g., Rev. Proc. 64–19, 1964–1 C.B. 682.

Effective date.—The provision generally applies to gifts made, and decedents dying, after date of enactment. The provision does not apply to a transfer under a will or revocable trust executed before the date of enactment if either (1) on that date the decedent was under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of death, or (2) the decedent dies within three years after the date of enactment, The provision applies, however, if the will or trust is amended after the date of enactment in any respect that increases the amount of the transfer qualifying for the marital deduction or alters the terms by which the interest passes.

C. Health Benefits for Retired Coal Miners

Present law

The United Mine Workers of America (UMWA) health and retirement funds were established in 1974 pursuant to an agreement between the UMWA and the Bituminous Coal Operator's Association (BCOA) to provide pension and health benefits to retired coal miners and their dependents. The funds have been maintained for this purpose through a series of collective bargaining agreements. The funds created in 1974 were a restructuring of the original benefit fund, which was established in 1946.

The funds consist of four different plans, each of which is funded through a separate trust. The 1950 Pension Plan provides retirement benefits to miners who retired on or before December 31, 1975, and their beneficiaries. The 1950 Benefit Plan provides health benefits for retired mine workers who receive pensions from the 1950 Pension Plan and their dependents. The 1974 Pension Plan provides retirement benefits to miners who retire after December 31, 1975, and their beneficiaries. The 1974 Benefit Plan provides health benefits to miners who retire after December 31, 1975. It also provides health benefits to miners whose last employers are no longer in business or, in some cases, no longer signatory to the applicable bargaining agreement. These miners are generally referred to as "orphan" retirees.

The Surface Mining Control and Reclamation Act of 1977, as amended, imposes a reclamation fee on coal mining operators, payable quarterly to the Secretary of the Interior for deposit in the Abandoned Mine Reclamation Fund (the AML Fund). The fee generally is the lesser of (1) 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mine or (2) 10 percent of the value of the coal at the mine. The fee for lignite is the lesser of 2 percent of the value of the coal at the mine or 10 cents per ton. The reclamation fee is scheduled to expire after September 30, 1995.

House bill

The House bill extends the abandoned mine reclamation fee through September 30, 2010.

Effective date.—Date of enactment.

Senate amendment

The Senate amendment provides that the 1950 Benefit Plan and the 1974 Benefit Plan are to be merged into a new UMWA Combined Benefit Fund ("Combined Fund") to provide health and death benefits for eligible retirees and their dependents. The Combined Fund is to be financed primarily by health benefit premiums, death benefit premiums, and unassigned beneficiaries premiums imposed on assigned operators. The Combined Fund will receive additional funding from transfers from the 1950 Pension Plan and the AML Fund. The amendment also creates a 1992 Benefit Fund to provide benefits for persons not eligible under the Combined Fund.

The Senate amendment extends the abandoned mine reclamation fund fee through September 30, 2004.

Conference agreement

The conference agreement follows the Senate amendment.

D. Trade Provision: Anticircumvention of Antidumping and Countervailing Duty Orders

Present law

The Omnibus Trade and Competitiveness Act of 1988 expanded antidumping and countervailing duty law to authorize the Department of Commerce to take action to address attempts to circum-

vent outstanding orders through U.S. or third country assembly operations using parts imported from the country subject to the original order.

House bill

No provision.

Senate amendment

Authorizes Commerce Department to expand order to include imported parts from any country, not just the country subject to the order.

Conference agreement

The conference agreement does not include the Senate amendment.

TITLE XXI—ENERGY AND THE ENVIRONMENT

Sec. 2118. Electric and Magnetic Fields Research and Public Information Dissemination Program

It is the intent of the Conferees to provide for the establishment of a national EMF program through the broad based representation of all of the affected interest groups on the Advisory Board for the program. To insure the participation of state regulators critical to the success of the comprehensive national program, the Conferees urge the Secretary of Energy and the Secretary of Health and Human Services to provide for the appropriate representation of state regulatory and health officials on the Advisory Board for the program.

It is the intent of the Congress that the Program provide for the dissemination to the public of information on electric and magnetic fields. Such information dissemination shall reflect the latest information, including relative risk assessments, on electric and magnetic fields, and shall be updated periodically as appropriate. It shall be in a form that is appropriate and useful to people who are not experts. It may include, for example, the development and dissemination of a pamphlet.

TITLE XXIV—NON-FEDERAL POWER ACT HYDROPOWER PROVISIONS

Sec. 2407.

The Conferees adopted a provision with respect to three hydroelectric projects located in the State of Alaska. It is intended and expected that the FERC will undertake, on a highly expedited basis, action on the applications made pursuant to this section.

TITLE XXX—MISCELLANEOUS

Sec. 3016. Tar Sands

It is the Conferees' intent that no inference, either positive or negative, should be drawn regarding the use of the definition of tar sands for purposes other than the study provided for in this section.

Sec. 3017. Farmouts

The House and Senate bills contain similar language excluding oil and gas interests transferred in a farmout agreement from property for bankruptcy purposes. The Senate recedes to the House language with a technical amendment.

Sec. 3018. Radiation Exposure Compensation

The Senate amendment contained a provision (section 19106) that would amend the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) to provide that an individual whose claim for compensation is denied may seek judicial review solely in a district court of the United States.

The House bill contained no similar provision.

The Senate provision was included to clarify the Radiation Exposure Compensation Act, which does not specify the appropriate forum for judicial review of denied claims. The ambiguity could generate needless litigation and consume claimant awards. The Senate provision resolves this ambiguity by designating U.S. District Court as the forum for judicial review.

TITLE XXIV—SECTION 2405

While the Conferees are not adopting section 5304(f) of the Senate amendments, this should not be interpreted as discouraging water conservation activities. Water conservation in the Columbia River Basin has tremendous potential for providing benefits for fish mitigation and enhancement, electric power production and other river uses. The Conferees encourage water conservation activities in the Pacific Northwest within existing Federal statutes.

TITLE XXIV—SECTION 2406

Congress recognizes that the Army Corps of Engineers and the Confederated Tribes of the Colville Reservation, as the private sponsor, are cooperating on a project to raise the height of Chief Joseph Dam, in Washington State, to increase hydroelectric production; and that the Bonneville Power Administration is actively involved with the Colville Tribes and Corps of Engineers in current discussions on the various methods of funding the project, if the project proves to be cost-effective, and on how BPA will market the increased power to be generated. This cooperative effort is appropriate because the Chief Joseph Project (dam and reservoir) is located at or on the Colville Reservation. Funding alternatives for the project would include either Bonneville direct funding with the Colville Tribes being compensated for their contributions to the project or indirect Bonneville funding through the Tribes as the project sponsor. Nothing in Title XXIV is intended to interfere with or limit the ability of the Army Corps of Engineers and the Confederated Tribes of the Colville Reservation to continue their cooperative efforts to develop the pool raise at the Chief Joseph Project, or interfere with the continued cooperative discussions with the Bonneville Power Administration.

This provision would clarify that the Secretaries of the Departments of the Army and the Interior can accept and use funds pro-

vided directly by the Bonneville Power Administration to construct and operate hydropower improvements, and operate and maintain Federal power facilities, at Federal projects in the Pacific Northwest. Direct funding will increase coordination, efficiency and power output at Federal projects in a fiscally responsible manner. No taxpayer subsidy of ratepayers is involved. The provision will also provide a means of replacing a portion of the electric energy which will be lost because of changes being made to the operation of the Pacific Northwest hydroelectric system to achieve recovery of the Columbia River basin salmon runs in a cost effective manner to the Bonneville ratepayer. This provision would allow the use of existing Bonneville financial flexibility to implement hydropower improvements, including any fish and wildlife mitigation and enhancement facilities affected by the improvements. This provision would not modify or affect the applicability of any provisions of the Northwest Power Act or 33 U.S.C. section 2286 (P.L. 99-662, section 1146) which authorizes the Secretary of the Army to accept funds from others to mitigate for fish and wildlife in connection with projects constructed or operated by the Secretary.

From the Committee on Energy and Commerce, for consideration of the House bill (except title XIX), and the Senate amendment (except title XX), and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
EDWARD J. MARKEY,
BILLY TAUZIN,
EDOLPHUS TOWNS,
AL SWIFT,
MIKE SYNAR,
NORMAN F. LENT,
CARLOS J. MOORHEAD,

Provided, that Mr. Bliley is appointed only for consideration of titles I, VII, XII, XVII, and XXXI of the House bill, and titles V, VI, and XV of the Senate amendment:

TOM BLILEY,

Mr. Fields is appointed only for consideration of titles III, IV, V, XIV, XVIII, and XX of the House bill, and titles IV and XVI of the Senate amendment:

JACK FIELDS,

Mr. Oxley is appointed only for consideration of titles II, VI, VIII, IX, X, XI, XIII, XV, XVI, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, and XXX of the House bill, and titles I, II, VIII, IX, X, XI, XII, XIII, XIV, XVII, XVIII, XIX, and XXI of the Senate amendment; and in lieu of Mr. Lent for title VII of the House bill and title XV of the Senate amendment:

MICHAEL G. OXLEY,

From the Committee on Ways and Means, for consideration of title XIX of the House bill, and section 19108 and title XX of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,

SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,

As additional conferees from the Committee on Ways and Means, for that portion of section 1101 of the House bill which adds new sections 1701 and 1702 to the Atomic Energy Act of 1974, and that portion of section 10103 of the Senate amendment which adds new sections 1701 and 1702 to the Atomic Energy Act of 1954, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,

As additional conferees from the Committee on Education and Labor, for consideration of sections 20141, 20142, 20143 (except those portions which add new sections 9702(a)(4), 9704, 9705(a)(4), 9706, and 9712(d)(5) to the Internal Revenue Code of 1986) of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM CLAY,
GEORGE MILLER,
DALE E. KILDEE,

As additional conferees from the Committee on Education and Labor, for consideration of those portions of section 901 which add new sections 1305 and 1312 to the Atomic Energy Act of 1954, that portion of section 1101 which adds a new section 1704 to the Atomic Energy Act of 1954, and section 3004 of the House bill and sections 4402, 6601-04, 10104, 13119, and 19113 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT WILLIAMS,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1205, 1208, 1213-14, 1302-05, 1606, and 903 of the House bill, and sections 5101-04, that portion of section 5201 which adds a new section 6 to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, 14108-09, and 14301-02, of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
HOWARD WOLPE,
MEL LEVINE,
EDWARD FEIGHAN,
HARRY JOHNSTON,
ELIOT L. ENGEL,
WILLIAM BROOMFIELD,
TOBY ROTH,
JOHN MILLER,

AMO HOUGHTON,

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1211, 1607, 2481, and 2704 of the House bill, and sections 1201, 6701-02, 10223(b), 13102, 17101-02, 19101, and 19109 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
SAM GEJDENSON,
WILLIAM BROOMFIELD,

As additional conferees from the Committee on Government Operations, for consideration of sections 121(e) and (f), 122, 127, and 128 of the House bill, and sections 6207, 6216, 6218, and 6220-6221 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
ALBERT G. BUSTAMANTE,
BILL CLINGER,

As additional conferees from the Committee on Government Operations, for consideration of sections 302 and 304-306 of the House bill, and sections 4102, 4105-4106, 4112-4113, 4116, and 4119 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
BOB WISE,
AL MCCANDLESS,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of sections 133, 1314, 1607, 3002, 3004, 3009, 3101, 3102, and 3104 and titles VIII-XI and XXIV-XXIX of the House bill, and sections 5302-5304, 5308, 6303, 6501, 6506, 13115, 13118, 13120-13121, 14114, 19110, 19112 and titles IX, X, XII, XVIII of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
NICK RAHALL,
BRUCE F. VENTO,
RON DE LUGO,
SAM GEJDENSON,
BARBARA F. VUCANOVICH
(I concur in the Conference Report and the Statement of Managers except for section 801),
JOHN J. RHODES,

Provided, Mr. Murphy is appointed in lieu of Mr. DeFazio for consideration of title XXV of the House bill and section 14114 of the Senate amendment only and Mr. Abercrombie is appointed in lieu of Mr. DeFazio for consideration of section 2481 of the House bill only:

AUSTIN J. MURPHY,
NEIL ABERCROMBIE,

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of that portion of section 723(h) which adds a new section 212(h) to the Fed-

eral Power Act, 1312–1313, 1403, 2012, 2113(g), 2307, and 3008 of the House bill, and sections 19104, and 20143(b) and titles VIII and XXI of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
NICK RAHALL,

As additional conferees from the Committee on the Judiciary, for consideration of section 3010 of the House bill, and section 19102 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
DAN GLICKMAN,
EDWARD FEIGHAN,
HARLEY O. STAGGERS, Jr.,
HOWARD L. BERMAN,
CRAIG WASHINGTON,
HAMILTON FISH, Jr.,
HENRY J. HYDE,
TOM CAMPBELL,
LAMAR SMITH,

As additional conferees from the Committee on the Judiciary, for consideration of section 11107 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,

As additional conferees from the Committee on the Judiciary, for consideration of section 19106 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
BARNEY FRANK,
GEORGE W. GEKAS,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of section 1607, and title XXIV of the House bill, and title XII of the Senate amendment, and modifications committed to conference:

GERRY STUDDS,
DENNIS M. HERTEL,
BOB DAVIS,
JACK FIELDS,
JAMES M. INHOFE,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 205, 1602, 1701(b) of the House bill, and sections 5204, 5302, 5304, and 11103 and title XXI of the Senate amendment, and modifications committed to conference:

GERRY STUDDS,
BOB DAVIS,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 121–128, 132, 411, 2453, 2461–2464, 2705, 3102, and 3104 and title XVIII of the House bill, and sections 4120, 4401,

5303, 5308, 6101, 6201–6224, 6304, and 10224 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
NORMAN Y. MINETA,
HENRY J. NOWAK,
DOUGLAS APPLEGATE,
RON DE LUGO,
GUS SAVAGE,
ROBERT A. BORSKI,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
THOMAS E. PETRI,
JAMES M. INHOFE,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 164(h), that portion of section 723 which adds a new section 212(i) to the Federal Power Act, 410, and 1316 of the House bill, and sections 12103, 12204, and 14113 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
NORMAN Y. MINETA,
JOHN PAUL HAMMERSCHMIDT,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 901–02, 1203, 1207, 1301, 1306–09, 1315, 1318–19, 2471, 2502–03, 2513, 3005, 3007, 3009 and titles VI and XX–XXIII of the House bill, and sections 4201–18, 4305, 4401, 5201–02, 5204–06, 6104, 6501, 6506, 19103, and titles II, VIII, subtitle A of title X, except those portions adding new sections 1511, 1601, 1606, 1607, 1701–1703 to the Atomic Energy Act of 1954, XIII, and XIV of the Senate amendment, and modifications committed to conference:

GEORGE E. BROWN, Jr.,
MARILYN LLOYD,
JAMES H. SCHEUER,
HOWARD WOLPE,
RICHARD H. STALLINGS,
TIMOTHY ROEMER,
DICK SWETT,
ROBERT S. WALKER,
DON RITTER,
SID MORRISON,
HARRIS W. FAWELL,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 5207, 6101–6103 of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
MARY ROSE OAKAR,
MARGE ROUKEMA,

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 1934 of the House bill, and modifications committed to conference:

G.V. MONTGOMERY,
DON EDWARDS,
DOUGLAS APPLEGATE,
HARLEY O. STAGGERS, Jr.,
BOB STUMP,
JOHN PAUL HAMMERSCHMIDT,

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 6101 and 6102 of the Senate amendment, and modifications committed to conference:

G.V. MONTGOMERY,
HARLEY O. STAGGERS, Jr.,
BOB STUMP,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources, for all titles except title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions):

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL H. FORD,
JEFF BINGAMAN,
TIM WIRTH,
KENT CONRAD,
RICHARD SHELBY,
MALCOLM WALLOP,
MARK O. HATFIELD,
PETE V. DOMENICI,
DON NICKLES,
CONRAD BURNS,

From the Committee on Governmental Affairs, conferees for subtitle B of title VI of the Senate amendment (Federal energy management):

JOHN GLENN,
TED STEVENS,

From the Committee on Commerce, Science, and Transportation, conferees for subtitles A, B, and C of title XII of the Senate amendment (Outer Continental Shelf revenue sharing), pipeline safety issues (as contained in Senate amendment No. 2785):

ERNEST F. HOLLINGS,

From the Committee on Banking, Housing, and Urban Affairs, conferees for title XV of the Senate amendment (Public Utility Holding Company Act reform):

DON RIEGLE,
JAKE GARN,

From the Committee on Veterans' Affairs, conferees on sections 6101 and 6102 of title VI of the Senate amendment (building energy efficiency):

ALAN CRANSTON,
ARLEN SPECTER,

From the Committee on Finance, conferees on title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions):

LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
DAVID L. BOREN,
TOM DASCHLE,
JOHN BREAUX,
BOB PACKWOOD,
BOB DOLE,
JOHN C. DANFORTH,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

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