

110TH CONGRESS
2D SESSION

S. 3523

To provide 8 steps for energy sufficiency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18 (legislative day, SEPTEMBER 17), 2008

Mr. ENZI introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide 8 steps for energy sufficiency, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Eight Steps to Energy Sufficiency Act of 2008”.

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

Sec. 1. Short title; table of contents.

TITLE I—SAVING AMERICAN ENERGY

Subtitle A—Plug in Hybrid Technology

Sec. 101. Advanced batteries for electric drive vehicles.

Subtitle B—Promoting Energy Efficiency

Sec. 111. Expanding information on energy savings techniques.

TITLE II—INCREASING AMERICAN ENERGY SUPPLY

Subtitle A—Outer Continental Shelf

Sec. 201. Publication of projected State lines on outer continental shelf.

Sec. 202. Production of oil and natural gas in new producing areas.

Sec. 203. Conforming amendments.

Subtitle B—Oil Shale Development

Sec. 211. Removal of prohibition on final regulations for commercial leasing program for oil shale resources on public land.

TITLE III—STREAMLINE PERMITTING

Subtitle A—Streamline Refinery Permitting Process

Sec. 301. Refinery permitting process.

Subtitle B—Application for Permit to Drill Fee Removal

Sec. 311. Removal of additional fee for new applications for permits to drill.

Subtitle C—Report on National Environmental Policy Act of 1969

Sec. 321. Report on National Environmental Policy Act of 1969.

TITLE IV—INNOVATION

Sec. 401. Hydrogen installation, infrastructure, and fuel costs.

Sec. 402. Report on cellulosic ethanol.

TITLE V—INCENTIVES FOR CLEAN ENERGY

Subtitle A—Extension of Clean Energy Tax Credits

Sec. 500. Amendment of 1986 code.

PART I—EXTENSION OF CLEAN ENERGY PRODUCTION INCENTIVES

Sec. 501. Extension and modification of renewable energy production tax credit.

Sec. 502. Extension and modification of solar energy and fuel cell investment tax credit.

Sec. 503. Extension and modification of residential energy efficient property credit.

Sec. 504. Extension and modification of credit for clean renewable energy bonds.

Sec. 505. Extension of special rule to implement FERC restructuring policy.

PART II—EXTENSION OF INCENTIVES TO IMPROVE ENERGY EFFICIENCY

Sec. 511. Extension and modification of credit for energy efficiency improvements to existing homes.

Sec. 512. Extension and modification of tax credit for energy efficient new homes.

Sec. 513. Extension and modification of energy efficient commercial buildings deduction.

Sec. 514. Modification and extension of energy efficient appliance credit for appliances produced after 2007.

Subtitle B—Mineral Royalty Payments

Sec. 521. Termination of authority to deduct amounts from share of oil and gas leasing revenues provided to States.

TITLE VI—COAL-TECHNOLOGY DEVELOPMENT

Subtitle A—Coal to Liquids

- Sec. 601. Definitions.
- Sec. 602. Coal-to-liquid fuel loan guarantee program.
- Sec. 603. Coal-to-liquid facilities loan program.
- Sec. 604. Location of coal-to-liquid manufacturing facilities.
- Sec. 605. Strategic petroleum reserve.
- Sec. 606. Authorization to conduct research, development, testing, and evaluation of assured domestic fuels.
- Sec. 607. Coal-to-liquid long-term fuel procurement and department of defense development.
- Sec. 608. Report on emissions of Fischer-Tropsch products used as transportation fuels.

Subtitle B—Tax Incentives for Coal-to-Liquids Production

- Sec. 611. Credit for investment in coal-to-liquid fuels projects.
- Sec. 612. Temporary expensing for equipment used in coal-to-liquid fuels process.
- Sec. 613. Extension of alternative fuel credit for fuel derived from coal through the fischer-tropsch process.
- Sec. 614. Modifications to enhanced oil recovery credit.
- Sec. 615. Allowance of enhanced oil, natural gas, and coalbed methane recovery, and capture and sequestration credit against the alternative minimum tax.

Subtitle C—Clean Coal Technology Deployment

Sec. 621. Carbon sequestration and capture.

Subtitle D—Reduced Carbon Emissions Through Clean Coal Technologies

- Sec. 631. Statement of policy.
- Sec. 632. Clean coal research and development.
- Sec. 633. Clean coal demonstration.
- Sec. 634. Identification of clean coal research, development, and demonstration projects.

Subtitle E—Clean Coal Technology Incentives

- Sec. 641. Short title.
- Sec. 642. Modification of special rules for atmospheric pollution control facilities.
- Sec. 643. Extension and modification of production credit for closed-loop biomass.
- Sec. 644. Qualifying new clean coal power plant credit.
- Sec. 645. Investment credit for equipment used to capture, transport, and store carbon dioxide.

- Sec. 646. Tax credit for carbon dioxide sequestration in the generation of electricity.
- Sec. 647. Clean energy coal bonds.

TITLE VII—NUCLEAR ENERGY

Subtitle A—Nuclear Waste Access to Yucca Mountain

- Sec. 701. Definitions.
- Sec. 702. Withdrawal of land.
- Sec. 703. Receipt and storage facilities.
- Sec. 704. Repeal of capacity limitation.
- Sec. 705. Infrastructure activities.
- Sec. 706. Rail line.
- Sec. 707. Nuclear Waste Fund.
- Sec. 708. Waste confidence.

Subtitle B—Tax Provisions

- Sec. 711. Investment tax credit for investments in nuclear power facilities.
- Sec. 712. 5-year accelerated depreciation for new nuclear power facilities.

TITLE VIII—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN

- Sec. 801. Definitions.
- Sec. 802. Leasing program for land within the Coastal Plain.
- Sec. 803. Lease sales.
- Sec. 804. Grant of leases by the Secretary.
- Sec. 805. Lease terms and conditions.
- Sec. 806. Coastal Plain environmental protection.
- Sec. 807. Expedited judicial review.
- Sec. 808. Rights-of-way and easements across Coastal Plain.
- Sec. 809. Conveyance.
- Sec. 810. Local government impact aid and community service assistance.
- Sec. 811. Prohibition on exports.
- Sec. 812. Allocation of revenues.

1 **TITLE I—SAVING AMERICAN**
 2 **ENERGY**

3 **Subtitle A—Plug in Hybrid**
 4 **Technology**

5 **SEC. 101. ADVANCED BATTERIES FOR ELECTRIC DRIVE VE-**
 6 **HICLES.**

7 (a) **DEFINITIONS.**—In this section:

1 (1) **ADVANCED BATTERY.**—The term “advanced
2 battery” means an electrical storage device that is
3 suitable for a vehicle application.

4 (2) **ENGINEERING INTEGRATION COSTS.**—The
5 term “engineering integration costs” includes the
6 cost of engineering tasks relating to—

7 (A) the incorporation of qualifying compo-
8 nents into the design of an advanced battery;
9 and

10 (B) the design of tooling and equipment
11 and the development of manufacturing proc-
12 esses and material for suppliers of production
13 facilities that produce qualifying components or
14 advanced batteries.

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

17 (b) **ADVANCED BATTERY RESEARCH AND DEVELOP-**
18 **MENT.**—

19 (1) **IN GENERAL.**—The Secretary shall—

20 (A) expand and accelerate research and de-
21 velopment efforts for advanced batteries; and

22 (B) emphasize lower cost means of pro-
23 ducing abuse-tolerant advanced batteries with
24 the appropriate balance of power and energy ca-
25 pacity to meet market requirements.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—

2 There is authorized to be appropriated to carry out
3 this subsection \$100,000,000 for each of fiscal years
4 2010 through 2014.

5 (c) DIRECT LOAN PROGRAM.—

6 (1) IN GENERAL.—Subject to the availability of
7 appropriated funds, not later than 1 year after the
8 date of enactment of this Act, the Secretary shall
9 carry out a program to provide a total of not more
10 than \$250,000,000 in loans to eligible individuals
11 and entities for not more than 30 percent of the
12 costs of 1 or more of—

13 (A) reequipping a manufacturing facility in
14 the United States to produce advanced bat-
15 teries;

16 (B) expanding a manufacturing facility in
17 the United States to produce advanced bat-
18 teries; or

19 (C) establishing a manufacturing facility in
20 the United States to produce advanced bat-
21 teries.

22 (2) ELIGIBILITY.—

23 (A) IN GENERAL.—To be eligible to obtain
24 a loan under this subsection, an individual or
25 entity shall—

1 (i) be financially viable without the re-
2 ceipt of additional Federal funding associ-
3 ated with a proposed project under this
4 subsection;

5 (ii) provide sufficient information to
6 the Secretary for the Secretary to ensure
7 that the qualified investment is expended
8 efficiently and effectively; and

9 (iii) meet such other criteria as may
10 be established and published by the Sec-
11 retary.

12 (B) CONSIDERATION.—In selecting eligible
13 individuals or entities for loans under this sub-
14 section, the Secretary may consider whether the
15 proposed project of an eligible individual or en-
16 tity under this subsection would—

17 (i) reduce manufacturing time;

18 (ii) reduce manufacturing energy in-
19 tensity;

20 (iii) reduce negative environmental
21 impacts or byproducts; or

22 (iv) increase spent battery or compo-
23 nent recycling.

24 (3) RATES, TERMS, AND REPAYMENT OF
25 LOANS.—A loan provided under this subsection—

1 (A) shall have an interest rate that, as of
2 the date on which the loan is made, is equal to
3 the cost of funds to the Department of the
4 Treasury for obligations of comparable matu-
5 rity;

6 (B) shall have a term that is equal to the
7 lesser of—

8 (i) the projected life, in years, of the
9 eligible project to be carried out using
10 funds from the loan, as determined by the
11 Secretary; or

12 (ii) 25 years; and

13 (C) may be subject to a deferral in repay-
14 ment for not more than 5 years after the date
15 on which the eligible project carried out using
16 funds from the loan first begins operations, as
17 determined by the Secretary.

18 (4) PERIOD OF AVAILABILITY.—A loan under
19 this subsection shall be available for—

20 (A) facilities and equipment placed in serv-
21 ice before December 30, 2020; and

22 (B) engineering integration costs incurred
23 during the period beginning on the date of en-
24 actment of this Act and ending on December
25 30, 2020.

1 (5) FEES.—The cost of administering a loan
2 made under this subsection shall not exceed
3 \$100,000.

4 (6) AUTHORIZATION OF APPROPRIATIONS.—
5 There are authorized to be appropriated such sums
6 as are necessary to carry out this subsection for
7 each of fiscal years 2009 through 2013.

8 (d) SENSE OF THE SENATE ON PURCHASE OF PLUG-
9 IN ELECTRIC DRIVE VEHICLES.—It is the sense of the
10 Senate that, to the maximum extent practicable, the Fed-
11 eral Government should implement policies to increase the
12 purchase of plug-in electric drive vehicles by the Federal
13 Government.

14 **Subtitle B—Promoting Energy**
15 **Efficiency**

16 **SEC. 111. EXPANDING INFORMATION ON ENERGY SAVINGS**
17 **TECHNIQUES.**

18 Not later than 1 year after the date of enactment
19 of this Act, the Secretary of Energy shall submit to Con-
20 gress a report that contains recommendations on—

21 (1) educational outreach opportunities that can
22 be implemented by Federal agencies to increase the
23 knowledge of the people of the United States of en-
24 ergy saving techniques that can be used in daily life;
25 and

1 (2) actions that can be taken by Congress to in-
2 crease the knowledge of the people of the United
3 States of energy saving techniques that can be used
4 in daily life.

5 **TITLE II—INCREASING**
6 **AMERICAN ENERGY SUPPLY**
7 **Subtitle A—Outer Continental**
8 **Shelf**

9 **SEC. 201. PUBLICATION OF PROJECTED STATE LINES ON**
10 **OUTER CONTINENTAL SHELF.**

11 Section 4(a)(2)(A) of the Outer Continental Shelf
12 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

13 (1) by designating the first, second, and third
14 sentences as clause (i), (iii), and (iv), respectively;

15 (2) in clause (i) (as so designated), by inserting
16 before the period at the end the following: “not later
17 than 90 days after the date of enactment of the
18 Eight Steps for Energy Security Act of 2008”; and

19 (3) by inserting after clause (i) (as so des-
20 ignated) the following:

21 “(i)(I) The projected lines shall also
22 be used for the purpose of preleasing and
23 leasing activities conducted in new pro-
24 ducing areas under section 32.

1 “(II) This clause shall not affect any
2 property right or title to Federal sub-
3 merged land on the outer Continental
4 Shelf.

5 “(III) In carrying out this clause, the
6 President shall consider the offshore ad-
7 ministrative boundaries beyond State sub-
8 merged lands for planning, coordination,
9 and administrative purposes of the Depart-
10 ment of the Interior, but may establish dif-
11 ferent boundaries.”.

12 **SEC. 202. PRODUCTION OF OIL AND NATURAL GAS IN NEW**
13 **PRODUCING AREAS.**

14 The Outer Continental Shelf Lands Act (43 U.S.C.
15 1331 et seq.) is amended by adding at the end the fol-
16 lowing:

17 **“SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW**
18 **PRODUCING AREAS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COASTAL POLITICAL SUBDIVISION.—The
21 term ‘coastal political subdivision’ means a political
22 subdivision of a new producing State any part of
23 which political subdivision is—

24 “(A) within the coastal zone (as defined in
25 section 304 of the Coastal Zone Management

1 Act of 1972 (16 U.S.C. 1453)) of the new pro-
2 ducing State as of the date of enactment of this
3 section; and

4 “(B) not more than 200 nautical miles
5 from the geographic center of any leased tract.

6 “(2) MORATORIUM AREA.—

7 “(A) IN GENERAL.—The term ‘moratorium
8 area’ means an area covered by sections 104
9 through 105 of the Department of the Interior,
10 Environment, and Related Agencies Appropria-
11 tions Act, 2008 (Public Law 110–161; 121
12 Stat. 2118) (as in effect on the day before the
13 date of enactment of this section).

14 “(B) EXCLUSION.—The term ‘moratorium
15 area’ does not include an area located in the
16 Gulf of Mexico.

17 “(3) NEW PRODUCING AREA.—The term ‘new
18 producing area’ means any moratorium area within
19 the offshore administrative boundaries beyond the
20 submerged land of a State that is located greater
21 than 50 miles from the coastline of the State.

22 “(4) NEW PRODUCING STATE.—The term ‘new
23 producing State’ means a State that has, within the
24 offshore administrative boundaries beyond the sub-
25 merged land of the State, a new producing area

1 available for oil and gas leasing under subsection
2 (b).

3 “(5) OFFSHORE ADMINISTRATIVE BOUND-
4 ARIES.—The term ‘offshore administrative bound-
5 aries’ means the administrative boundaries estab-
6 lished by the Secretary beyond State submerged land
7 for planning, coordination, and administrative pur-
8 poses of the Department of the Interior and pub-
9 lished in the Federal Register on January 3, 2006
10 (71 Fed. Reg. 127).

11 “(6) QUALIFIED OUTER CONTINENTAL SHELF
12 REVENUES.—

13 “(A) IN GENERAL.—The term ‘qualified
14 outer Continental Shelf revenues’ means all
15 rentals, royalties, bonus bids, and other sums
16 due and payable to the United States from
17 leases entered into on or after the date of en-
18 actment of this section for new producing areas.

19 “(B) EXCLUSIONS.—The term ‘qualified
20 outer Continental Shelf revenues’ does not in-
21 clude—

22 “(i) revenues from a bond or other
23 surety forfeited for obligations other than
24 the collection of royalties;

25 “(ii) revenues from civil penalties;

1 “(iii) royalties taken by the Secretary
2 in-kind and not sold;

3 “(iv) revenues generated from leases
4 subject to section 8(g); or

5 “(v) any revenues considered qualified
6 outer Continental Shelf revenues under
7 section 102 of the Gulf of Mexico Energy
8 Security Act of 2006 (43 U.S.C. 1331
9 note; Public Law 109–432).

10 “(b) PETITION FOR LEASING NEW PRODUCING
11 AREAS.—

12 “(1) IN GENERAL.—Beginning on the date on
13 which the President delineates projected State lines
14 under section 4(a)(2)(A)(ii), the Governor of a
15 State, with the concurrence of the legislature of the
16 State, with a new producing area within the offshore
17 administrative boundaries beyond the submerged
18 land of the State may submit to the Secretary a pe-
19 tition requesting that the Secretary make the new
20 producing area available for oil and gas leasing.

21 “(2) ACTION BY SECRETARY.—Notwithstanding
22 section 18, as soon as practicable after receipt of a
23 petition under paragraph (1), the Secretary shall ap-
24 prove the petition if the Secretary determines that
25 leasing the new producing area would not create an

1 unreasonable risk of harm to the marine, human, or
2 coastal environment.

3 “(c) DISPOSITION OF QUALIFIED OUTER CONTI-
4 NENTAL SHELF REVENUES FROM NEW PRODUCING
5 AREAS.—

6 “(1) IN GENERAL.—Notwithstanding section 9
7 and subject to the other provisions of this sub-
8 section, for each applicable fiscal year, the Secretary
9 of the Treasury shall deposit—

10 “(A) 50 percent of qualified outer Conti-
11 nental Shelf revenues in the general fund of the
12 Treasury; and

13 “(B) 50 percent of qualified outer Conti-
14 nental Shelf revenues in a special account in
15 the Treasury from which the Secretary shall
16 disburse—

17 “(i) 75 percent to new producing
18 States in accordance with paragraph (2);
19 and

20 “(ii) 25 percent to provide financial
21 assistance to States in accordance with
22 section 6 of the Land and Water Conserva-
23 tion Fund Act of 1965 (16 U.S.C. 4601–8),
24 which shall be considered income to the
25 Land and Water Conservation Fund for

1 purposes of section 2 of that Act (16
2 U.S.C. 4601–5).

3 “(2) ALLOCATION TO NEW PRODUCING STATES
4 AND COASTAL POLITICAL SUBDIVISIONS.—

5 “(A) ALLOCATION TO NEW PRODUCING
6 STATES.—Effective for fiscal year 2008 and
7 each fiscal year thereafter, the amount made
8 available under paragraph (1)(B)(i) shall be al-
9 located to each new producing State in amounts
10 (based on a formula established by the Sec-
11 retary by regulation) proportional to the
12 amount of qualified outer Continental Shelf rev-
13 enues generated in the new producing area off-
14 shore each State.

15 “(B) PAYMENTS TO COASTAL POLITICAL
16 SUBDIVISIONS.—

17 “(i) IN GENERAL.—The Secretary
18 shall pay 20 percent of the allocable share
19 of each new producing State, as deter-
20 mined under subparagraph (A), to the
21 coastal political subdivisions of the new
22 producing State.

23 “(ii) ALLOCATION.—The amount paid
24 by the Secretary to coastal political sub-
25 divisions shall be allocated to each coastal

1 political subdivision in accordance with the
2 regulations promulgated under subpara-
3 graph (A).

4 “(3) MINIMUM ALLOCATION.—The amount allo-
5 cated to a new producing State for each fiscal year
6 under paragraph (2) shall be at least 5 percent of
7 the amounts available for the fiscal year under para-
8 graph (1)(B)(i).

9 “(4) TIMING.—The amounts required to be de-
10 posited under subparagraph (B) of paragraph (1)
11 for the applicable fiscal year shall be made available
12 in accordance with that subparagraph during the fis-
13 cal year immediately following the applicable fiscal
14 year.

15 “(5) AUTHORIZED USES.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), each new producing State and coast-
18 al political subdivision shall use all amounts re-
19 ceived under paragraph (2) in accordance with
20 all applicable Federal and State laws, only for
21 1 or more of the following purposes:

22 “(i) Projects and activities for the
23 purposes of coastal protection, including
24 conservation, coastal restoration, hurricane

1 protection, and infrastructure directly af-
2 fected by coastal wetland losses.

3 “(ii) Mitigation of damage to fish,
4 wildlife, or natural resources.

5 “(iii) Implementation of a federally
6 approved marine, coastal, or comprehensive
7 conservation management plan.

8 “(iv) Funding of onshore infrastruc-
9 ture projects.

10 “(v) Planning assistance and the ad-
11 ministrative costs of complying with this
12 section.

13 “(B) LIMITATION.—Not more than 3 per-
14 cent of amounts received by a new producing
15 State or coastal political subdivision under
16 paragraph (2) may be used for the purposes de-
17 scribed in subparagraph (A)(v).

18 “(6) ADMINISTRATION.—Amounts made avail-
19 able under paragraph (1)(B) shall—

20 “(A) be made available, without further
21 appropriation, in accordance with this sub-
22 section;

23 “(B) remain available until expended; and

24 “(C) be in addition to any amounts appro-
25 priated under—

1 “(i) other provisions of this Act;

2 “(ii) the Land and Water Conserva-
3 tion Fund Act of 1965 (16 U.S.C. 4601–4
4 et seq.); or

5 “(iii) any other provision of law.

6 “(d) DISPOSITION OF QUALIFIED OUTER CONTI-
7 NENTAL SHELF REVENUES FROM OTHER AREAS.—Not-
8 withstanding section 9, for each applicable fiscal year, the
9 terms and conditions of subsection (c) shall apply to the
10 disposition of qualified outer Continental Shelf revenues
11 that—

12 “(1) are derived from oil or gas leasing in an
13 area that is not included in the current 5-year plan
14 of the Secretary for oil or gas leasing; and

15 “(2) are not assumed in the budget of the
16 United States Government submitted by the Presi-
17 dent under section 1105 of title 31, United States
18 Code.”.

19 **SEC. 203. CONFORMING AMENDMENTS.**

20 Sections 104 and 105 of the Department of the Inte-
21 rior, Environment, and Related Agencies Appropriations
22 Act, 2008 (Public Law 110–161; 121 Stat. 2118) are
23 amended by striking “No funds” each place it appears and
24 inserting “Except as provided in section 32 of the Outer
25 Continental Shelf Lands Act, no funds”.

1 **Subtitle B—Oil Shale Development**

2 **SEC. 211. REMOVAL OF PROHIBITION ON FINAL REGULA-**
 3 **TIONS FOR COMMERCIAL LEASING PROGRAM**
 4 **FOR OIL SHALE RESOURCES ON PUBLIC**
 5 **LAND.**

6 Section 433 of the Department of the Interior, Envi-
 7 ronment, and Related Agencies Appropriations Act, 2008
 8 (Public Law 110–161; 121 Stat. 2152) is repealed.

9 **TITLE III—STREAMLINE**
 10 **PERMITTING**
 11 **Subtitle A—Streamline Refinery**
 12 **Permitting Process**

13 **SEC. 301. REFINERY PERMITTING PROCESS.**

14 (a) DEFINITIONS.—In this section:

15 (1) ADMINISTRATOR.—The term “Adminis-
 16 trator” means the Administrator of the Environ-
 17 mental Protection Agency.

18 (2) INDIAN TRIBE.—The term “Indian tribe”
 19 has the meaning given the term in section 4 of the
 20 Indian Self-Determination and Education Assistance
 21 Act (25 U.S.C. 450b).

22 (3) PERMIT.—The term “permit” means any
 23 permit, license, approval, variance, or other form of
 24 authorization that a refiner is required to obtain—

25 (A) under any Federal law; or

1 (B) from a State or Indian tribal govern-
2 ment agency delegated authority by the Federal
3 Government, or authorized under Federal law,
4 to issue permits.

5 (4) REFINER.—The term “refiner” means a
6 person that—

7 (A) owns or operates a refinery; or

8 (B) seeks to become an owner or operator
9 of a refinery.

10 (5) REFINERY.—

11 (A) IN GENERAL.—The term “refinery”
12 means—

13 (i) a facility at which crude oil is re-
14 fined into transportation fuel or other pe-
15 troleum products; and

16 (ii) a coal liquification or coal-to-liquid
17 facility at which coal is processed into syn-
18 thetic crude oil or any other fuel.

19 (B) INCLUSIONS.—The term “refinery” in-
20 cludes an expansion of a refinery.

21 (6) REFINERY EXPANSION.—The term “refin-
22 ery expansion” means a physical change in a refin-
23 ery that results in an increase in the capacity of the
24 refinery.

1 (7) REFINERY PERMITTING AGREEMENT.—The
2 term “refinery permitting agreement” means an
3 agreement entered into between the Administrator
4 and a State or Indian tribe under subsection (b).

5 (8) SECRETARY.—The term “Secretary” means
6 the Secretary of Commerce.

7 (9) STATE.—The term “State” means—

8 (A) a State;

9 (B) the District of Columbia;

10 (C) the Commonwealth of Puerto Rico;

11 and

12 (D) any other territory or possession of the
13 United States.

14 (b) STREAMLINING OF REFINERY PERMITTING
15 PROCESS.—

16 (1) IN GENERAL.—At the request of the Gov-
17 ernor of a State or the governing body of an Indian
18 tribe, the Administrator shall enter into a refinery
19 permitting agreement with the State or Indian tribe
20 under which the process for obtaining all permits
21 necessary for the construction and operation of a re-
22 finery shall be streamlined using a systematic inter-
23 disciplinary multimedia approach as provided in this
24 section.

1 (2) AUTHORITY OF ADMINISTRATOR.—Under a
2 refinery permitting agreement—

3 (A) the Administrator shall have authority,
4 as applicable and necessary, to—

5 (i) accept from a refiner a consoli-
6 dated application for all permits that the
7 refiner is required to obtain to construct
8 and operate a refinery;

9 (ii) in consultation and cooperation
10 with each Federal, State, or Indian tribal
11 government agency that is required to
12 make any determination to authorize the
13 issuance of a permit, establish a schedule
14 under which each agency shall—

15 (I) concurrently consider, to the
16 maximum extent practicable, each de-
17 termination to be made; and

18 (II) complete each step in the
19 permitting process; and

20 (iii) issue a consolidated permit that
21 combines all permits issued under the
22 schedule established under clause (ii); and

23 (B) the Administrator shall provide to
24 State and Indian tribal government agencies—

1 (i) financial assistance in such
2 amounts as the agencies reasonably require
3 to hire such additional personnel as are
4 necessary to enable the government agen-
5 cies to comply with the applicable schedule
6 established under subparagraph (A)(ii);
7 and

8 (ii) technical, legal, and other assist-
9 ance in complying with the refinery permit-
10 ting agreement.

11 (3) AGREEMENT BY THE STATE.—Under a re-
12 finery permitting agreement, a State or governing
13 body of an Indian tribe shall agree that—

14 (A) the Administrator shall have each of
15 the authorities described in paragraph (2); and

16 (B) each State or Indian tribal government
17 agency shall—

18 (i) in accordance with State law, make
19 such structural and operational changes in
20 the agencies as are necessary to enable the
21 agencies to carry out consolidated project-
22 wide permit reviews concurrently and in
23 coordination with the Environmental Pro-
24 tection Agency and other Federal agencies;
25 and

1 (ii) comply, to the maximum extent
2 practicable, with the applicable schedule
3 established under paragraph (2)(A)(ii).

4 (4) DEADLINES.—

5 (A) NEW REFINERIES.—In the case of a
6 consolidated permit for the construction of a
7 new refinery, the Administrator and the State
8 or governing body of an Indian tribe shall ap-
9 prove or disapprove the consolidated permit not
10 later than—

11 (i) 360 days after the date of the re-
12 ceipt of the administratively complete ap-
13 plication for the consolidated permit; or

14 (ii) on agreement of the applicant, the
15 Administrator, and the State or governing
16 body of the Indian tribe, 90 days after the
17 expiration of the deadline established
18 under clause (i).

19 (B) EXPANSION OF EXISTING REFIN-
20 ERIES.—In the case of a consolidated permit
21 for the expansion of an existing refinery, the
22 Administrator and the State or governing body
23 of an Indian tribe shall approve or disapprove
24 the consolidated permit not later than—

1 (i) 120 days after the date of the re-
2 ceipt of the administratively complete ap-
3 plication for the consolidated permit; or

4 (ii) on agreement of the applicant, the
5 Administrator, and the State or governing
6 body of the Indian tribe, 30 days after the
7 expiration of the deadline established
8 under clause (i).

9 (5) FEDERAL AGENCIES.—Each Federal agency
10 that is required to make any determination to au-
11 thorize the issuance of a permit shall comply with
12 the applicable schedule established under paragraph
13 (2)(A)(ii).

14 (6) JUDICIAL REVIEW.—Any civil action for re-
15 view of any permit determination under a refinery
16 permitting agreement shall be brought exclusively in
17 the United States district court for the district in
18 which the refinery is located or proposed to be lo-
19 cated.

20 (7) EFFICIENT PERMIT REVIEW.—In order to
21 reduce the duplication of procedures, the Adminis-
22 trator shall use State permitting and monitoring
23 procedures to satisfy substantially equivalent Fed-
24 eral requirements under this title.

1 (8) SEVERABILITY.—If 1 or more permits that
2 are required for the construction or operation of a
3 refinery are not approved on or before any deadline
4 established under paragraph (4), the Administrator
5 may issue a consolidated permit that combines all
6 other permits that the refiner is required to obtain
7 other than any permits that are not approved.

8 (9) SAVINGS.—Nothing in this subsection af-
9 fects the operation or implementation of otherwise
10 applicable law regarding permits necessary for the
11 construction and operation of a refinery.

12 (10) CONSULTATION WITH LOCAL GOVERN-
13 MENTS.—Congress encourages the Administrator,
14 States, and tribal governments to consult, to the
15 maximum extent practicable, with local governments
16 in carrying out this subsection.

17 (11) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated such sums
19 as are necessary to carry out this subsection.

20 (12) EFFECT ON LOCAL AUTHORITY.—Nothing
21 in this subsection affects—

22 (A) the authority of a local government
23 with respect to the issuance of permits; or

24 (B) any requirement or ordinance of a
25 local government (such as a zoning regulation).

1 (c) FISCHER-TROPSCH FUELS.—

2 (1) IN GENERAL.—In cooperation with the Sec-
3 retary of Energy, the Secretary of Defense, the Ad-
4 ministrator of the Federal Aviation Administration,
5 Secretary of Health and Human Services, and
6 Fischer-Tropsch industry representatives, the Ad-
7 ministrator shall—

8 (A) conduct a research and demonstration
9 program to evaluate the air quality benefits of
10 ultra-clean Fischer-Tropsch transportation fuel,
11 including diesel and jet fuel;

12 (B) evaluate the use of ultra-clean Fischer-
13 Tropsch transportation fuel as a mechanism for
14 reducing engine exhaust emissions; and

15 (C) submit recommendations to Congress
16 on the most effective use and associated bene-
17 fits of these ultra-clean fuel for reducing public
18 exposure to exhaust emissions.

19 (2) GUIDANCE AND TECHNICAL SUPPORT.—The
20 Administrator shall, to the extent necessary, issue
21 any guidance or technical support documents that
22 would facilitate the effective use and associated ben-
23 efit of Fischer-Tropsch fuel and blends.

24 (3) REQUIREMENTS.—The program described
25 in paragraph (1) shall consider—

1 (A) the use of neat (100 percent) Fischer-
 2 Tropsch fuel and blends with conventional
 3 crude oil-derived fuel for heavy-duty and light-
 4 duty diesel engines and the aviation sector; and

5 (B) the production costs associated with
 6 domestic production of those ultra clean fuel
 7 and prices for consumers.

8 (4) REPORTS.—The Administrator shall submit
 9 to the Committee on Environment and Public Works
 10 and the Committee on Energy and Natural Re-
 11 sources of the Senate and the Committee on Energy
 12 and Commerce of the House of Representatives—

13 (A) not later than 1 year, an interim re-
 14 port on actions taken to carry out this sub-
 15 section; and

16 (B) not later than 2 years, a final report
 17 on actions taken to carry out this subsection.

18 **Subtitle B—Application for Permit**
 19 **to Drill Fee Removal**

20 **SEC. 311. REMOVAL OF ADDITIONAL FEE FOR NEW APPLI-**
 21 **CATIONS FOR PERMITS TO DRILL.**

22 The second undesignated paragraph of the matter
 23 under the heading “MANAGEMENT OF LANDS AND RE-
 24 SOURCES” under the heading “BUREAU OF LAND MAN-
 25 AGEMENT” of title I of the Department of the Interior,

1 Environment, and Related Agencies Appropriations Act,
 2 2008 (Public Law 110–161; 121 Stat. 2098) is amended
 3 by striking “to be reduced” and all that follows through
 4 “each new application,”.

5 **Subtitle C—Report on National**
 6 **Environmental Policy Act of 1969**

7 **SEC. 321. REPORT ON NATIONAL ENVIRONMENTAL POLICY**
 8 **ACT OF 1969.**

9 Not later than 180 days after the date of enactment
 10 of this Act, the Secretary of the Interior, in consultation
 11 with the Secretary of Energy and the Administrator of
 12 the Environmental Protection Agency, shall submit to
 13 Congress a report on actions that can be taken to stream-
 14 line the National Environmental Policy Act of 1969 (42
 15 U.S.C. 4321 et seq.) to limit litigation under that Act and
 16 increase energy production.

17 **TITLE IV—INNOVATION**

18 **SEC. 401. HYDROGEN INSTALLATION, INFRASTRUCTURE,**
 19 **AND FUEL COSTS.**

20 (a) IN GENERAL.—Subpart B of part IV of sub-
 21 chapter A of chapter 1 of the Internal Revenue Code of
 22 1986 (relating to foreign tax credit, etc.) is amended by
 23 adding at the end the following new section:

1 **“SEC. 30D. HYDROGEN INSTALLATION, INFRASTRUCTURE,**
2 **AND FUEL COSTS.**

3 “(a) ALLOWANCE OF CREDIT.—There shall be al-
4 lowed as a credit against the tax imposed by this chapter
5 for the taxable year an amount equal to the sum of—

6 “(1) the hydrogen installation and infrastruc-
7 ture costs credit determined under subsection (b),
8 and

9 “(2) the hydrogen fuel costs credit determined
10 under subsection (c).

11 “(b) HYDROGEN INSTALLATION AND INFRASTRUC-
12 TURE COSTS CREDIT.—

13 “(1) IN GENERAL.—For purposes of subsection
14 (a), the hydrogen installation and infrastructure
15 costs credit determined under this subsection with
16 respect to each eligible hydrogen production and dis-
17 tribution facility of the taxpayer is an amount equal
18 to—

19 “(A) 30 percent of so much of the installa-
20 tion costs which when added to such costs
21 taken into account with respect to such facility
22 for all preceding taxable years under this sub-
23 paragraph does not exceed \$200,000, plus

24 “(B) 30 percent of so much of the infra-
25 structure costs for the taxable year as does not
26 exceed \$200,000 with respect to such facility,

1 and which when added to such costs taken into
2 account with respect to such facility for all pre-
3 ceding taxable years under this subparagraph
4 does not exceed \$600,000.

5 Nothing in this section shall permit the same cost to
6 be taken into account more than once.

7 “(2) ELIGIBLE HYDROGEN PRODUCTION AND
8 DISTRIBUTION FACILITY.—For purposes of this sub-
9 section, the term ‘eligible hydrogen production and
10 distribution facility’ means a hydrogen production
11 and distribution facility which is placed in service
12 after December 31, 2008.

13 “(c) HYDROGEN FUEL COSTS CREDIT.—

14 “(1) IN GENERAL.—For purposes of subsection
15 (a), the hydrogen fuel costs credit determined under
16 this subsection with respect to each eligible hydrogen
17 device of the taxpayer is an amount equal to the
18 qualified hydrogen expenditure amounts with respect
19 to such device.

20 “(2) QUALIFIED HYDROGEN EXPENDITURE
21 AMOUNT.—For purposes of this subsection—

22 “(A) IN GENERAL.—The term ‘qualified
23 hydrogen expenditure amount’ means, with re-
24 spect to each eligible hydrogen energy conver-
25 sion device of the taxpayer with a production

1 capacity of not more than 25 kilowatts of elec-
2 tricity per year, the lesser of—

3 “(i) 30 percent of the amount paid or
4 incurred by the taxpayer during the tax-
5 able year for hydrogen which is consumed
6 by such device, and

7 “(ii) \$2,000.

8 In the case of any device which is not owned by
9 the taxpayer at all times during the taxable
10 year, the \$2,000 amount in subparagraph (B)
11 shall be reduced by an amount which bears the
12 same ratio to \$2,000 as the portion of the year
13 which such device is not owned by the taxpayer
14 bears to the entire year.

15 “(B) HIGHER LIMITATION FOR DEVICES
16 WITH MORE PRODUCTION CAPACITY.—In the
17 case of any eligible hydrogen energy conversion
18 device with a production capacity of—

19 “(i) more than 25 but less than 100
20 kilowatts of electricity per year, subpara-
21 graph (A) shall be applied by substituting
22 ‘\$4,000’ for ‘\$2,000’ each place it appears,
23 and

24 “(ii) not less than 100 kilowatts of
25 electricity per year, subparagraph (A) shall

1 be applied by substituting ‘\$6,000’ for
2 ‘\$2,000’ each place it appears.

3 “(3) ELIGIBLE HYDROGEN ENERGY CONVER-
4 SION DEVICES.—For purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘eligible hy-
6 drogen energy conversion device’ means, with
7 respect to any taxpayer, any hydrogen energy
8 conversion device which—

9 “(i) is placed in service after Decem-
10 ber 31, 2004, and

11 “(ii) is wholly owned by the taxpayer
12 during the taxable year.

13 If an owner of a device (determined without re-
14 gard to this subparagraph) provides to the pri-
15 mary user of such device a written statement
16 that such user shall be treated as the owner of
17 such device for purposes of this section, then
18 such user (and not such owner) shall be so
19 treated.

20 “(B) HYDROGEN ENERGY CONVERSION
21 DEVICE.—The term ‘hydrogen energy conver-
22 sion device’ means—

23 “(i) any electrochemical device which
24 converts hydrogen into electricity, and

1 “(ii) any combustion engine which
2 burns hydrogen as a fuel.

3 “(d) REDUCTION IN BASIS.—For purposes of this
4 subtitle, if a credit is allowed under this section for any
5 expenditure with respect to any property, the increase in
6 the basis of such property which would (but for this para-
7 graph) result from such expenditure shall be reduced by
8 the amount of the credit so allowed.

9 “(e) APPLICATION WITH OTHER CREDITS.—

10 “(1) BUSINESS CREDIT TREATED AS PART OF
11 GENERAL BUSINESS CREDIT.—So much of the credit
12 which would be allowed under subsection (a) for any
13 taxable year (determined without regard to this sub-
14 section) that is attributable to amounts which (but
15 for subsection (g) would be allowed as a deduction
16 under section 162 shall be treated as a credit listed
17 in section 38(b) for such taxable year (and not al-
18 lowed under subsection (a)).

19 “(2) PERSONAL CREDIT.—The credit allowed
20 under subsection (a) (after the application of para-
21 graph (1)) for any taxable year shall not exceed the
22 excess (if any) of—

23 “(A) the regular tax liability (as defined in
24 section 26(b)) reduced by the sum of the credits

1 allowable under subpart A and sections 27, 30,
2 30B, and 30C, over

3 “(B) the tentative minimum tax for the
4 taxable year.

5 “(f) DENIAL OF DOUBLE BENEFIT.—The amount of
6 any deduction or other credit allowable under this chapter
7 for any cost taken into account in determining the amount
8 of the credit under subsection (a) shall be reduced by the
9 amount of such credit attributable to such cost.

10 “(g) RECAPTURE.—The Secretary shall, by regula-
11 tions, provided for recapturing the benefit of any credit
12 allowable under subsection (a) with respect to any prop-
13 erty which ceases to be property eligible for such credit.

14 “(h) ELECTION NOT TO TAKE CREDIT.—No credit
15 shall be allowed under subsection (a) for any property if
16 the taxpayer elects not to have this section apply to such
17 property.

18 “(i) REGULATIONS.—The Secretary shall prescribe
19 such regulations as necessary to carry out the provisions
20 of this section.

21 “(j) TERMINATION.—This section shall not apply to
22 any costs after December 31, 2012.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 38(b) of the Internal Revenue Code
25 of 1986 is amended by striking “plus” at the end of

1 paragraph (32), by striking the period at the end of
2 paragraph (33) and inserting “plus”, and by adding
3 at the end the following new paragraph:

4 “(34) the portion of the hydrogen installation,
5 infrastructure, and fuel credit to which section
6 30D(e)(1) applies.”.

7 (2) Section 55(c)(3) of such Code is amended
8 by inserting “30F(e)(2),” after “30C(d)(2),”.

9 (3) Section 1016(a) of such Code is amended
10 by striking “and” at the end of paragraph (35), by
11 striking the period at the end of paragraph (36) and
12 inserting “, and”, and by adding at the end the fol-
13 lowing new paragraph:

14 “(37) to the extent provided in section
15 30D(d).”.

16 (4) Section 6501(m) of such Code is amended
17 by inserting “30D(h),” after “30C(e)(5),”.

18 (5) The table of sections for subpart B of part
19 IV of subchapter A of chapter 1 of such Code is
20 amended by inserting after the item relating to sec-
21 tion 30C the following new item:

“Sec. 30D. Hydrogen installation, infrastructure, and fuel costs.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to amounts paid or incurred after
24 the date of the enactment of this Act, in taxable years
25 ending after such date.

1 **SEC. 402. REPORT ON CELLULOSIC ETHANOL.**

2 Not later than 180 days after the date of enactment
3 of this Act, the Administrator of the Environmental Pro-
4 tection Agency, in consultation with the Secretary of En-
5 ergy and the Secretary of the Interior, shall provide to
6 Congress a report that—

7 (1) analyzes Federal incentives to increase the
8 production of cellulosic ethanol; and

9 (2) provides recommendations—

10 (A) on the effectiveness of those incentives;

11 and

12 (B) for additional incentives to increase
13 production of cellulosic ethanol.

14 **TITLE V—INCENTIVES FOR**
15 **CLEAN ENERGY**

16 **Subtitle A—Extension of Clean**
17 **Energy Tax Credits**

18 **SEC. 500. AMENDMENT OF 1986 CODE.**

19 Except as otherwise expressly provided, whenever in
20 this subtitle an amendment or repeal is expressed in terms
21 of an amendment to, or repeal of, a section or other provi-
22 sion, the reference shall be considered to be made to a
23 section or other provision of the Internal Revenue Code
24 of 1986.

1 **PART I—EXTENSION OF CLEAN ENERGY**

2 **PRODUCTION INCENTIVES**

3 **SEC. 501. EXTENSION AND MODIFICATION OF RENEWABLE**
4 **ENERGY PRODUCTION TAX CREDIT.**

5 (a) **EXTENSION OF CREDIT.**—Each of the following
6 provisions of section 45(d) (relating to qualified facilities)
7 is amended by striking “January 1, 2009” and inserting
8 “January 1, 2014”:

9 (1) Paragraph (1).

10 (2) Clauses (i) and (ii) of paragraph (2)(A).

11 (3) Clauses (i)(I) and (ii) of paragraph (3)(A).

12 (4) Paragraph (4).

13 (5) Paragraph (5).

14 (6) Paragraph (6).

15 (7) Paragraph (7).

16 (8) Paragraph (8).

17 (9) Subparagraphs (A) and (B) of paragraph
18 (9).

19 (b) **PRODUCTION CREDIT FOR ELECTRICITY PRO-**
20 **DUCED FROM MARINE RENEWABLES.**—

21 (1) **IN GENERAL.**—Paragraph (1) of section
22 45(c) (relating to resources) is amended by striking
23 “and” at the end of subparagraph (G), by striking
24 the period at the end of subparagraph (H) and in-
25 serting “, and”, and by adding at the end the fol-
26 lowing new subparagraph:

1 “(I) marine and hydrokinetic renewable en-
2 ergy.”.

3 (2) MARINE RENEWABLES.—Subsection (c) of
4 section 45 is amended by adding at the end the fol-
5 lowing new paragraph:

6 “(10) MARINE AND HYDROKINETIC RENEW-
7 ABLE ENERGY.—

8 “(A) IN GENERAL.—The term ‘marine and
9 hydrokinetic renewable energy’ means energy
10 derived from—

11 “(i) waves, tides, and currents in
12 oceans, estuaries, and tidal areas,

13 “(ii) free flowing water in rivers,
14 lakes, and streams,

15 “(iii) free flowing water in an irriga-
16 tion system, canal, or other man-made
17 channel, including projects that utilize non-
18 mechanical structures to accelerate the
19 flow of water for electric power production
20 purposes, or

21 “(iv) differentials in ocean tempera-
22 ture (ocean thermal energy conversion).

23 “(B) EXCEPTIONS.—Such term shall not
24 include any energy which is derived from any
25 source which utilizes a dam, diversionary struc-

1 ture (except as provided in subparagraph
2 (A)(iii)), or impoundment for electric power
3 production purposes.”.

4 (3) DEFINITION OF FACILITY.—Subsection (d)
5 of section 45 is amended by adding at the end the
6 following new paragraph:

7 “(11) MARINE AND HYDROKINETIC RENEW-
8 ABLE ENERGY FACILITIES.—In the case of a facility
9 producing electricity from marine and hydrokinetic
10 renewable energy, the term ‘qualified facility’ means
11 any facility owned by the taxpayer—

12 “(A) which has a nameplate capacity rat-
13 ing of at least 150 kilowatts, and

14 “(B) which is originally placed in service
15 on or after the date of the enactment of this
16 paragraph and before January 1, 2010.”.

17 (4) CREDIT RATE.—Subparagraph (A) of sec-
18 tion 45(b)(4) is amended by striking “or (9)” and
19 inserting “(9), or (11)”.

20 (5) COORDINATION WITH SMALL IRRIGATION
21 POWER.—Paragraph (5) of section 45(d), as amend-
22 ed by subsection (a), is amended by striking “Janu-
23 ary 1, 2010” and inserting “the date of the enact-
24 ment of paragraph (11)”.

1 (c) SALES OF ELECTRICITY TO REGULATED PUBLIC
2 UTILITIES TREATED AS SALES TO UNRELATED PER-
3 SONS.—Section 45(e)(4) (relating to related persons) is
4 amended by adding at the end the following new sentence:
5 “A taxpayer shall be treated as selling electricity to an
6 unrelated person if such electricity is sold to a regulated
7 public utility (as defined in section 7701(a)(33)).”.

8 (d) TRASH FACILITY CLARIFICATION.—Paragraph
9 (7) of section 45(d) is amended—

10 (1) by striking “facility which burns” and in-
11 sserting “facility (other than a facility described in
12 paragraph (6)) which uses”, and

13 (2) by striking “COMBUSTION”.

14 (e) EFFECTIVE DATES.—

15 (1) EXTENSION.—The amendments made by
16 subsection (a) shall apply to property originally
17 placed in service after December 31, 2008.

18 (2) MODIFICATIONS.—The amendments made
19 by subsections (b) and (c) shall apply to electricity
20 produced and sold after the date of the enactment
21 of this Act, in taxable years ending after such date.

22 (3) TRASH FACILITY CLARIFICATION.—The
23 amendments made by subsection (d) shall apply to
24 electricity produced and sold before, on, or after De-
25 cember 31, 2007.

1 **SEC. 502. EXTENSION AND MODIFICATION OF SOLAR EN-**
2 **ERGY AND FUEL CELL INVESTMENT TAX**
3 **CREDIT.**

4 (a) EXTENSION OF CREDIT.—

5 (1) SOLAR ENERGY PROPERTY.—Paragraphs
6 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating
7 to energy credit) are each amended by striking
8 “January 1, 2009” and inserting “January 1,
9 2017”.

10 (2) FUEL CELL PROPERTY.—Subparagraph (E)
11 of section 48(c)(1) (relating to qualified fuel cell
12 property) is amended by striking “December 31,
13 2008” and inserting “December 31, 2017”.

14 (3) QUALIFIED MICROTURBINE PROPERTY.—
15 Subparagraph (E) of section 48(c)(2) (relating to
16 qualified microturbine property) is amended by
17 striking “December 31, 2008” and inserting “De-
18 cember 31, 2017”.

19 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-
20 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section
21 38(c)(4) (relating to specified credits) is amended by strik-
22 ing “and” at the end of clause (iii), by striking the period
23 at the end of clause (iv) and inserting “, and”, and by
24 adding at the end the following new clause:

25 “(v) the credit determined under sec-
26 tion 46 to the extent that such credit is at-

1 tributable to the energy credit determined
2 under section 48.”.

3 (c) REPEAL OF DOLLAR PER KILOWATT LIMITATION
4 FOR FUEL CELL PROPERTY.—

5 (1) IN GENERAL.—Section 48(c)(1) (relating to
6 qualified fuel cell), as amended by subsection (a)(2),
7 is amended by striking subparagraph (B) and by re-
8 designating subparagraphs (C), (D), and (E) as sub-
9 paragraphs (B), (C), and (D), respectively.

10 (2) CONFORMING AMENDMENT.—Section
11 48(a)(1) is amended by striking “paragraphs (1)(B)
12 and (2)(B) of subsection (c)” and inserting “sub-
13 section (c)(2)(B)”.

14 (d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN
15 INTO ACCOUNT.—

16 (1) IN GENERAL.—Paragraph (3) of section
17 48(a) is amended by striking the second sentence
18 thereof.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Paragraph (1) of section 48(c), as
21 amended by this section, is amended by striking
22 subparagraph (C) and redesignating subpara-
23 graph (D) as subparagraph (C).

24 (B) Paragraph (2) of section 48(c), as
25 amended by subsection (a)(3), is amended by

1 striking subparagraph (D) and redesignating
2 subparagraph (E) as subparagraph (D).

3 (e) EFFECTIVE DATES.—

4 (1) EXTENSION.—The amendments made by
5 subsection (a) shall take effect on the date of the en-
6 actment of this Act.

7 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-
8 IMUM TAX.—The amendments made by subsection
9 (b) shall apply to credits determined under section
10 46 of the Internal Revenue Code of 1986 in taxable
11 years beginning after the date of the enactment of
12 this Act and to carrybacks of such credits.

13 (3) FUEL CELL PROPERTY AND PUBLIC ELEC-
14 TRIC UTILITY PROPERTY.—The amendments made
15 by subsections (c) and (d) shall apply to periods
16 after the date of the enactment of this Act, in tax-
17 able years ending after such date, under rules simi-
18 lar to the rules of section 48(m) of the Internal Rev-
19 enue Code of 1986 (as in effect on the day before
20 the date of the enactment of the Revenue Reconcili-
21 ation Act of 1990).

1 **SEC. 503. EXTENSION AND MODIFICATION OF RESIDENTIAL**
 2 **ENERGY EFFICIENT PROPERTY CREDIT.**

3 (a) **EXTENSION.**—Section 25D(g) (relating to termi-
 4 nation) is amended by striking “December 31, 2008” and
 5 inserting “December 31, 2009”.

6 (b) **NO DOLLAR LIMITATION FOR CREDIT FOR**
 7 **SOLAR ELECTRIC PROPERTY.**—

8 (1) **IN GENERAL.**—Section 25D(b)(1) (relating
 9 to maximum credit) is amended by striking subpara-
 10 graph (A) and by redesignating subparagraphs (B)
 11 and (C) as subparagraphs (A) and (B), respectively.

12 (2) **CONFORMING AMENDMENTS.**—Section
 13 25D(e)(4) is amended—

14 (A) by striking clause (i) in subparagraph
 15 (A),

16 (B) by redesignating clauses (ii) and (iii)
 17 in subparagraph (A) as clauses (i) and (ii), re-
 18 spectively, and

19 (C) by striking “, (2),” in subparagraph
 20 (C).

21 (c) **CREDIT ALLOWED AGAINST ALTERNATIVE MIN-**
 22 **IMUM TAX.**—

23 (1) **IN GENERAL.**—Subsection (c) of section
 24 25D is amended to read as follows:

25 “(c) **LIMITATION BASED ON AMOUNT OF TAX;**
 26 **CARRYFORWARD OF UNUSED CREDIT.**—

1 “(1) LIMITATION BASED ON AMOUNT OF
2 TAX.—In the case of a taxable year to which section
3 26(a)(2) does not apply, the credit allowed under
4 subsection (a) for the taxable year shall not exceed
5 the excess of—

6 “(A) the sum of the regular tax liability
7 (as defined in section 26(b)) plus the tax im-
8 posed by section 55, over

9 “(B) the sum of the credits allowable
10 under this subpart (other than this section) and
11 section 27 for the taxable year.

12 “(2) CARRYFORWARD OF UNUSED CREDIT.—

13 “(A) RULE FOR YEARS IN WHICH ALL
14 PERSONAL CREDITS ALLOWED AGAINST REG-
15 ULAR AND ALTERNATIVE MINIMUM TAX.—In
16 the case of a taxable year to which section
17 26(a)(2) applies, if the credit allowable under
18 subsection (a) exceeds the limitation imposed by
19 section 26(a)(2) for such taxable year reduced
20 by the sum of the credits allowable under this
21 subpart (other than this section), such excess
22 shall be carried to the succeeding taxable year
23 and added to the credit allowable under sub-
24 section (a) for such succeeding taxable year.

1 “(B) RULE FOR OTHER YEARS.—In the
2 case of a taxable year to which section 26(a)(2)
3 does not apply, if the credit allowable under
4 subsection (a) exceeds the limitation imposed by
5 paragraph (1) for such taxable year, such ex-
6 cess shall be carried to the succeeding taxable
7 year and added to the credit allowable under
8 subsection (a) for such succeeding taxable
9 year.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 23(b)(4)(B) is amended by in-
12 serting “and section 25D” after “this section”.

13 (B) Section 24(b)(3)(B) is amended by
14 striking “and 25B” and inserting “, 25B, and
15 25D”.

16 (C) Section 25B(g)(2) is amended by strik-
17 ing “section 23” and inserting “sections 23 and
18 25D”.

19 (D) Section 26(a)(1) is amended by strik-
20 ing “and 25B” and inserting “25B, and 25D”.

21 (d) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall apply to taxable years beginning
24 after December 31, 2007.

1 (2) APPLICATION OF EGTRRA SUNSET.—The
2 amendments made by subparagraphs (A) and (B) of
3 subsection (c)(2) shall be subject to title IX of the
4 Economic Growth and Tax Relief Reconciliation Act
5 of 2001 in the same manner as the provisions of
6 such Act to which such amendments relate.

7 **SEC. 504. EXTENSION AND MODIFICATION OF CREDIT FOR**
8 **CLEAN RENEWABLE ENERGY BONDS.**

9 (a) EXTENSION.—Section 54(m) (relating to termi-
10 nation) is amended by striking “December 31, 2008” and
11 inserting “December 31, 2009”.

12 (b) INCREASE IN NATIONAL LIMITATION.—Section
13 54(f) (relating to limitation on amount of bonds des-
14 ignated) is amended—

15 (1) by inserting “, and for the period beginning
16 after the date of the enactment of the Clean Energy
17 Tax Stimulus Act of 2008 and ending before Janu-
18 ary 1, 2010, \$400,000,000” after “\$1,200,000,000”
19 in paragraph (1),

20 (2) by striking “\$750,000,000 of the” in para-
21 graph (2) and inserting “\$750,000,000 of the
22 \$1,200,000,000”, and

23 (3) by striking “bodies” in paragraph (2) and
24 inserting “bodies, and except that the Secretary may
25 not allocate more than $\frac{1}{3}$ of the \$400,000,000 na-

1 tional clean renewable energy bond limitation to fi-
2 nance qualified projects of qualified borrowers which
3 are public power providers nor more than $\frac{1}{3}$ of such
4 limitation to finance qualified projects of qualified
5 borrowers which are mutual or cooperative electric
6 companies described in section 501(c)(12) or section
7 1381(a)(2)(C)”.

8 (c) PUBLIC POWER PROVIDERS DEFINED.—Section
9 54(j) is amended—

10 (1) by adding at the end the following new
11 paragraph:

12 “(6) PUBLIC POWER PROVIDER.—The term
13 ‘public power provider’ means a State utility with a
14 service obligation, as such terms are defined in sec-
15 tion 217 of the Federal Power Act (as in effect on
16 the date of the enactment of this paragraph).”, and

17 (2) by inserting “; PUBLIC POWER PROVIDER”
18 before the period at the end of the heading.

19 (d) TECHNICAL AMENDMENT.—The third sentence of
20 section 54(e)(2) is amended by striking “subsection
21 (l)(6)” and inserting “subsection (l)(5)”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to bonds issued after the date of
24 the enactment of this Act.

1 **SEC. 505. EXTENSION OF SPECIAL RULE TO IMPLEMENT**
2 **FERC RESTRUCTURING POLICY.**

3 (a) QUALIFYING ELECTRIC TRANSMISSION TRANS-
4 ACTION.—

5 (1) IN GENERAL.—Section 451(i)(3) (defining
6 qualifying electric transmission transaction) is
7 amended by striking “January 1, 2008” and insert-
8 ing “January 1, 2010”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this subsection shall apply to transactions after
11 December 31, 2007.

12 (b) INDEPENDENT TRANSMISSION COMPANY.—

13 (1) IN GENERAL.—Section 451(i)(4)(B)(ii) (de-
14 fining independent transmission company) is amend-
15 ed by striking “December 31, 2007” and inserting
16 “the date which is 2 years after the date of such
17 transaction”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by this subsection shall take effect as if included in
20 the amendments made by section 909 of the Amer-
21 ican Jobs Creation Act of 2004.

1 **PART II—EXTENSION OF INCENTIVES TO**
2 **IMPROVE ENERGY EFFICIENCY**

3 **SEC. 511. EXTENSION AND MODIFICATION OF CREDIT FOR**
4 **ENERGY EFFICIENCY IMPROVEMENTS TO EX-**
5 **ISTING HOMES.**

6 (a) **EXTENSION OF CREDIT.**—Section 25C(g) (relat-
7 ing to termination) is amended by striking “December 31,
8 2007” and inserting “December 31, 2009”.

9 (b) **QUALIFIED BIOMASS FUEL PROPERTY.**—

10 (1) **IN GENERAL.**—Section 25C(d)(3) is amend-
11 ed—

12 (A) by striking “and” at the end of sub-
13 paragraph (D),

14 (B) by striking the period at the end of
15 subparagraph (E) and inserting “, and”, and

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

18 “(F) a stove which uses the burning of bio-
19 mass fuel to heat a dwelling unit located in the
20 United States and used as a residence by the
21 taxpayer, or to heat water for use in such a
22 dwelling unit, and which has a thermal effi-
23 ciency rating of at least 75 percent.”.

24 (2) **BIOMASS FUEL.**—Section 25C(d) (relating
25 to residential energy property expenditures) is

1 amended by adding at the end the following new
2 paragraph:

3 “(6) BIOMASS FUEL.—The term ‘biomass fuel’
4 means any plant-derived fuel available on a renew-
5 able or recurring basis, including agricultural crops
6 and trees, wood and wood waste and residues (in-
7 cluding wood pellets), plants (including aquatic
8 plants), grasses, residues, and fibers.”.

9 (c) MODIFICATIONS OF STANDARDS FOR ENERGY-
10 EFFICIENT BUILDING PROPERTY.—

11 (1) ELECTRIC HEAT PUMPS.—Subparagraph
12 (B) of section 25C(d)(3) is amended to read as fol-
13 lows:

14 “(A) an electric heat pump which achieves
15 the highest efficiency tier established by the
16 Consortium for Energy Efficiency, as in effect
17 on January 1, 2008.”.

18 (2) CENTRAL AIR CONDITIONERS.—Section
19 25C(d)(3)(D) is amended by striking “2006” and
20 inserting “2008”.

21 (3) WATER HEATERS.—Subparagraph (E) of
22 section 25C(d) is amended to read as follows:

23 “(E) a natural gas, propane, or oil water
24 heater which has either an energy factor of at

1 least 0.80 or a thermal efficiency of at least 90
2 percent.”.

3 (4) OIL FURNACES AND HOT WATER BOIL-
4 ERS.—Paragraph (4) of section 25C(d) is amended
5 to read as follows:

6 “(4) QUALIFIED NATURAL GAS, PROPANE, AND
7 OIL FURNACES AND HOT WATER BOILERS.—

8 “(A) QUALIFIED NATURAL GAS FUR-
9 NACE.—The term ‘qualified natural gas fur-
10 nace’ means any natural gas furnace which
11 achieves an annual fuel utilization efficiency
12 rate of not less than 95.

13 “(B) QUALIFIED NATURAL GAS HOT
14 WATER BOILER.—The term ‘qualified natural
15 gas hot water boiler’ means any natural gas hot
16 water boiler which achieves an annual fuel utili-
17 zation efficiency rate of not less than 90.

18 “(C) QUALIFIED PROPANE FURNACE.—
19 The term ‘qualified propane furnace’ means any
20 propane furnace which achieves an annual fuel
21 utilization efficiency rate of not less than 95.

22 “(D) QUALIFIED PROPANE HOT WATER
23 BOILER.—The term ‘qualified propane hot
24 water boiler’ means any propane hot water boil-

1 er which achieves an annual fuel utilization effi-
2 ciency rate of not less than 90.

3 “(E) QUALIFIED OIL FURNACES.—The
4 term ‘qualified oil furnace’ means any oil fur-
5 nace which achieves an annual fuel utilization
6 efficiency rate of not less than 90.

7 “(F) QUALIFIED OIL HOT WATER BOIL-
8 ER.—The term ‘qualified oil hot water boiler’
9 means any oil hot water boiler which achieves
10 an annual fuel utilization efficiency rate of not
11 less than 90.”.

12 (d) EFFECTIVE DATE.—The amendments made this
13 section shall apply to expenditures made after December
14 31, 2007.

15 **SEC. 512. EXTENSION AND MODIFICATION OF TAX CREDIT**
16 **FOR ENERGY EFFICIENT NEW HOMES.**

17 (a) EXTENSION OF CREDIT.—Subsection (g) of sec-
18 tion 45L (relating to termination) is amended by striking
19 “December 31, 2008” and inserting “December 31,
20 2010”.

21 (b) ALLOWANCE FOR CONTRACTOR’S PERSONAL
22 RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is
23 amended to read as follows:

1 “(B)(i) acquired by a person from such eli-
2 gible contractor and used by any person as a
3 residence during the taxable year, or

4 “(ii) used by such eligible contractor as a
5 residence during the taxable year.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to homes acquired after December
8 31, 2008.

9 **SEC. 513. EXTENSION AND MODIFICATION OF ENERGY EF-**
10 **FICIENT COMMERCIAL BUILDINGS DEDUC-**
11 **TION.**

12 (a) EXTENSION.—Section 179D(h) (relating to ter-
13 mination) is amended by striking “December 31, 2008”
14 and inserting “December 31, 2009”.

15 (b) ADJUSTMENT OF MAXIMUM DEDUCTION
16 AMOUNT.—

17 (1) IN GENERAL.—Subparagraph (A) of section
18 179D(b)(1) (relating to maximum amount of deduc-
19 tion) is amended by striking “\$1.80” and inserting
20 “\$2.25”.

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

23 (A) by striking “\$.60” and inserting
24 “\$0.75”, and

1 (B) by striking “\$1.80” and inserting
2 “\$2.25”.

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

6 **SEC. 514. MODIFICATION AND EXTENSION OF ENERGY EF-**
7 **FICIENT APPLIANCE CREDIT FOR APPLI-**
8 **ANCES PRODUCED AFTER 2007.**

9 (a) IN GENERAL.—Subsection (b) of section 45M (re-
10 lating to applicable amount) is amended to read as follows:

11 “(b) APPLICABLE AMOUNT.—For purposes of sub-
12 section (a)—

13 “(1) DISHWASHERS.—The applicable amount
14 is—

15 “(A) \$45 in the case of a dishwasher which
16 is manufactured in calendar year 2008 or 2009
17 and which uses no more than 324 kilowatt
18 hours per year and 5.8 gallons per cycle, and

19 “(B) \$75 in the case of a dishwasher
20 which is manufactured in calendar year 2008,
21 2009, or 2010 and which uses no more than
22 307 kilowatt hours per year and 5.0 gallons per
23 cycle (5.5 gallons per cycle for dishwashers de-
24 signed for greater than 12 place settings).

1 “(2) CLOTHES WASHERS.—The applicable
2 amount is—

3 “(A) \$75 in the case of a residential top-
4 loading clothes washer manufactured in cal-
5 endar year 2008 which meets or exceeds a 1.72
6 modified energy factor and does not exceed a
7 8.0 water consumption factor,

8 “(B) \$125 in the case of a residential top-
9 loading clothes washer manufactured in cal-
10 endar year 2008 or 2009 which meets or ex-
11 ceeds a 1.8 modified energy factor and does not
12 exceed a 7.5 water consumption factor,

13 “(C) \$150 in the case of a residential or
14 commercial clothes washer manufactured in cal-
15 endar year 2008, 2009, or 2010 which meets or
16 exceeds 2.0 modified energy factor and does not
17 exceed a 6.0 water consumption factor, and

18 “(D) \$250 in the case of a residential or
19 commercial clothes washer manufactured in cal-
20 endar year 2008, 2009, or 2010 which meets or
21 exceeds 2.2 modified energy factor and does not
22 exceed a 4.5 water consumption factor.

23 “(3) REFRIGERATORS.—The applicable amount
24 is—

1 “(A) \$50 in the case of a refrigerator
2 which is manufactured in calendar year 2008,
3 and consumes at least 20 percent but not more
4 than 22.9 percent less kilowatt hours per year
5 than the 2001 energy conservation standards,

6 “(B) \$75 in the case of a refrigerator
7 which is manufactured in calendar year 2008 or
8 2009, and consumes at least 23 percent but no
9 more than 24.9 percent less kilowatt hours per
10 year than the 2001 energy conservation stand-
11 ards,

12 “(C) \$100 in the case of a refrigerator
13 which is manufactured in calendar year 2008,
14 2009, or 2010, and consumes at least 25 per-
15 cent but not more than 29.9 percent less kilo-
16 watt hours per year than the 2001 energy con-
17 servation standards, and

18 “(D) \$200 in the case of a refrigerator
19 manufactured in calendar year 2008, 2009, or
20 2010 and which consumes at least 30 percent
21 less energy than the 2001 energy conservation
22 standards.”.

23 (b) ELIGIBLE PRODUCTION.—

1 (1) SIMILAR TREATMENT FOR ALL APPLI-
2 ANCES.—Subsection (c) of section 45M (relating to
3 eligible production) is amended—

4 (A) by striking paragraph (2),

5 (B) by striking “(1) IN GENERAL” and all
6 that follows through “the eligible” and inserting
7 “The eligible”, and

8 (C) by moving the text of such subsection
9 in line with the subsection heading and redesign-
10 nating subparagraphs (A) and (B) as para-
11 graphs (1) and (2), respectively.

12 (2) MODIFICATION OF BASE PERIOD.—Para-
13 graph (2) of section 45M(c), as amended by para-
14 graph (1) of this section, is amended by striking “3-
15 calendar year” and inserting “2-calendar year”.

16 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—
17 Subsection (d) of section 45M (defining types of energy
18 efficient appliances) is amended to read as follows:

19 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—
20 For purposes of this section, the types of energy efficient
21 appliances are—

22 “(1) dishwashers described in subsection (b)(1),

23 “(2) clothes washers described in subsection
24 (b)(2), and

1 “(3) refrigerators described in subsection
2 (b)(3).”.

3 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

4 (1) INCREASE IN LIMIT.—Paragraph (1) of sec-
5 tion 45M(e) (relating to aggregate credit amount al-
6 lowed) is amended to read as follows:

7 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—
8 The aggregate amount of credit allowed under sub-
9 section (a) with respect to a taxpayer for any tax-
10 able year shall not exceed \$75,000,000 reduced by
11 the amount of the credit allowed under subsection
12 (a) to the taxpayer (or any predecessor) for all prior
13 taxable years beginning after December 31, 2007.”.

14 (2) EXCEPTION FOR CERTAIN REFRIGERATOR
15 AND CLOTHES WASHERS.—Paragraph (2) of section
16 45M(e) is amended to read as follows:

17 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-
18 ERATORS AND CLOTHES WASHERS.—Refrigerators
19 described in subsection (b)(3)(D) and clothes wash-
20 ers described in subsection (b)(2)(D) shall not be
21 taken into account under paragraph (1).”.

22 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

23 (1) IN GENERAL.—Paragraph (1) of section
24 45M(f) (defining qualified energy efficient appliance)
25 is amended to read as follows:

1 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
2 ANCE.—The term ‘qualified energy efficient appli-
3 ance’ means—

4 “(A) any dishwasher described in sub-
5 section (b)(1),

6 “(B) any clothes washer described in sub-
7 section (b)(2), and

8 “(C) any refrigerator described in sub-
9 section (b)(3).”.

10 (2) CLOTHES WASHER.—Section 45M(f)(3) (de-
11 fining clothes washer) is amended by inserting
12 “commercial” before “residential” the second place
13 it appears.

14 (3) TOP-LOADING CLOTHES WASHER.—Sub-
15 section (f) of section 45M (relating to definitions) is
16 amended by redesignating paragraphs (4), (5), (6),
17 and (7) as paragraphs (5), (6), (7), and (8), respec-
18 tively, and by inserting after paragraph (3) the fol-
19 lowing new paragraph:

20 “(4) TOP-LOADING CLOTHES WASHER.—The
21 term ‘top-loading clothes washer’ means a clothes
22 washer which has the clothes container compartment
23 access located on the top of the machine and which
24 operates on a vertical axis.”.

1 (4) REPLACEMENT OF ENERGY FACTOR.—Sec-
2 tion 45M(f)(6), as redesignated by paragraph (3), is
3 amended to read as follows:

4 “(6) MODIFIED ENERGY FACTOR.—The term
5 ‘modified energy factor’ means the modified energy
6 factor established by the Department of Energy for
7 compliance with the Federal energy conservation
8 standard.”.

9 (5) GALLONS PER CYCLE; WATER CONSUMP-
10 TION FACTOR.—Section 45M(f) (relating to defini-
11 tions), as amended by paragraph (3), is amended by
12 adding at the end the following:

13 “(9) GALLONS PER CYCLE.—The term ‘gallons
14 per cycle’ means, with respect to a dishwasher, the
15 amount of water, expressed in gallons, required to
16 complete a normal cycle of a dishwasher.

17 “(10) WATER CONSUMPTION FACTOR.—The
18 term ‘water consumption factor’ means, with respect
19 to a clothes washer, the quotient of the total weight-
20 ed per-cycle water consumption divided by the cubic
21 foot (or liter) capacity of the clothes washer.”.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to appliances produced after De-
24 cember 31, 2007.

1 **Subtitle B—Mineral Royalty**
2 **Payments**

3 **SEC. 521. TERMINATION OF AUTHORITY TO DEDUCT**
4 **AMOUNTS FROM SHARE OF OIL AND GAS**
5 **LEASING REVENUES PROVIDED TO STATES.**

6 (a) **IN GENERAL.**—Effective December 26, 2007, the
7 matter under the heading “ADMINISTRATIVE PROVI-
8 SIONS” under the heading “Minerals Management Serv-
9 ice” of title I of the Department of the Interior, Environ-
10 ment, and Related Agencies Appropriations Act, 2008
11 (Subdivision F of Public Law 110–161; 121 Stat. 2109)
12 is amended by striking the second undesignated para-
13 graph.

14 (b) **ADMINISTRATION.**—Notwithstanding any other
15 provision of law, the Secretary of the Treasury and the
16 Secretary of the Interior shall not deduct any amount
17 from or reduce the amount of payments otherwise payable
18 to States under section 35 of the Mineral Leasing Act (30
19 U.S.C. 191).

20 **TITLE VI—COAL-TECHNOLOGY**
21 **DEVELOPMENT**

22 **Subtitle A—Coal to Liquids**

23 **SEC. 601. DEFINITIONS.**

24 In this subtitle:

1 (1) COAL-TO-LIQUID.—The term “coal-to-liq-
2 uid” means—

3 (A) with respect to a process or tech-
4 nology, the use of a feedstock, the majority of
5 which is the coal resources of the United
6 States, using the class of reactions known as
7 Fischer-Tropsch, to produce synthetic fuel suit-
8 able for transportation; and

9 (B) with respect to a facility, the portion
10 of a facility related to producing the inputs to
11 the Fischer-Tropsch process, the Fischer-
12 Tropsch process, finished fuel production, or
13 the capture, transportation, or sequestration of
14 byproducts of the use of a feedstock that is pri-
15 marily domestic coal at the Fischer-Tropsch fa-
16 cility, including carbon emissions.

17 (2) SECRETARY.—The term “Secretary” means
18 the Secretary of Energy.

19 **SEC. 602. COAL-TO-LIQUID FUEL LOAN GUARANTEE PRO-**
20 **GRAM.**

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

24 “(11) Large-scale coal-to-liquid facilities (as de-
25 fined in section 601 of the Eight Steps to Energy

1 Sufficiency Act of 2008) that use a feedstock, the
2 majority of which is the coal resources of the United
3 States, to produce not less than 10,000 barrels a
4 day of liquid transportation fuel.”.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
6 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514)
7 is amended by adding at the end the following:

8 “(c) COAL-TO-LIQUID PROJECTS.—

9 “(1) IN GENERAL.—There are authorized to be
10 appropriated such sums as are necessary to provide
11 the cost of guarantees for projects involving large-
12 scale coal-to-liquid facilities under section
13 1703(b)(11).

14 “(2) ALTERNATIVE FUNDING.—If no appropria-
15 tions are made available under paragraph (1), an eli-
16 gible applicant may elect to provide payment to the
17 Secretary, to be delivered if and at the time the ap-
18 plication is approved, in the amount of the estimated
19 cost of the loan guarantee to the Federal Govern-
20 ment, as determined by the Secretary.

21 “(3) LIMITATIONS.—

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

1 “(i) the tenth such loan guarantee is
2 issued under this title; or

3 “(ii) production capacity covered by
4 such loan guarantees reaches 100,000 bar-
5 rels per day of coal-to-liquid fuel.

6 “(B) INDIVIDUAL PROJECTS.—

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

13 “(ii) NON-FEDERAL FUNDING RE-
14 QUIREMENT.—To be eligible for a loan
15 guarantee under this title, a large-scale
16 coal-to-liquid facility described in para-
17 graph (1) that produces more than 20,000
18 barrels per day of coal-to-liquid fuel shall
19 be eligible to receive a loan guarantee for
20 the proportion of the cost of the facility
21 that represents 20,000 barrels of coal-to-
22 liquid fuel per day of production.

23 “(4) REQUIREMENTS.—

24 “(A) GUIDELINES.—Not later than 180
25 days after the date of enactment of this sub-

1 section, the Secretary shall publish guidelines
2 for the coal-to-liquids loan guarantee applica-
3 tion process.

4 “(B) APPLICATIONS.—Not later than 1
5 year after the date of enactment of this sub-
6 section, the Secretary shall begin to accept ap-
7 plications for coal-to-liquid loan guarantees
8 under this subsection.

9 “(C) DEADLINE.—Not later than 1 year
10 from the date of acceptance of an application
11 under subparagraph (B), the Secretary shall
12 evaluate the application and make final deter-
13 minations under this subsection.

14 “(5) REPORTS TO CONGRESS.—The Secretary
15 shall submit to the Committee on Energy and Nat-
16 ural Resources of the Senate and the Committee on
17 Energy and Commerce of the House of Representa-
18 tives a report describing the status of the program
19 under this subsection not later than each of—

20 “(A) 180 days after the date of enactment
21 of this subsection;

22 “(B) 1 year after the date of enactment of
23 this subsection; and

24 “(C) the dates on which the Secretary ap-
25 proves the first and fifth applications for coal-

1 to-liquid loan guarantees under this sub-
2 section.”.

3 **SEC. 603. COAL-TO-LIQUID FACILITIES LOAN PROGRAM.**

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

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

15 (c) APPLICATION.—To be eligible to receive a loan
16 under subsection (b), the eligible recipient shall submit to
17 the Secretary an application at such time, in such manner,
18 and containing such information as the Secretary may re-
19 quire.

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

24 (e) REPAYMENT OF LOAN.—

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

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

13 (f) REQUIREMENTS.—

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

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

22 (g) REPORTS TO CONGRESS.—Not later than each of
23 180 days and 1 year after the date of enactment of this
24 Act, the Secretary shall submit to the Committee on En-
25 ergy and Natural Resources of the Senate and the Com-

1 mittee on Energy and Commerce of the House of Rep-
2 resentatives a report describing the status of the program
3 under this section.

4 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated to carry out this section
6 \$200,000,000, to remain available until expended.

7 **SEC. 604. LOCATION OF COAL-TO-LIQUID MANUFACTURING**
8 **FACILITIES.**

9 The Secretary, in coordination with the head of any
10 affected agency, shall promulgate such regulations as the
11 Secretary determines to be necessary to support the devel-
12 opment on Federal land (including land of the Department
13 of Energy, military bases, and military installations closed
14 or realigned under the defense base closure and realign-
15 ment) of coal-to-liquid manufacturing facilities and associ-
16 ated infrastructure, including the capture, transportation,
17 or sequestration of carbon dioxide.

18 **SEC. 605. STRATEGIC PETROLEUM RESERVE.**

19 (a) DEVELOPMENT, OPERATION, AND MAINTENANCE
20 OF RESERVE.—Section 159 of the Energy Policy and Con-
21 servation Act (42 U.S.C. 6239) is amended—

22 (1) by redesignating subsections (f), (g), (j),
23 (k), and (l) as subsections (a), (b), (e), (f), and (g),
24 respectively; and

1 (2) by inserting after subsection (b) (as redesignated by paragraph (1)) the following:

2 “(c) STUDY OF MAINTAINING COAL-TO-LIQUID
3 PRODUCTS IN RESERVE.—Not later than 1 year after the
4 date of enactment of the Eight Steps to Energy Suffi-
5 ciency Act of 2008, the Secretary and the Secretary of
6 Defense shall—

7 “(1) conduct a study of the feasibility and suit-
8 ability of maintaining coal-to-liquid products in the
9 Reserve; and

10 “(2) submit to the Committee on Energy and
11 Natural Resources and the Committee on Armed
12 Services of the Senate and the Committee on Energy
13 and Commerce and the Committee on Armed Serv-
14 ices of the House of Representatives a report de-
15 scribing the results of the study.

16 “(d) CONSTRUCTION OF STORAGE FACILITIES.—As
17 soon as practicable after the date of enactment of the
18 Eight Steps to Energy Sufficiency Act of 2008, the Sec-
19 retary may construct 1 or more storage facilities in the
20 vicinity of pipeline infrastructure and at least 1 military
21 base.”.

22 (b) PETROLEUM PRODUCTS FOR STORAGE IN RE-
23 SERVE.—Section 160 of the Energy Policy and Conserva-
24 tion Act (42 U.S.C. 6240) is amended—
25

1 (1) in subsection (a)—

2 (A) in paragraph (1), by inserting a semi-
3 colon at the end;

4 (B) in paragraph (2), by striking “and” at
5 the end;

6 (C) in paragraph (3), by striking the pe-
7 riod at the end and inserting “; and”; and

8 (D) by adding at the end the following:

9 “(4) coal-to-liquid products (as defined in sec-
10 tion 601 of the Eight Steps to Energy Sufficiency
11 Act of 2008), as the Secretary determines to be ap-
12 propriate, in a quantity not to exceed 20 percent of
13 the total quantity of petroleum and petroleum prod-
14 ucts in the Reserve.”;

15 (2) in subsection (b), by redesignating para-
16 graphs (3) through (5) as paragraphs (2) through
17 (4), respectively; and

18 (3) by redesignating subsections (f) and (h) as
19 subsections (d) and (e), respectively.

20 (c) CONFORMING AMENDMENTS.—Section 167 of the
21 Energy Policy and Conservation Act (42 U.S.C. 6247) is
22 amended—

23 (1) in subsection (b)—

24 (A) by redesignating paragraphs (2) and

25 (3) as paragraphs (1) and (2), respectively; and

1 (B) in paragraph (2) (as redesignated by
2 subparagraph (A)), by striking “section 160(f)”
3 and inserting “section 160(e)”; and

4 (2) in subsection (d), in the matter preceding
5 paragraph (1), by striking “section 160(f)” and in-
6 serting “section 160(e)”.

7 **SEC. 606. AUTHORIZATION TO CONDUCT RESEARCH, DE-**
8 **VELOPMENT, TESTING, AND EVALUATION OF**
9 **ASSURED DOMESTIC FUELS.**

10 Of the amount authorized to be appropriated for the
11 Air Force for research, development, testing, and evalua-
12 tion, \$10,000,000 may be made available for the Air Force
13 Research Laboratory to continue support efforts to test,
14 qualify, and procure synthetic fuels developed from coal
15 for aviation jet use.

16 **SEC. 607. COAL-TO-LIQUID LONG-TERM FUEL PROCURE-**
17 **MENT AND DEPARTMENT OF DEFENSE DE-**
18 **VELOPMENT.**

19 Section 2922d of title 10, United States Code, is
20 amended—

21 (1) in subsection (b)—

22 (A) by striking “The Secretary” and in-
23 serting the following:

24 “(1) IN GENERAL.—The Secretary”; and

25 (B) by adding at the end the following:

1 “(2) COAL-TO-LIQUID PRODUCTION FACILI-
2 TIES.—

3 “(A) IN GENERAL.—The Secretary of De-
4 fense may enter into contracts or other agree-
5 ments with private companies or other entities
6 to develop and operate coal-to-liquid facilities
7 (as defined in section 601 of the Eight Steps to
8 Energy Sufficiency Act of 2008) on or near
9 military installations.

10 “(B) CONSIDERATIONS.—In entering into
11 contracts and other agreements under subpara-
12 graph (A), the Secretary shall consider land
13 availability, testing opportunities, and proximity
14 to raw materials.”;

15 (2) in subsection (d)—

16 (A) by striking “Subject to applicable pro-
17 visions of law, any” and inserting “Any”; and

18 (B) by striking “1 or more years” and in-
19 serting “up to 25 years”; and

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

21 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as are nec-
23 essary to carry out this section.”.

1 **SEC. 608. REPORT ON EMISSIONS OF FISCHER-TROPSCH**
2 **PRODUCTS USED AS TRANSPORTATION**
3 **FUELS.**

4 (a) **IN GENERAL.**—In cooperation with the Adminis-
5 trator of the Environmental Protection Agency, the Sec-
6 retary of Defense, the Administrator of the Federal Avia-
7 tion Administration, and the Secretary of Health and
8 Human Services, the Secretary shall—

9 (1) carry out a research and demonstration pro-
10 gram to evaluate the emissions of the use of Fischer-
11 Tropsch fuel for transportation, including diesel and
12 jet fuel;

13 (2) evaluate the effect of using Fischer-Tropsch
14 transportation fuel on land and air engine exhaust
15 emissions; and

16 (3) in accordance with subsection (e), submit to
17 Congress a report on the effect on air quality and
18 public health of using Fischer-Tropsch fuel in the
19 transportation sector.

20 (b) **GUIDANCE AND TECHNICAL SUPPORT.**—The Sec-
21 retary shall issue any guidance or technical support docu-
22 ments necessary to facilitate the effective use of Fischer-
23 Tropsch fuel and blends under this section.

24 (c) **FACILITIES.**—For the purpose of evaluating the
25 emissions of Fischer-Tropsch transportation fuels, the
26 Secretary shall—

1 (1) support the use and capital modification of
2 existing facilities and the construction of new facili-
3 ties at the research centers designated in section
4 417 of the Energy Policy Act of 2005 (42 U.S.C.
5 15977); and

6 (2) engage those research centers in the evalua-
7 tion and preparation of the report required under
8 subsection (a)(3).

9 (d) REQUIREMENTS.—The program described in sub-
10 section (a)(1) shall consider—

11 (1) the use of neat (100 percent) Fischer-
12 Tropesch fuel and blends of Fischer-Tropsch fuels
13 with conventional crude oil-derived fuel for heavy-
14 duty and light-duty diesel engines and the aviation
15 sector; and

16 (2) the production costs associated with domes-
17 tic production of those fuels and prices for con-
18 sumers.

19 (e) REPORTS.—The Secretary shall submit to the
20 Committee on Energy and Natural Resources of the Sen-
21 ate and the Committee on Energy and Commerce of the
22 House of Representatives—

23 (1) not later than 180 days after the date of
24 enactment of this Act, an interim report on actions
25 taken to carry out this section; and

1 (2) not later than 1 year after the date of en-
2 actment of this Act, a final report on actions taken
3 to carry out this section.

4 (f) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated such sums as are nec-
6 essary to carry out this section.

7 **Subtitle B—Tax Incentives for**
8 **Coal-to-Liquids Production**

9 **SEC. 611. CREDIT FOR INVESTMENT IN COAL-TO-LIQUID**
10 **FUELS PROJECTS.**

11 (a) IN GENERAL.—Section 46 of the Internal Rev-
12 enue Code of 1986 (relating to amount of credit) is
13 amended by striking “and” at the end of paragraph (3),
14 by striking the period at the end of paragraph (4) and
15 inserting “, and”, and by adding at the end the following
16 new paragraph:

17 “(5) the qualifying coal-to-liquid fuels project
18 credit.”.

19 (b) AMOUNT OF CREDIT.—Subpart E of part IV of
20 subchapter A of chapter 1 of the Internal Revenue Code
21 of 1986 (relating to rules for computing investment credit)
22 is amended by inserting after section 48B the following
23 new section:

1 **“SEC. 48C. QUALIFYING COAL-TO-LIQUID FUELS PROJECT**
2 **CREDIT.**

3 “(a) IN GENERAL.—For purposes of section 46, the
4 qualifying coal-to-liquid fuels project credit for any taxable
5 year is an amount equal to 20 percent of the qualified
6 investment for such taxable year.

7 “(b) QUALIFIED INVESTMENT.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a), the qualified investment for any taxable year is
10 the basis of property placed in service by the tax-
11 payer during such taxable year which is part of a
12 qualifying coal-to-liquid fuels project—

13 “(A)(i) the construction, reconstruction, or
14 erection of which is completed by the taxpayer;
15 or

16 “(ii) which is acquired by the taxpayer if
17 the original use of such property commences
18 with the taxpayer; and

19 “(B) with respect to which depreciation (or
20 amortization in lieu of depreciation) is allow-
21 able.

22 “(2) APPLICABLE RULES.—For purposes of this
23 section, rules similar to the rules of subsection
24 (a)(4) and (b) of section 48 shall apply.

25 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) QUALIFYING COAL-TO-LIQUID FUELS
2 PROJECT.—The term ‘qualifying coal-to-liquid fuels
3 project’ means any domestic project which—

4 “(A) employs the class of reactions known
5 as Fischer-Tropsch to produce at least 10,000
6 barrels per day of transportation grade liquid
7 fuels from a feedstock that is primarily domes-
8 tic coal (including any property which allows for
9 the capture, transportation, or sequestration of
10 by-products resulting from such process, includ-
11 ing carbon emissions); and

12 “(B) any portion of the qualified invest-
13 ment in which is certified under the qualifying
14 coal-to-liquid program as eligible for credit
15 under this section in an amount (not to exceed
16 \$200,000,000) determined by the Secretary.

17 “(2) COAL.—The term ‘coal’ means any carbon-
18 ized or semicarbonized matter, including peat.

19 “(d) QUALIFYING COAL-TO-LIQUID FUELS PROJECT
20 PROGRAM.—

21 “(1) IN GENERAL.—The Secretary, in consulta-
22 tion with the Secretary of Energy, shall establish a
23 qualifying coal-to-liquid fuels project program to
24 consider and award certifications for qualified in-
25 vestment eligible for credits under this section to 10

1 qualifying coal-to-liquid fuels project sponsors under
2 this section. The total qualified investment which
3 may be awarded eligibility for credit under the pro-
4 gram shall not exceed \$2,000,000,000.

5 “(2) PERIOD OF ISSUANCE.—A certificate of
6 eligibility under paragraph (1) may be issued only
7 during the 10-fiscal year period beginning on Octo-
8 ber 1, 2007.

9 “(3) SELECTION CRITERIA.—The Secretary
10 shall not make a competitive certification award for
11 qualified investment for credit eligibility under this
12 section unless the recipient has documented to the
13 satisfaction of the Secretary that—

14 “(A) the proposal of the award recipient is
15 financially viable;

16 “(B) the recipient will provide sufficient
17 information to the Secretary for the Secretary
18 to ensure that the qualified investment is spent
19 efficiently and effectively;

20 “(C) the fuels identified with respect to the
21 gasification technology for such project will
22 comprise at least 90 percent of the fuels re-
23 quired by the project for the production of
24 transportation grade liquid fuels;

1 “(D) the award recipient’s project team is
2 competent in the planning and construction of
3 coal gasification facilities and familiar with op-
4 eration of the Fischer-Tropsch process, with
5 preference given to those recipients with experi-
6 ence which demonstrates successful and reliable
7 operations of such process; and

8 “(E) the award recipient has met other cri-
9 teria established and published by the Sec-
10 retary.

11 “(e) DENIAL OF DOUBLE BENEFIT.—No deduction
12 or other credit shall be allowed with respect to the basis
13 of any property taken into account in determining the
14 credit allowed under this section.”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 49(a)(1)(C) of the Internal Revenue
17 Code of 1986 is amended by striking “and” at the
18 end of clause (iii), by striking the period at the end
19 of clause (iv) and inserting “, and”, and by adding
20 after clause (iv) the following new clause:

21 “(v) the basis of any property which
22 is part of a qualifying coal-to-liquid fuels
23 project under section 48C.”.

24 (2) The table of sections for subpart E of part
25 IV of subchapter A of chapter 1 of such Code is

1 amended by inserting after the item relating to sec-
2 tion 48B the following new item:

“Sec. 48C. Qualifying coal-to-liquid fuels project credit.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to periods after the date of the
5 enactment of this Act, under rules similar to the rules of
6 section 48(m) of the Internal Revenue Code of 1986 (as
7 in effect on the day before the date of the enactment of
8 the Revenue Reconciliation Act of 1990).

9 **SEC. 612. TEMPORARY EXPENSING FOR EQUIPMENT USED**
10 **IN COAL-TO-LIQUID FUELS PROCESS.**

11 (a) **IN GENERAL.**—Part VI of subchapter B of chap-
12 ter 1 of the Internal Revenue Code of 1986 is amended
13 by inserting after section 179D the following new section:

14 **“SEC. 179E. ELECTION TO EXPENSE CERTAIN COAL-TO-LIQ-**
15 **UID FUELS FACILITIES.**

16 “(a) **TREATMENT AS EXPENSES.**—A taxpayer may
17 elect to treat the cost of any qualified coal-to-liquid fuels
18 process property as an expense which is not chargeable
19 to capital account. Any cost so treated shall be allowed
20 as a deduction for the taxable year in which the expense
21 is incurred.

22 “(b) **ELECTION.**—

23 “(1) **IN GENERAL.**—An election under this sec-
24 tion for any taxable year shall be made on the tax-
25 payer’s return of the tax imposed by this chapter for

1 the taxable year. Such election shall be made in such
2 manner as the Secretary may by regulations pre-
3 scribe.

4 “(2) ELECTION IRREVOCABLE.—Any election
5 made under this section may not be revoked except
6 with the consent of the Secretary.

7 “(c) QUALIFIED COAL-TO-LIQUID FUELS PROCESS
8 PROPERTY.—The term ‘qualified coal-to-liquid fuels proc-
9 ess property’ means any property located in the United
10 States—

11 “(1) which employs the Fischer-Tropsch process
12 to produce transportation grade liquid fuels from a
13 feedstock that is primarily domestic coal (including
14 any property which allows for the capture, transpor-
15 tation, or sequestration of by-products resulting
16 from such process, including carbon emissions);

17 “(2) the original use of which commences with
18 the taxpayer;

19 “(3) the construction of which—

20 “(A) except as provided in subparagraph
21 (B), is subject to a binding construction con-
22 tract entered into after the date of the enact-
23 ment of this section and before January 1,
24 2011, but only if there was no written binding

1 construction contract entered into on or before
2 such date of enactment; or

3 “(B) in the case of self-constructed prop-
4 erty, began after the date of the enactment of
5 this section and before January 1, 2011; and

6 “(4) which is placed in service by the taxpayer
7 after the date of the enactment of this section and
8 before January 1, 2016.

9 “(d) ELECTION TO ALLOCATE DEDUCTION TO COOP-
10 ERATIVE OWNER.—If—

11 “(1) a taxpayer to which subsection (a) applies
12 is an organization to which part I of subchapter T
13 applies; and

14 “(2) one or more persons directly holding an
15 ownership interest in the taxpayer are organizations
16 to which part I of subchapter T apply, the taxpayer
17 may elect to allocate all or a portion of the deduc-
18 tion allowable under subsection (a) to such persons.
19 Such allocation shall be equal to the person’s ratable
20 share of the total amount allocated, determined on
21 the basis of the person’s ownership interest in the
22 taxpayer. The taxable income of the taxpayer shall
23 not be reduced under section 1382 by reason of any
24 amount to which the preceding sentence applies.

25 “(e) BASIS REDUCTION.—

1 “(1) IN GENERAL.—For purposes of this title,
2 if a deduction is allowed under this section with re-
3 spect to any qualified coal-to-liquid fuels process
4 property, the basis of such property shall be reduced
5 by the amount of the deduction so allowed.

6 “(2) ORDINARY INCOME RECAPTURE.—For
7 purposes of section 1245, the amount of the deduc-
8 tion allowable under subsection (a) with respect to
9 any property which is of a character subject to the
10 allowance for depreciation shall be treated as a de-
11 duction allowed for depreciation under section 167.

12 “(f) APPLICATION WITH OTHER DEDUCTIONS AND
13 CREDITS.—

14 “(1) OTHER DEDUCTIONS.—No deduction shall
15 be allowed under any other provision of this chapter
16 with respect to any expenditure with respect to
17 which a deduction is allowed under subsection (a) to
18 the taxpayer.

19 “(2) CREDITS.—No credit shall be allowed
20 under section 38 with respect to any amount for
21 which a deduction is allowed under subsection (a).

22 “(g) REPORTING.—No deduction shall be allowed
23 under subsection (a) to any taxpayer for any taxable year
24 unless such taxpayer files with the Secretary a report con-
25 taining such information with respect to the operation of

1 the property of the taxpayer as the Secretary shall re-
2 quire.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1016(a) of the Internal Revenue
5 Code of 1986, as amended by this Act, is amended
6 by striking “and” at the end of paragraph (36), by
7 striking the period at the end of paragraph (37) and
8 inserting “, and”, and by adding at the end the fol-
9 lowing new paragraph:

10 “(38) to the extent provided in section
11 179E(e)(1).”.

12 (2) Section 1245(a) of such Code is amended
13 by inserting “179E,” after “179D,” both places it
14 appears in paragraphs (2)(C) and (3)(C).

15 (3) Section 263(a)(1) of such Code is amended
16 by striking “or” at the end of subparagraph (J), by
17 striking the period at the end of subparagraph (K)
18 and inserting “, or”, and by inserting after subpara-
19 graph (K) the following new subparagraph:

20 “(L) expenditures for which a deduction is
21 allowed under section 179E.”.

22 (4) Section 312(k)(3)(B) of such Code is
23 amended by striking “or 179D” each place it ap-
24 pears in the heading and text and inserting “179D,
25 or 179E”.

1 (5) The table of sections for part VI of sub-
2 chapter B of chapter 1 of such Code is amended by
3 inserting after the item relating to section 179D the
4 following new item:

“Sec. 179E. Election to expense certain coal-to-liquid fuels facilities.”.

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

8 **SEC. 613. EXTENSION OF ALTERNATIVE FUEL CREDIT FOR**
9 **FUEL DERIVED FROM COAL THROUGH THE**
10 **FISCHER-TROPSCH PROCESS.**

11 (a) ALTERNATIVE FUEL CREDIT.—Paragraph (4) of
12 section 6426(d) of the Internal Revenue Code of 1986 is
13 amended to read as follows:

14 “(4) TERMINATION.—This subsection shall not
15 apply to—

16 “(A) any sale or use involving liquid fuel
17 derived from a feedstock that is primarily do-
18 mestic coal (including peat) through the Fisch-
19 er-Tropsch process for any period after Sep-
20 tember 30, 2020;

21 “(B) any sale or use involving liquified hy-
22 drogen for any period after September 30,
23 2014; and

24 “(C) any other sale or use for any period
25 after September 30, 2009.”.

1 (b) PAYMENTS.—

2 (1) IN GENERAL.—Paragraph (5) of section
3 6427(e) of the Internal Revenue Code of 1986 is
4 amended by striking “and” and the end of subpara-
5 graph (C), by striking the period at the end of sub-
6 paragraph (D) and inserting “, and”, and by adding
7 at the end the following new subparagraph:

8 “(E) any alternative fuel or alternative fuel
9 mixture (as so defined) involving liquid fuel de-
10 rived from coal (including peat) through the
11 Fischer-Tropsch process sold or used after Sep-
12 tember 30, 2020.”.

13 (2) CONFORMING AMENDMENT.—Section
14 6427(e)(5)(C) of such Code is amended by striking
15 “subparagraph (D)” and inserting “subparagraphs
16 (D) and (E)”.

17 **SEC. 614. MODIFICATIONS TO ENHANCED OIL RECOVERY**
18 **CREDIT.**

19 (a) ENHANCED CREDIT FOR CARBON DIOXIDE IN-
20 JECTIONS.—Section 43 of the Internal Revenue Code of
21 1986 is amended by adding at the end the following new
22 subsection:

23 “(f) ENHANCED CREDIT FOR PROJECTS USING
24 QUALIFIED CARBON DIOXIDE.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion—

3 “(A) the term ‘qualified project’ includes a
4 project described in paragraph (2); and

5 “(B) in the case of a project described in
6 paragraph (2), subsection (a) shall be applied
7 by substituting ‘50 percent’ for ‘15 percent’.

8 “(2) PROJECTS DESCRIBED.—A project is de-
9 scribed in this paragraph if it begins or is substan-
10 tially expanded after December 31, 2007, and—

11 “(A) uses qualified carbon dioxide in an
12 enhanced oil, natural gas, or coalbed methane
13 recovery method, which involves flooding or in-
14 jection; or

15 “(B) enables the capture or sequestration
16 of qualified carbon dioxide.

17 “(3) DEFINITIONS.—For purposes of this sub-
18 section:

19 “(A) CAPTURE OR SEQUESTRATION.—The
20 term ‘capture or sequestration’ means any
21 equipment or facility necessary to—

22 “(i) capture or separate qualified car-
23 bon dioxide from other emissions;

24 “(ii) transport qualified carbon diox-
25 ide; or

1 “(iii) process and use qualified carbon
2 dioxide in a qualified project.

3 “(B) ENHANCED COALBED METHANE RE-
4 COVERY.—The term ‘enhanced coalbed methane
5 recovery’ means recovery of coalbed methane by
6 injecting or flooding with qualified carbon diox-
7 ide.

8 “(C) ENHANCED NATURAL GAS RECOV-
9 ERY.—The term ‘enhanced natural gas recov-
10 ery’ means recovery of natural gas by injecting
11 or flooding with qualified carbon dioxide.

12 “(D) ENHANCED OIL RECOVERY.—The
13 term ‘enhanced oil recovery’ means recovery of
14 oil by injecting or flooding with qualified carbon
15 dioxide.

16 “(E) QUALIFIED CARBON DIOXIDE.—The
17 term ‘qualified carbon dioxide’ means carbon di-
18 oxide which is produced from the gasification
19 and subsequent refinement of a feedstock which
20 is primarily domestic coal, at a facility which
21 produces coal-to-liquid fuel.

22 “(4) TERMINATION.—This subsection shall not
23 apply to costs paid or incurred for any qualified
24 project after December 31, 2020.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 43 of the Internal Revenue Code of
2 1986 is amended—

3 (A) by striking “enhanced oil recovery
4 credit” in subsection (a) and inserting “en-
5 hanced oil, natural gas, and coalbed methane
6 recovery, and capture and sequestration credit”;

7 (B) by striking “qualified enhanced oil re-
8 covery costs” each place it appears and insert-
9 ing “qualified costs”;

10 (C) by striking “qualified enhanced oil re-
11 covery project” each place it appears and in-
12 serting “qualified project”; and

13 (D) by striking the heading and inserting:

14 **“SEC. 43. ENHANCED OIL, NATURAL GAS, AND COALBED**
15 **METHANE RECOVERY, AND CAPTURE AND SE-**
16 **QUESTRATION CREDIT.”.**

17 (2) The item in the table of sections for subpart
18 D of part IV of subchapter A of chapter 1 of such
19 Code relating to section 43 is amended to read as
20 follows:

 “Sec. 43. Enhanced oil, natural gas, and coalbed methane recovery, and cap-
 ture and sequestration credit.”.

21 (c) **EFFECTIVE DATE.**—The amendments made by
22 this section shall apply to costs paid or incurred in taxable
23 years ending after December 31, 2007.

1 **SEC. 615. ALLOWANCE OF ENHANCED OIL, NATURAL GAS,**
 2 **AND COALBED METHANE RECOVERY, AND**
 3 **CAPTURE AND SEQUESTRATION CREDIT**
 4 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

5 (a) IN GENERAL.—Subsection (c) of section 38 of the
 6 Internal Revenue Code of 1986 (relating to limitation
 7 based on amount of tax) is amended by redesignating
 8 paragraphs (4) and (5) as paragraphs (5) and (6), respec-
 9 tively, and by inserting after paragraph (3) the following
 10 new paragraph:

11 “(4) SPECIAL RULES FOR ENHANCED OIL, NAT-
 12 URAL GAS, AND COALBED METHANE RECOVERY, AND
 13 CAPTURE AND SEQUESTRATION CREDIT.—In the
 14 case of the enhanced oil, natural gas, and coalbed
 15 methane recovery, and capture and sequestration
 16 credit determined under section 43—

17 “(A) this section and section 39 shall be
 18 applied separately with respect to such credit;
 19 and

20 “(B) in applying paragraph (1) to such
 21 credit—

22 “(i) the tentative minimum tax shall
 23 be treated as being zero; and

24 “(ii) the limitation under paragraph
 25 (1) (as modified by clause (i)) shall be re-
 26 duced by the credit allowed under sub-

1 section (a) for the taxable year (other than
 2 the enhanced oil, natural gas, and coalbed
 3 methane recovery, and capture and seques-
 4 tration credit and the specified credits).”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 38(c)(2)(A)(ii)(II) of the Internal
 7 Revenue Code of 1986 is amended by inserting “the
 8 enhanced oil, natural gas, and coalbed methane re-
 9 covery, and capture and sequestration credit,” after
 10 “employee credit,”.

11 (2) Section 38(c)(3)(A)(ii)(II) of such Code is
 12 amended by inserting “, the enhanced oil, natural
 13 gas, coalbed methane recovery, capture and seques-
 14 tration credit,” after “employee credit”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years ending after De-
 17 cember 31, 2007.

18 **Subtitle C—Clean Coal Technology** 19 **Deployment**

20 **SEC. 621. CARBON SEQUESTRATION AND CAPTURE.**

21 (a) DEFINITIONS.—In this section:

22 (1) ANTHROPOGENIC.—The term “anthropo-
 23 genic” means produced or caused by human activity.

24 (2) CARBON DIOXIDE.—The term “carbon diox-
 25 ide” means anthropogenically sourced carbon dioxide

1 that is of sufficient purity and quality as to not com-
2 promise the safety and efficiency of any reservoir in
3 which the carbon dioxide is stored.

4 (3) FEDERAL AGENCY.—The term “Federal
5 agency” means any department, agency, or instru-
6 mentality of the United States.

7 (4) GEOLOGICAL STORAGE.—The term “geo-
8 logical storage” means permanent or short-term un-
9 derground storage of carbon dioxide in a reservoir.

10 (5) PERSON.—

11 (A) IN GENERAL.—The term “person”
12 means an individual, corporation, company (in-
13 cluding a limited liability company), association,
14 partnership, State, municipality, or Federal
15 agency.

16 (B) INCLUSIONS.—The term “person” in-
17 cludes an officer, employee, and agent of any
18 corporation, company (including a limited liabil-
19 ity company), association, partnership, State,
20 municipality, or Federal agency.

21 (6) RESERVOIR.—

22 (A) IN GENERAL.—The term “reservoir”
23 means any subsurface sedimentary stratum,
24 formation, aquifer, or cavity or void (whether
25 natural or artificially created) that is suitable

1 for, or capable of being made suitable for, the
2 injection and storage of carbon dioxide.

3 (B) INCLUSIONS.—The term “reservoir”
4 includes—

5 (i) an oil and gas reservoir;

6 (ii) a saline formation or coal seam;

7 and

8 (iii) the seabed and subsoil of a sub-
9 marine area.

10 (7) STATE.—

11 (A) IN GENERAL.—The term “State”
12 means—

13 (i) each of the several States of the
14 United States;

15 (ii) the District of Columbia;

16 (iii) the Commonwealth of Puerto
17 Rico;

18 (iv) Guam;

19 (v) American Samoa;

20 (vi) the Commonwealth of the North-
21 ern Mariana Islands;

22 (vii) the Federated States of Micro-
23 nesia;

24 (viii) the Republic of the Marshall Is-
25 lands;

1 (ix) the Republic of Palau; and

2 (x) the United States Virgin Islands.

3 (B) INCLUSIONS.—The term “State” in-
4 cludes all territorial water, seabed, and subsoil
5 of submarine areas of each State.

6 (8) STATE REGULATORY AGENCY.—The term
7 “State regulatory agency” means the agency des-
8 ignated by the Governor of a State to administer a
9 carbon dioxide storage program of the State.

10 (9) STORAGE FACILITY.—

11 (A) IN GENERAL.—The term “storage fa-
12 cility” means—

13 (i) an underground reservoir, under-
14 ground equipment, and surface structures
15 and equipment used in an operation to
16 store carbon dioxide in a reservoir; and

17 (ii) any other facilities that the Ad-
18 ministrator may include by regulation or
19 permit.

20 (B) EXCLUSIONS.—The term “storage fa-
21 cility” does not include pipelines used to trans-
22 port the carbon dioxide from 1 or more capture
23 facilities to the storage and injection site.

24 (10) STORAGE OPERATOR.—The term “storage
25 operator” means any person or other entity author-

1 ized by the Administrator or State regulatory agency
2 to operate a storage facility.

3 (11) UNDERGROUND RESERVOIR.—The term
4 “underground reservoir”, with respect to a storage
5 facility, includes any necessary and reasonable areal
6 buffer and subsurface monitoring zones that are—

7 (A) designated by the Administrator or
8 State regulatory agency for the purpose of en-
9 suring the safe and efficient operation of the
10 storage facility for the storage of carbon diox-
11 ide; and

12 (B) selected to protect against pollution,
13 invasion, and escape or migration of the stored
14 carbon dioxide.

15 (b) STATE CARBON DIOXIDE GEOLOGICAL STORAGE
16 PROGRAMS.—

17 (1) REGULATIONS.—

18 (A) IN GENERAL.—The Administrator
19 shall—

20 (i) not later than 180 days after the
21 date of enactment of this Act, publish in
22 the Federal Register proposed regulations
23 for State carbon dioxide storage programs;
24 and

1 (ii) not later than 180 days after the
2 date of publication of the proposed regula-
3 tions under clause (i), promulgate final
4 regulations for State carbon dioxide stor-
5 age programs that meet the requirements
6 described in paragraph (2)(A), including
7 such modifications as the Administrator
8 determines to be appropriate.

9 (B) UPDATING.—The Administrator may
10 periodically review and, as necessary, revise the
11 regulations promulgated under this subsection.

12 (2) STATE REGULATORY AUTHORITY.—

13 (A) IN GENERAL.—The regulations pro-
14 mulgated under paragraph (1)(A)(ii) shall es-
15 tablish minimum requirements that States shall
16 meet in order to be approved to administer a
17 carbon dioxide storage program under sub-
18 section (c)(1), including—

19 (i) a prohibition on carbon dioxide
20 storage in the State that is not authorized
21 by a permit issued by the State;

22 (ii) inspection, monitoring, record-
23 keeping, and reporting requirements; and

24 (iii) authority for the State regulatory
25 agency to issue a permit, after public no-

1 tice and hearing, approving a storage facil-
2 ity for the proposed geological storage of
3 carbon dioxide if the State regulatory au-
4 thority determines that—

5 (I) the horizontal and vertical
6 boundaries of the geological storage
7 facility designated by the permit are
8 appropriate for the storage facility;

9 (II) the storage facility and res-
10 ervoir are suitable and feasible for the
11 injection and storage of carbon diox-
12 ide;

13 (III) a good faith effort has been
14 made to obtain the consent of a ma-
15 jority of the owners having property
16 interests affected by the storage facil-
17 ity, and that the storage operator in-
18 tends to acquire any remaining inter-
19 est by eminent domain or by a method
20 otherwise allowed by law;

21 (IV) the use of the storage facil-
22 ity for the geological storage of carbon
23 dioxide will not result in the
24 unpermitted migration of carbon diox-
25 ide into other formations containing

1 fresh drinking water or oil, gas, coal,
2 or other commercial mineral deposits
3 that are not owned by the storage op-
4 erator; and

5 (V) the proposed storage would—

6 (aa) not unduly endanger
7 human health or the environ-
8 ment; and

9 (bb) be in the public inter-
10 est.

11 (B) STATE AUTHORITY.—A State regu-
12 latory agency approved under subsection (c)(1)
13 to administer a carbon dioxide storage program
14 shall issue such orders, permits, certificates,
15 rules, and regulations, including establishment
16 of such appropriate and sufficient financial
17 sureties as are necessary, for the purpose of
18 regulating the drilling, operation, and well plug-
19 ging and abandonment and removal of surface
20 buildings and equipment of the storage facility
21 in order to protect the storage facility against
22 pollution, invasion, and the escape or migration
23 of carbon dioxide.

24 (C) EMINENT DOMAIN.—A storage oper-
25 ator may be empowered by a State to exercise

1 the right of eminent domain under State law to
2 acquire all surface and subsurface rights and
3 interests necessary or useful for the purpose of
4 operating the storage facility, including ease-
5 ments and rights-of-way across land that are
6 necessary to transport carbon dioxide among
7 components of the storage facility.

8 (D) VARIANCE IN CONDITIONS.—The regu-
9 lations promulgated under paragraph (1)(A)(ii)
10 shall permit or provide for consideration of
11 varying geological, hydrological, and historical
12 conditions in different States and in different
13 areas within a State.

14 (E) ENHANCED RECOVERY OPERATIONS.—

15 (i) IN GENERAL.—Upon the approval
16 of a State to administer a carbon dioxide
17 storage program under subsection (c)(1),
18 the State regulatory agency designated by
19 the State may develop rules to allow the
20 conversion into a storage facility of an en-
21 hanced recovery operation that is in exist-
22 ence as of the date on which administra-
23 tion of the program by the State is ap-
24 proved.

1 (ii) OIL AND GAS RECOVERY.—Noth-
2 ing in this section applies to or otherwise
3 affects the use of carbon dioxide as a part
4 of or in conjunction with any enhanced re-
5 covery method the sole purpose of which is
6 enhanced oil or gas recovery.

7 (c) STATE PRIMARY ENFORCEMENT RESPONSI-
8 BILITY.—

9 (1) APPROVAL OF STATE CARBON DIOXIDE
10 STORAGE PROGRAMS.—

11 (A) APPLICATION.—

12 (i) IN GENERAL.—After promulgation
13 of the regulations under subsection
14 (b)(1)(A)(ii), each State may submit to the
15 Administrator an application that dem-
16 onstrates, to the satisfaction of the Admin-
17 istrator, that the State—

18 (I) has adopted, after providing
19 for reasonable notice and an oppor-
20 tunity for public comment, and will
21 implement, a carbon dioxide storage
22 program that meets the requirements
23 of the regulations; and

24 (II) will keep such records and
25 make such reports with respect to the

1 activities of the State under the car-
2 bon dioxide storage program as the
3 Administrator may require by regula-
4 tion.

5 (ii) REVISIONS.—Not later than the
6 expiration of the 270-day period beginning
7 on the date on which any regulation pro-
8 mulgated under subsection (b)(1)(A)(ii) is
9 revised or amended with respect to a re-
10 quirement applicable to State carbon diox-
11 ide storage programs, each State with a
12 carbon dioxide storage program approved
13 under subparagraph (B) shall submit, in
14 such form and in such manner as the Ad-
15 ministrator may require, a notice to the
16 Administrator that demonstrates, to the
17 satisfaction of the Administrator, that the
18 State carbon dioxide storage program
19 meets the revised or amended requirement.

20 (B) APPROVAL OR DISAPPROVAL.—Not
21 later than 90 days after the date on which a
22 State submits to the Administrator an applica-
23 tion under subparagraph (A)(i) or a notice
24 under subparagraph (A)(ii), and after a reason-
25 able (as determined by the Administrator) op-

1 portunity for discussion, the Administrator shall
 2 by regulation approve, disapprove, or approve in
 3 part and disapprove in part, the carbon dioxide
 4 storage program proposed by the State.

5 (C) EFFECT OF APPROVAL.—If the Admin-
 6 istrator approves the carbon dioxide storage
 7 program of a State under subparagraph (B),
 8 the State shall have primary enforcement re-
 9 sponsibility for carbon dioxide storage in the
 10 State until such time as the Administrator de-
 11 termines, by regulation, that the State no
 12 longer meets the requirements of subparagraph
 13 (A)(i).

14 (D) PUBLIC PARTICIPATION.—Before mak-
 15 ing a determination under subparagraph (B) or
 16 (C), the Administrator shall provide an oppor-
 17 tunity for a public hearing with respect to the
 18 determination.

19 (2) STATES WITHOUT PRIMARY ENFORCEMENT
 20 RESPONSIBILITY.—

21 (A) IN GENERAL.—If a State fails to sub-
 22 mit an application under paragraph (1)(A)(i) by
 23 the date that is 270 days after the date of pro-
 24 mulgation of regulations under subsection
 25 (b)(1)(A)(ii), the Administrator shall by regula-

1 tion prescribe (and may from time to time by
2 regulation revise) a program applicable to the
3 State that meets the terms and conditions of
4 subsection (b)(2).

5 (B) DISAPPROVAL.—If the Administrator
6 disapproves all or a portion of the program of
7 a State under paragraph (1)(B), if the Admin-
8 istrator determines under paragraph (1)(C)
9 that a State no longer meets the requirements
10 of subclause (I) or (II) of paragraph (1)(A)(i),
11 or if a State fails to submit a notice before the
12 expiration of the period specified in paragraph
13 (1)(A)(ii), the Administrator shall by regula-
14 tion, not later than 90 days after the date of
15 the disapproval, determination, or expiration
16 (as the case may be), prescribe (and may from
17 time to time by regulation revise) a program
18 applicable to the State that meets the require-
19 ments of subsection (b)(2).

20 (C) APPLICABILITY.—A program pre-
21 scribed by the Administrator under subpara-
22 graph (B) shall apply in a State only to the ex-
23 tent that a program adopted by the State that
24 the Administrator determines meets the re-

1 requirements of this section or subsection (b)(2)
2 is not in effect.

3 (D) PUBLIC PARTICIPATION.—Before pro-
4 mulgating any regulation under subparagraph
5 (B) or (C), the Administrator shall provide an
6 opportunity for a public hearing with respect to
7 the regulation.

8 (d) ENFORCEMENT OF PROGRAM.—

9 (1) NOTIFICATION.—

10 (A) IN GENERAL.—In any case in which
11 the Administrator determines, during a period
12 during which a State has primary enforcement
13 responsibility for carbon dioxide storage, that
14 any person who is subject to a requirement of
15 the carbon dioxide storage program is violating
16 the requirement, the Administrator shall notify
17 the State and the person violating the require-
18 ment of the violation.

19 (B) FAILURE TO ENFORCE.—If, after the
20 date that is 30 days after the Administrator no-
21 tifies a State of a violation under subparagraph
22 (A), the State has not commenced appropriate
23 enforcement action, the Administrator shall—

24 (i) issue an order under paragraph (2)
25 requiring the person to—

- 1 (I) correct the matter; and
2 (II) comply with the requirement;
3 or
4 (ii) bring a civil action in accordance
5 with paragraph (3).

6 (C) VIOLATIONS IN CERTAIN STATES.—In
7 any case in which the Administrator deter-
8 mines, during a period during which a State
9 does not have primary enforcement responsi-
10 bility for carbon dioxide storage, that any per-
11 son subject to any requirement of any applica-
12 ble carbon dioxide storage program in the State
13 is violating the requirement, the Administrator
14 shall—

- 15 (i) issue an order under paragraph (2)
16 requiring the person to comply with re-
17 quirement; or
18 (ii) bring a civil action in accordance
19 with paragraph (3).

20 (2) ADMINISTRATIVE ORDERS AND APPEALS.—

21 (A) IN GENERAL.—In any case in which
22 the Administrator has the authority to bring a
23 civil action under this subsection with respect to
24 any regulation or other requirement of this sec-
25 tion, the Administrator may, in addition to

1 bringing the civil action, issue an order under
2 this paragraph that—

3 (i) assesses a civil penalty of not more
4 than \$10,000 for each day of violation for
5 any past or current violation, up to a max-
6 imum aggregate civil penalty of \$125,000,
7 for each covered entity;

8 (ii) requires compliance with the regu-
9 lation or other requirement; or

10 (iii) accomplishes each of the actions
11 described in clauses (i) and (ii).

12 (B) TIMING.—An order under this para-
13 graph shall be issued by the Administrator only
14 after an opportunity (provided in accordance
15 with this paragraph) for a hearing.

16 (C) NOTICE.—Before issuing any order
17 under subparagraph (A), the Administrator
18 shall provide to the person to whom the order
19 applies—

20 (i) written notice of the intent of the
21 Administrator to issue the order; and

22 (ii) the opportunity to request, within
23 the 30-day period beginning on the date of
24 receipt by the person of the notice, a hear-
25 ing on the order.

1 (D) REQUIREMENTS.—A hearing described
2 in subparagraph (C)(ii)—

3 (i) shall not be subject to section 554
4 or 556 of title 5, United States Code; but

5 (ii) shall provide to each interested
6 person a reasonable opportunity to be
7 heard and to present evidence.

8 (E) NOTICE AND COMMENT.—The Admin-
9 istrator shall provide public notice of, and a
10 reasonable opportunity to comment on, any pro-
11 posed order.

12 (F) SPECIFIC NOTICE.—Any person who
13 comments on any proposed order under sub-
14 paragraph (E) shall be given notice of any
15 hearing under this paragraph and of any order.

16 (G) EFFECTIVE DATE.—Any order issued
17 under this paragraph shall become effective on
18 the date that is 30 days after the date of
19 issuance of the order, unless an appeal is taken
20 pursuant to subparagraph (K).

21 (H) CONTENTS OF ORDER.—Any order
22 issued under this paragraph—

23 (i) shall state with reasonable speci-
24 ficity the nature of the violation; and

1 (ii) may specify a reasonable period to
2 achieve compliance.

3 (I) CONSIDERATIONS.—In assessing any
4 civil penalty under this paragraph, the Adminis-
5 trator shall take into consideration all appro-
6 priate factors, including—

7 (i) the seriousness of the violation;

8 (ii) the economic benefit (if any) re-
9 sulting from the violation;

10 (iii) any history of similar violations;

11 (iv) any good-faith efforts to comply
12 with the applicable requirements;

13 (v) the economic impact of the penalty
14 on the violator; and

15 (vi) such other matters as justice may
16 require.

17 (J) OTHER ACTIONS.—Any violation with
18 respect to which the Administrator has com-
19 menced and is diligently prosecuting a civil ac-
20 tion under a provision of law other than this
21 section, or has issued an order under this para-
22 graph assessing a civil penalty, shall not be sub-
23 ject to a civil action under paragraph (3).

24 (K) APPEALS.—Any person against whom
25 an order is issued may file an appeal of the

1 order, not later than 30 days after the date of
2 issuance of the order, with—

3 (i) the United States District Court
4 for the District of Columbia; or

5 (ii) the United States district court
6 for the district in which the violation is al-
7 leged to have occurred.

8 (L) DISTRIBUTION OF COPIES.—An appel-
9 lant shall simultaneously send a copy of an ap-
10 peal filed under subparagraph (K) by certified
11 mail to the Administrator and to the Attorney
12 General.

13 (M) RECORD.—The Administrator shall
14 promptly file in the appropriate court described
15 in subparagraph (K) a certified copy of the
16 record on which an order was based.

17 (N) JUDICIAL ACTION.—A court having ju-
18 risdiction over an order issued under this para-
19 graph shall not—

20 (i) set aside or remand the order un-
21 less the court determines that—

22 (I) there is not substantial evi-
23 dence on the record, taken as a whole,
24 to support the finding of a violation;
25 or

1 (II) the assessment by the Ad-
2 ministrator of a civil penalty, or a re-
3 quirement for compliance, constitutes
4 an abuse of discretion; or

5 (ii) impose additional civil penalties
6 for the same violation unless the court de-
7 termines that the assessment by the Ad-
8 ministrator of a civil penalty constitutes an
9 abuse of discretion.

10 (O) FAILURE TO PAY.—

11 (i) IN GENERAL.—If any person fails
12 to pay an assessment of a civil penalty
13 after an order becomes effective under sub-
14 paragraph (G), or after a court, in a civil
15 action brought under subparagraph (K),
16 has entered a final judgment in favor of
17 the Administrator, the Administrator may
18 request the Attorney General to bring a
19 civil action in an appropriate United States
20 district court to recover the amount as-
21 sessed, plus costs, attorneys' fees, and in-
22 terest at currently prevailing rates, cal-
23 culated from the date on which the order
24 is effective or the date of the final judg-
25 ment, as the case may be.

1 (ii) NO REVIEW OF AMOUNT.—In a
2 civil action brought under clause (i), the
3 validity, amount, and appropriateness of
4 the civil penalty shall not be subject to re-
5 view.

6 (P) AUTHORITY OF ADMINISTRATOR.—The
7 Administrator may, in connection with adminis-
8 trative proceedings under this paragraph—

9 (i) issue subpoenas compelling the at-
10 tendance and testimony of witnesses and
11 subpoenas duces tecum; and

12 (ii) request the Attorney General to
13 bring a civil action to enforce any sub-
14 poena issued under this subparagraph.

15 (Q) ENFORCEMENT.—The United States
16 district courts shall have jurisdiction to enforce,
17 and impose sanctions with respect to, sub-
18 poenas issued under subparagraph (P).

19 (3) CIVIL AND CRIMINAL ACTIONS.—

20 (A) IN GENERAL.—A civil action referred
21 to in subparagraph (B) or (C) of paragraph (1)
22 shall be brought in the appropriate United
23 States district court.

24 (B) AUTHORITY; JUDGEMENT.—A court
25 described in subparagraph (A)—

1 (i) shall have jurisdiction to require
2 compliance with any requirement of an ap-
3 plicable carbon dioxide storage program or
4 with an order issued under paragraph (2);
5 and

6 (ii) may enter such judgment as the
7 protection of public health may require.

8 (C) PENALTIES.—Any person who violates
9 any requirement of an applicable carbon dioxide
10 storage program or an order requiring compli-
11 ance under paragraph (2)—

12 (i) shall be subject to a civil penalty
13 of not more than \$25,000 for each day of
14 such violation; and

15 (ii) if the violation is willful, may, in
16 addition to or in lieu of the civil penalty
17 under clause (i), be imprisoned for not
18 more than 3 years, fined in accordance
19 with title 18, United States Code, or both.

20 (4) EFFECT ON STATE AUTHORITY.—

21 (A) IN GENERAL.—Nothing in this sub-
22 section diminishes or otherwise affects any au-
23 thority of a State or political subdivision of a
24 State to adopt or enforce any law (including a

1 regulation) (relating to the storage of carbon
2 dioxide.

3 (B) OTHER REQUIREMENTS.—No law (in-
4 cluding a regulation) described in subparagraph
5 (A) shall relieve any person of any requirement
6 otherwise applicable under this Act.

7 (e) FINANCIAL ASSURANCES FOR STORAGE OPERA-
8 TORS.—

9 (1) IN GENERAL.—Each storage operator shall
10 be required by the State regulatory agency (in the
11 case of a State with primary enforcement authority)
12 or the Administrator (in the case of a State that
13 does not have primary enforcement authority) to
14 have and maintain financial assurances of such type
15 and in such amounts as are necessary to cover pub-
16 lic liability claims relating to the storage facility of
17 the storage operator.

18 (2) MAINTENANCE OF FINANCIAL ASSUR-
19 ANCES.—The financial assurances required under
20 paragraph (1) shall be maintained by the storage op-
21 erator until such time as the operator obtains a cer-
22 tificate of completion of injection operations under
23 subsection (f).

24 (3) AMOUNT.—The amount of financial assur-
25 ances required under paragraph (1) shall be the

1 maximum amount of liability insurance available at
2 a reasonable cost and on reasonable terms from pri-
3 vate sources (including private insurance, private
4 contractual indemnities, self-insurance, or a com-
5 bination of those measures), as determined by the
6 Administrator.

7 (f) CESSATION OF STORAGE OPERATIONS.—Upon a
8 showing by a storage operator that a storage facility is
9 reasonably expected to retain mechanical integrity and re-
10 main in place, the State regulatory agency (in the case
11 of a State with primary enforcement authority) or the Ad-
12 ministrator (in the case of a State that does not have pri-
13 mary enforcement authority) shall issue a certificate of
14 completion of injection operations to the storage operator.

15 (g) LIABILITY OF STORAGE OPERATORS FOR RE-
16 LEASE OF CARBON DIOXIDE.—

17 (1) IN GENERAL.—The Administrator shall
18 agree to indemnify and hold harmless a storage op-
19 erator (and if different from the storage operator,
20 the owner of the storage facility) that has main-
21 tained financial assurances under subsection (e)
22 from liability arising from the leakage of carbon di-
23 oxide at any storage facility operated by the storage
24 operator, to the extent that the liability is in excess

1 of the level of financial protection required of the
2 storage operator.

3 (2) COMPLETION OF OPERATIONS.—Upon the
4 issuance of certificate of completion of injection op-
5 erations by a State regulatory agency (in the case of
6 a State with primary enforcement authority) or the
7 Administrator (in the case of a State that does not
8 have primary enforcement authority)—

9 (A) the Administrator shall be vested with
10 complete and absolute title and ownership of
11 the storage facility and any stored carbon diox-
12 ide at the facility;

13 (B) the storage operator and all generators
14 of any injected carbon dioxide shall be released
15 from all further liability associated with the
16 project; and

17 (C)(i) any performance bonds posted by
18 the storage operator shall be released; and

19 (ii) continued monitoring of the storage fa-
20 cility, including remediation of any well leakage,
21 shall become the responsibility of the Adminis-
22 trator.

23 (h) FUNDING.—

24 (1) IN GENERAL.—For each fiscal year, the Ad-
25 ministrator shall collect an annual assessment from

1 each storage operator for each storage facility that
2 has not obtained a certificate of completion of injec-
3 tion operations.

4 (2) ASSESSMENT AMOUNT.—The amount of the
5 assessment for a storage facility for a fiscal year
6 shall be equal to the product obtained by multi-
7 plying—

8 (A) the per-ton assessment for the fiscal
9 year calculated under paragraph (4); and

10 (B) the total number of tons of carbon di-
11 oxide injected for storage by the storage oper-
12 ator during the preceding fiscal year at all stor-
13 age facilities operated by the storage operator
14 during the fiscal year.

15 (3) AGGREGATE AMOUNT.—The aggregate
16 amount of assessments collected from all storage op-
17 erators under paragraph (1) for any fiscal year shall
18 be equal to the sum of, with respect to the fiscal
19 year—

20 (A) any indemnification payments required
21 to be made pursuant to subsection (g)(1);

22 (B) any costs associated with storage fa-
23 cilities to which the Administrator has taken
24 title pursuant to subsection (g)(2), including
25 costs associated with any—

1 (i) inspection, monitoring, record-
2 keeping, and reporting requirements of
3 those facilities;

4 (ii) remediation of carbon dioxide
5 leakage; or

6 (iii) plugging and abandoning of re-
7 maining wells; and

8 (C) any costs associated with public liabil-
9 ity of storage facilities to which the Adminis-
10 trator has taken title pursuant to subsection
11 (g)(2).

12 (4) CALCULATION OF ASSESSMENT.—The as-
13 sessment under this subsection per ton of carbon di-
14 oxide for a fiscal year shall be equal to the quotient
15 obtained by dividing—

16 (A) the aggregate amount of assessments
17 calculated under paragraph (3) for the fiscal
18 year; by

19 (B) the aggregate number of tons of car-
20 bon dioxide injected for storage during the pre-
21 ceding fiscal year by all storage operators.

22 (5) INFORMATION.—The Administrator shall
23 require the submission of such information by each
24 storage operator on an annual basis as is necessary

1 to make the calculations required under this sub-
2 section.

3 (i) RELATIONSHIP TO OTHER LAWS.—

4 (1) IN GENERAL.—The Administrator shall pro-
5 mulgate regulations for permitting commercial-scale
6 underground injection of carbon dioxide for purposes
7 of geological sequestration under this section.

8 (2) SAFE DRINKING WATER ACT.—Section 1421
9 of the Safe Drinking Water Act (42 U.S.C. 300h)
10 shall not be used as a basis for permitting commer-
11 cial-scale underground injection or storage of carbon
12 dioxide.

13 **Subtitle D—Reduced Carbon Emis-**
14 **sions Through Clean Coal Tech-**
15 **nologies**

16 **SEC. 631. STATEMENT OF POLICY.**

17 It is the policy of the United States to reduce carbon
18 emissions from technology improvements to coal-fired
19 power plants that will reduce the quantity of coal burned
20 and carbon dioxide emitted per unit of power produced.

21 **SEC. 632. CLEAN COAL RESEARCH AND DEVELOPMENT.**

22 (a) IN GENERAL.—The Secretary shall expand and
23 accelerate efforts to conduct research and develop tech-
24 nologies that reduce carbon dioxide emissions from coal-

1 fired facilities with an emphasis on commercial viability
2 and reliability.

3 (b) SHORT-, MEDIUM- AND LONG-TERM TECH-
4 NOLOGY AREAS.—The Secretary shall emphasize tech-
5 nologies that reduce carbon dioxide emissions in the short-
6 , medium-, and long-term time frames, including—

7 (1) innovations for existing power plants that
8 reduce carbon dioxide emissions by energy efficiency
9 increases or by capturing carbon emissions, includ-
10 ing technologies that—

11 (A) reduce the quantity of fuel combusted
12 per unit of electricity output;

13 (B) reduce parasitic power loss from car-
14 bon control technology;

15 (C) improve compression of the separated
16 and captured carbon dioxide;

17 (D) reuse or reduce water consumption
18 and withdrawal; and

19 (E) capture carbon dioxide post-combus-
20 tion from flue gas, such as through the use of
21 ammonia-based, aqueous amine or ionic liquid
22 solutions or other methods;

23 (2) new combustion systems, including—

24 (A) oxyfuel combustion that burns fuel in
25 the presence of oxygen and recirculated flue gas

1 instead of air producing a concentrated stream
2 of carbon dioxide that can be readily captured
3 for storage or use;

4 (B) chemical looping combustion that
5 burns fuel in the presence of a solid oxygen car-
6 rier instead of air producing concentrated
7 stream of carbon dioxide that can be readily
8 captured for storage or use;

9 (C) high-temperature and pressure steam
10 systems, such as ultra supercritical steam gen-
11 eration, that result in high net plant efficiency
12 and reduced fuel consumption, thus producing
13 less carbon dioxide per unit of energy;

14 (D) other innovative carbon dioxide control
15 technologies appropriate for new combustion
16 systems; and

17 (E) high temperature and high pressure
18 materials that will result in much higher plant
19 efficiencies and carbon dioxide emission reduc-
20 tions;

21 (3) innovations for IGCC systems that build on
22 the ability of the IGCC to separate pollutants and
23 carbon emissions from gas streams, including—

24 (A) advanced membrane technology for
25 carbon dioxide separation;

- 1 (B) improved air separation systems;
- 2 (C) improved compression for the sepa-
- 3 rated and captured carbon dioxide; and
- 4 (D) other innovative carbon dioxide control
- 5 technologies appropriate for IGCC systems;
- 6 (4) advanced combustion turbines, including—
- 7 (A) ultra low emission hydrogen turbines;
- 8 and
- 9 (B) oxycoal combustion turbines; and
- 10 (5) sequestration of captured carbon in geologi-
- 11 cal formations, including—
- 12 (A) plume tracking;
- 13 (B) carbon dioxide leak detection and miti-
- 14 gation;
- 15 (C) carbon dioxide fate and transport mod-
- 16 els; and
- 17 (D) site evaluation instrumentation.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There

19 are authorized to be appropriated to carry out this section,

20 to remain available until expended—

- 21 (1) for innovations at power plants in operation
- 22 as of the date of enactment of this Act
- 23 \$450,000,000 for the period of fiscal years 2009
- 24 through 2020;

1 (2) for new combustion systems \$450,000,000
2 for the period of fiscal years 2009 through 2025;

3 (3) for IGCC systems \$850,000,000 for the pe-
4 riod of fiscal years 2009 through 2025;

5 (4) for advanced combustion turbines
6 \$350,000,000 for the period of fiscal years 2009
7 through 2025; and

8 (5) for carbon storage \$400,000,000 for the pe-
9 riod of fiscal years 2009 through 2020.

10 **SEC. 633. CLEAN COAL DEMONSTRATION.**

11 (a) IN GENERAL.—The Secretary shall expand and
12 accelerate the demonstration of technologies that reduce
13 carbon dioxide emissions from coal-fired facilities by dem-
14 onstrating, at a minimum—

15 (1) through facilities in operation as of the date
16 of enactment of this Act—

17 (A) post-combustion carbon dioxide cap-
18 ture at pilot scale at not less than 2 facilities,
19 the award of contracts for which shall be com-
20 pleted by 2010;

21 (B) oxycoal combustion at commercial
22 scale retrofitted to not less than 1 facility, the
23 award of contracts for which shall be completed
24 by 2012;

1 (C) post-combustion carbon dioxide cap-
2 ture at commercial scale retrofitted to not less
3 than 1 facility, the award of contracts for which
4 shall be completed by 2012;

5 (D) heat rate and efficiency improvements
6 at commercial scale at not less than 2 facilities,
7 the award of contracts for which shall be com-
8 pleted by 2012;

9 (E) water consumption reduction at com-
10 mercial scale at not less than 2 facilities, the
11 award of contracts for which shall be completed
12 by 2012;

13 (F) post-combustion carbon dioxide cap-
14 ture at pilot scale with technologies other than
15 technologies demonstrated under subparagraphs
16 (A) and (C) at not less than 1 facility, the
17 award of contracts for which shall be completed
18 by 2012;

19 (G) heat rate and efficiency improvements
20 at commercial scale at not less than 3 facilities,
21 the award of contracts for which shall be com-
22 pleted by 2014;

23 (H) water consumption reduction at com-
24 mercial scale at not less than 3 facilities, the

1 award of contracts for which shall be completed
2 by 2014; and

3 (I) post-combustion carbon dioxide capture
4 at pilot scale with technologies other than tech-
5 nologies demonstrated under subparagraphs
6 (A), (C), and (F) at not less than 1 facility, the
7 award of contracts for which shall be completed
8 by 2016;

9 (2) through new coal combustion facilities that
10 include carbon capture—

11 (A) oxycoal combustion at pilot scale at
12 not less than 1 facility, the award of contracts
13 for which shall be completed by 2010;

14 (B) post-combustion carbon dioxide cap-
15 ture at pilot scale at not less than 1 facility, the
16 award of contracts for which shall be completed
17 by 2012;

18 (C) oxycoal combustion at commercial
19 scale at not less than 1 facility, the award of
20 contracts for which shall be completed by 2012;

21 (D) supercritical pulverized coal combus-
22 tion with advanced emission controls and par-
23 tial carbon dioxide capture at commercial scale
24 at not less than 1 facility, the award of con-
25 tracts for which shall be completed by 2012;

1 (E) oxycoal supercritical circulating fluid-
2 ized bed combustion at commercial scale at not
3 less than 1 facility, the award of contracts for
4 which shall be completed by 2012;

5 (F) post-combustion carbon dioxide cap-
6 ture at commercial scale at not less than 1 fa-
7 cility, the award of contracts for which shall be
8 completed by 2012;

9 (G) post-combustion carbon dioxide cap-
10 ture at pilot scale with technologies other than
11 technologies demonstrated under subparagraphs
12 (B) or (F) at not less than 1 facility, the award
13 of contracts for which shall be completed by
14 2014;

15 (H) ultra supercritical (1290°F) pulverized
16 coal combustion with near-zero emission con-
17 trols and 90 percent carbon dioxide capture at
18 commercial scale at not less than 1 facility, the
19 award of contracts for which shall be completed
20 by 2014;

21 (I) oxycoal combustion with an advanced
22 oxygen separation system at commercial scale
23 at not less than 1 facility, the award of con-
24 tracts for which shall be completed by 2016;

1 (J) second generation post-combustion car-
2 bon dioxide capture at commercial scale at not
3 less than 1 facility, the award of contracts for
4 which shall be completed by 2014;

5 (K) chemical looping combustion at com-
6 mercial scale at not less than 1 facility, the
7 award of contracts for which shall be completed
8 by 2018; and

9 (L) ultra advanced supercritical (1400°F)
10 combustion with near-zero emission controls
11 and 90 percent integrated carbon dioxide cap-
12 ture at commercial scale at not less than 1 fa-
13 cility, the award of contracts for which shall be
14 completed by 2018;

15 (3) through IGCC with carbon capture—

16 (A) partial carbon dioxide capture without
17 a water gas shift system at commercial scale at
18 not less than 1 facility, the award of contracts
19 for which shall be completed by 2010;

20 (B) using G class turbine at not less than
21 1 facility with at least 400 megawatts in gener-
22 ating capacity, the award of contracts for which
23 shall be completed by 2012;

24 (C) using H class turbines at not less than
25 1 facility with at least 400 megawatts in gener-

1 ating capacity, the award of contracts for which
2 shall be completed by 2014; and

3 (D) using H class turbines at not less than
4 1 facility with at least 400 megawatts in gener-
5 ating capacity, the award of contracts for which
6 shall be completed by 2016.

7 (4) through advanced turbines using—

8 (A) monitoring systems for advanced IGCC
9 gas turbine at commercial scale at not less than
10 1 facility, the award of contracts for which shall
11 be completed by 2010;

12 (B) advanced oxygen separation of at least
13 2,000 tons per day in size integrated with a
14 combustion turbine at not less than 1 facility,
15 the award of contracts for which shall be com-
16 pleted by 2012;

17 (C) an oxyfuel turbine of at least 50
18 megawatts in generating capacity, at not less
19 than 1 facility, the award of contracts for which
20 shall be completed by 2015;

21 (D) advanced oxygen separation of at least
22 2,000 tons per day in size integrated with a gas
23 turbine at not less than 1 facility, the award of
24 contracts for which shall be completed by 2015;
25 and

1 (E) an oxyfuel turbine of at least 400
2 megawatts in generating capacity, at not less
3 than 1 facility, the award of contracts for which
4 shall be completed by 2020; and

5 (5) for storage of carbon dioxide captured
6 through—

7 (A) a field test of sequestration of at least
8 1,000,000 tons of carbon dioxide per year in a
9 saline formation, the award of contracts for
10 which shall be completed by 2010;

11 (B) field tests of sequestration of at least
12 2,000,000 tons of carbon dioxide per year in a
13 saline formation, the award of contracts for
14 which shall be completed by 2012; and

15 (C) a field test of sequestration of at least
16 1,000,000 tons of carbon dioxide per year in a
17 saline formation, the award of contracts for
18 which shall be completed by 2014.

19 (b) SEQUESTRATION OF CAPTURED CARBON DIOX-
20 IDE.—In any demonstration referred to in subsection (a)
21 that demonstrates carbon dioxide capture, the carbon di-
22 oxide capture shall be used for enhanced oil recovery, se-
23 questered in geologically appropriate formations, or per-
24 manently sequestered or reused, with funds made available

1 to carry out each such demonstration for the respective
2 purpose of the demonstration.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section,
5 to remain available until expended—

6 (1) for demonstrations through facilities in op-
7 eration as of the date of enactment of this Act
8 \$850,000,000 for the period of fiscal years 2009
9 through 2025;

10 (2) for new combustion systems \$1,950,000,000
11 for the period of fiscal years 2009 through 2025;

12 (3) for IGCC systems \$2,950,000,000 for the
13 period of fiscal years 2009 through 2025;

14 (4) for advanced combustion turbines
15 \$400,000,000 for the period of fiscal years 2009
16 through 2025; and

17 (5) for carbon storage \$1,350,000,000 for the
18 period of fiscal years 2009 through 2020.

19 **SEC. 634. IDENTIFICATION OF CLEAN COAL RESEARCH, DE-**
20 **VELOPMENT, AND DEMONSTRATION**
21 **PROJECTS.**

22 (a) IN GENERAL.—The Secretary shall take such
23 steps as are necessary to carry out this subtitle.

24 (b) PUBLIC COMMENT.—Not later than 90 days after
25 the date of enactment of this Act and every 2 years there-

1 after, the Secretary shall institute a public comment pe-
2 riod of at least 45 days to assist the determination of the
3 specific research, development, and demonstration projects
4 required under this subtitle.

5 (c) APPLICATIONS.—Not later than 120 days after
6 the end of each public comment period required under sub-
7 section (b), the Secretary shall—

8 (1) publicly identify the specific types of
9 projects that the Secretary intends to pursue to
10 carry out this subtitle;

11 (2) establish selection criteria for the specific
12 types of projects identified under paragraph (1); and

13 (3) establish an application process that allows
14 persons that are interested in participating in
15 projects identified under paragraph (1) to provide
16 such information as the Secretary determines to be
17 necessary.

18 **Subtitle E—Clean Coal Technology** 19 **Incentives**

20 **SEC. 641. SHORT TITLE.**

21 This subtitle may be cited as the “Energy Security
22 and Climate Enhancement Through Clean Coal Tech-
23 nology Act of 2008”.

1 **SEC. 642. MODIFICATION OF SPECIAL RULES FOR ATMOS-**
2 **PHERIC POLLUTION CONTROL FACILITIES.**

3 (a) IN GENERAL.—Subsection (d) of section 169 of
4 the Internal Revenue Code of 1986 is amended by adding
5 at the end the following new paragraph:

6 “(6) SPECIAL RULES FOR CERTAIN ATMOS-
7 PHERIC POLLUTION CONTROL FACILITIES.—Not-
8 withstanding paragraph (1), the term ‘pollution con-
9 trol facility’ includes any mechanical or electronic
10 system which—

11 “(A) which is a new identifiable treatment
12 facility (as defined in paragraph (4)),

13 “(B) which is—

14 “(i) installed after December 31,
15 2007, and

16 “(ii) used in connection with an elec-
17 tric generation plant or other property
18 which is primarily coal fired, and

19 “(C) which is certified by the owner or op-
20 erator of the plant or other property, in such
21 form and manner as prescribed by the Sec-
22 retary, to reduce carbon dioxide emissions per
23 net megawatt hour of electricity generation
24 by—

25 “(i) optimizing combustion,

1 “(ii) optimizing sootblowing and heat
2 transfer,

3 “(iii) upgrading steam temperature
4 control capabilities,

5 “(iv) reducing exit gas temperatures
6 (air heater modifications),

7 “(v) predrying low rank coals using
8 power plant waste heat,

9 “(vi) modifying steam turbines or
10 change the steam path/blading,

11 “(vii) replacing single speed motors
12 with variable speed drives for fans and
13 pumps,

14 “(viii) improving operational controls,
15 including neural networks, or

16 “(ix) any other means approved by
17 the Secretary, in consultation with the Sec-
18 retary of Health and Human Services.”.

19 (b) DEDUCTION NOT ADJUSTED FOR PURPOSES OF
20 DETERMINING ALTERNATIVE MINIMUM TAX.—Para-
21 graph (5) of section 56(a) of the Internal Revenue Code
22 of 1986 is amended by adding at the end the following
23 new sentence: “The preceding sentences of this paragraph
24 shall not apply to any pollution control facility described
25 in section 169(d)(6).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 December 31, 2007.

4 **SEC. 643. EXTENSION AND MODIFICATION OF PRODUCTION**
5 **CREDIT FOR CLOSED-LOOP BIOMASS.**

6 (a) IN GENERAL.—Clause (ii) of section 45(d)(2)(A)
7 of the Internal Revenue Code of 1986 is amended to read
8 as follows:

9 “(iii) owned by the taxpayer which
10 after before January 1, 2014 is originally
11 placed in service and modified, or is origi-
12 nally placed in service as a facility, to use
13 closed-loop biomass to co-fire (or, in the
14 case of an integrated gasification combined
15 cycle facility, to co-process) with coal, with
16 other biomass, or with both.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to electricity produced and sold
19 after the date of the enactment of this Act.

20 **SEC. 644. QUALIFYING NEW CLEAN COAL POWER PLANT**
21 **CREDIT.**

22 (a) IN GENERAL.—Subpart E of part IV of sub-
23 chapter A of chapter 1 of the Internal Revenue Code of
24 1986, as amended by this Act, is amended by inserting
25 after section 48C the following new section:

1 **“SEC. 48D. QUALIFYING NEW CLEAN COAL POWER PLANT**

2 **CREDIT.**

3 “(a) ALLOWANCE OF CREDIT.—

4 “(1) IN GENERAL.—For purposes of section 46,
5 the qualifying new clean coal power plant credit for
6 any taxable year is an amount equal to the applica-
7 ble percentage of the qualified investment for such
8 taxable year.

9 “(2) APPLICABLE PERCENTAGE.—For purposes
10 of paragraph (1), the applicable percentage shall be
11 determined as follows:

“In the case of a plant which either has—			The applica- ble percent- age is:
a design net heat rate below—	or	a carbon dioxide emission rate of—	
7,580 Btu/kWh (45% effi- ciency).	1,577 lbs/MWh or less	30 percent
7,760 Btu/kWh (44% effi- ciency).	1,613 lbs/MWh or less	28 percent
7,940 Btu/kWh (43% effi- ciency).	1,650 lbs/MWh or less	26 percent
8,120 Btu/kWh (42% effi- ciency).	1,690 lbs/MWh or less	20 percent
8,322 Btu/kWh (41% effi- ciency).	1,731 lbs/MWh or less	10 percent
8,530 Btu/kWh (40% effi- ciency).	1,774 lbs/MWh or less	10 percent

12 “(b) QUALIFIED INVESTMENT.—

13 “(1) IN GENERAL.—For purposes of subsection
14 (a), the qualified investment for any taxable year is
15 the basis of eligible property placed in service by the
16 taxpayer during such taxable year which is part of
17 a qualifying new clean coal power plant—

1 “(A)(i) the construction, reconstruction, or
2 erection of which is completed by the taxpayer,
3 or

4 “(ii) which is acquired by the taxpayer if
5 the original use of such property commences
6 with the taxpayer, and

7 “(B) with respect to which depreciation (or
8 amortization in lieu of depreciation) is allow-
9 able.

10 “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED
11 PROPERTY.—Rules similar to section 48(a)(4) shall
12 apply for purposes of this section.

13 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
14 TURES RULES MADE APPLICABLE.—Rules similar to
15 the rules of subsections (c)(4) and (d) of section 46
16 (as in effect on the day before the enactment of the
17 Revenue Reconciliation Act of 1990) shall apply for
18 purposes of this section.

19 “(c) DEFINITIONS.—For purposes of this section—

20 “(1) ELIGIBLE PROPERTY.—The term ‘eligible
21 property’ means any property which is a part of a
22 qualifying new clean coal power plant.

23 “(2) QUALIFYING NEW CLEAN COAL POWER
24 PLANT.—The term ‘qualifying new clean coal power
25 plant’ means a facility which—

1 “(A) which meets the requirements of sec-
2 tion 48A(e),

3 “(B) which either—

4 “(i) has a design net heat rate of
5 below 8,530 Btu/kWh, or

6 “(ii) has a carbon dioxide emission
7 rate of 1,774 lbs/MWh or less, and

8 “(C) which—

9 “(i) is designed to capture carbon di-
10 oxide emissions, or

11 “(ii)(I) is designed to include a built-
12 in space for future carbon dioxide capture
13 hardware (and improved foundations and
14 ironwork necessary to accommodate the
15 additional hardware),

16 “(II) includes an engineering feasi-
17 bility study identifying a system, including
18 associated cost and performance param-
19 eters, to retrofit carbon capture equipment,
20 and

21 “(III) includes a site or sited identi-
22 fied where carbon dioxide may be stored or
23 used for commercial purposes.

24 “(d) QUALIFYING NEW CLEAN COAL POWER PLANT
25 PROGRAM.—

1 “(1) ESTABLISHMENT.—Not later than 180
2 days after the date of enactment of this section, the
3 Secretary, in consultation with the Secretary of En-
4 ergy, shall establish a qualifying new clean coal
5 power plant program, under which the Secretary
6 shall certify projects eligible for the credit under
7 subsection (a).

8 “(2) APPLICATION.—An application under for
9 certification under this section shall contain such in-
10 formation as the Secretary may require in order to
11 make a determination to accept or reject an applica-
12 tion for certification as meeting the requirements of
13 this section. Any information contained in the appli-
14 cation shall be protected as provided in section
15 552(b)(4) of title 5, United States Code.

16 “(3) AGGREGATE CREDITS.—The aggregate or
17 projects certified by the Secretary under this sub-
18 section shall not exceed an aggregate capacity for
19 electricity generation of more than 6,000 megawatts.

20 “(e) RECAPTURE OF CREDIT.—The Secretary shall
21 provide for recapturing the benefit of any credit allowable
22 under subsection (a) with respect to any project which
23 fails to attain or maintain any of the requirements of this
24 section.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 46 of the Internal Revenue Code of
2 1986, as amended by this Act, is amended by strik-
3 ing “and” at the end of paragraph (4), by striking
4 the period at the end of paragraph (5) and inserting
5 “, and”, and by adding at the end the following new
6 paragraph:

7 “(6) the qualifying new clean coal power plant
8 credit.”.

9 (2) Section 49(a)(1)(C) of such Code, as
10 amended by this Act, is amended by striking “and”
11 at the end of clause (iv), by striking the period at
12 the end of clause (v) and inserting “, and”, and by
13 adding at the end the following new clause:

14 “(vi) the basis of any property which
15 is part of a qualifying new clean coal
16 power plant under section 48D.”.

17 (3) The table of sections for subpart E of part
18 IV of subchapter A of chapter 1 of such Code, as
19 amended by this Act, is amended by inserting after
20 the item relating to section 48C the following new
21 item:

“Sec. 48D. Qualifying new clean coal power plant credit.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to periods after the date of the
24 enactment of this Act, under rules similar to the rules of
25 section 48(m) of the Internal Revenue Code of 1986 (as

1 in effect before the date of the enactment of the Revenue
2 Reconciliation Act of 1990).

3 **SEC. 645. INVESTMENT CREDIT FOR EQUIPMENT USED TO**
4 **CAPTURE, TRANSPORT, AND STORE CARBON**
5 **DIOXIDE.**

6 (a) IN GENERAL.—Subpart E of part IV of sub-
7 chapter A of chapter 1 of the Internal Revenue Code of
8 1986, as amended by this Act, is amended by inserting
9 after section 48D the following new section:

10 **“SEC. 48E. EQUIPMENT USED TO CAPTURE, TRANSPORT,**
11 **AND STORE CARBON DIOXIDE EMISSIONS.**

12 “(a) GENERAL RULE.—For purposes of section 46,
13 the qualifying carbon dioxide equipment credit for any tax-
14 able year is an amount equal to 30 percent of the qualified
15 investment for such taxable year.

16 “(b) QUALIFIED INVESTMENT.—For purposes of
17 subsection (a), the qualified investment for any taxable
18 year is the basis of eligible property placed in service by
19 the taxpayer during such taxable year.

20 “(c) DEFINITIONS.—For purposes of this section—

21 “(1) ELIGIBLE PROPERTY.—The term ‘eligible
22 property’ means equipment installed on a qualified
23 coal-fired electric power generating unit to capture,
24 transport, and store carbon dioxide produced at such
25 generating unit, including equipment to separate

1 and pressurize carbon dioxide for transport (includ-
2 ing hardware to operate such equipment) and equip-
3 ment to transport, inject, and monitor such carbon
4 dioxide, as further specified and identified, by rule,
5 by the Secretary.

6 “(2) QUALIFIED COAL-FIRED ELECTRIC GEN-
7 ERATION UNIT.—The term ‘qualified coal-fired elec-
8 tric generation unit’ means a unit which, after in-
9 stallation of eligible property, is designed to capture
10 and store in a geologic formation not less than
11 500,000 metric tons of carbon dioxide per year.

12 “(d) AGGREGATE CREDITS.—The credits allowed
13 under subsection (a) shall apply only to the first 9,000
14 megawatts of capacity of qualified coal-fired electric power
15 generating units certified by the Secretary under sub-
16 section (e).

17 “(e) CERTIFICATION.—

18 “(1) CERTIFICATION PROCESS.—The Secretary
19 shall establish a certification process to determine
20 the extent to which eligible property has been in-
21 stalled on a qualified coal-fired electric power gener-
22 ating unit, and to make such other determinations
23 as the Secretary deems appropriate. The Secretary
24 shall prepare an application for certification.

1 “(2) REQUIREMENTS FOR APPLICATIONS FOR
2 CERTIFICATION.—An application for certification
3 shall contain such information as the Secretary may
4 require in order to establish credit entitlement. Any
5 information contained in an application shall be pro-
6 tected as provided in section 552(b)(4) of title 5,
7 United States Code.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 46 of the Internal Revenue Code of
10 1986, as amended by this Act, is amended by strik-
11 ing “and” at the end of paragraph (5), by striking
12 the period at the end of paragraph (6) and inserting
13 “, and”, and by adding at the end the following new
14 paragraph:

15 “(7) the qualifying carbon dioxide equipment
16 credit.”.

17 (2) Section 49(a)(1)(C) of such Code, as
18 amended by this Act, is amended by striking “and”
19 at the end of clause (v), by striking the period at the
20 end of clause (vi) and inserting “, and”, and by add-
21 ing at the end the following new clause:

22 “(vii) the basis of any eligible prop-
23 erty under section 48E.”.

24 (3) The table of sections for subpart E of part
25 IV of subchapter A of chapter 1 of such Code, as

1 amended by this Act is amended by inserting after
 2 the item relating to section 48D the following new
 3 section:

“Sec. 48E. Equipment used to capture, transport, and store carbon dioxide emissions.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to periods after the date of the
 6 enactment of this Act, under rules similar to the rules of
 7 section 48(m) of the Internal Revenue Code of 1986 (as
 8 in effect before the date of the enactment of the Revenue
 9 Reconciliation Act of 1990).

10 **SEC. 646. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRA-**
 11 **TION IN THE GENERATION OF ELECTRICITY.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-
 13 chapter A of chapter 1 of the Internal Revenue Code of
 14 1986 (relating to business credits) is amended by adding
 15 at the end the following new section:

16 **“SEC. 45Q. CREDIT SEQUESTERING CARBON DIOXIDE IN**
 17 **THE GENERATION OF ELECTRICITY.**

18 “(a) GENERAL RULE.—For purposes of section 38,
 19 the carbon dioxide sequestration credit for any taxable
 20 year is an amount equal to the sum of—

21 “(1) \$30 per metric ton of qualified carbon di-
 22 oxide which is—

23 “(A) captured by the taxpayer at a quali-
 24 fied facility during the credit period, and

1 “(B) disposed of by the taxpayer in secure
2 geological storage, and

3 “(2) \$10 per metric ton of qualified carbon di-
4 oxide which is—

5 “(A) captured by the taxpayer at a quali-
6 fied facility during the credit period, and

7 “(B) used by the taxpayer as a tertiary
8 injectant in a qualified enhanced oil or natural
9 gas recovery project.

10 “(b) QUALIFIED FACILITY.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The term ‘qualified facility’
13 means any industrial facility—

14 “(A) which is owned by the taxpayer;

15 “(B) at which carbon capture equipment is
16 placed in service;

17 “(C) which captures not less than 500,000
18 metric tons of carbon dioxide during the taxable
19 year; and

20 “(D) which is certified by the Secretary
21 under paragraph (2).

22 “(2) CERTIFICATION.—

23 “(A) IN GENERAL.—The Secretary, in con-
24 sultation with the Secretary of Energy, shall es-
25 tablish a program under which facilities which

1 use coal for the generation of electricity are cer-
2 tified for purposes of this section.

3 “(B) LIMITATION.—The total aggregate
4 generating capacity of all facilities certified by
5 the Secretary under this paragraph shall not
6 exceed 9,000 megawatts.

7 “(c) QUALIFIED CARBON DIOXIDE.—For purposes of
8 this section—

9 “(1) IN GENERAL.—The term ‘qualified carbon
10 dioxide’ means carbon dioxide captured from an in-
11 dustrial source which—

12 “(A) would otherwise be released into the
13 atmosphere as industrial emissions of green-
14 house gas, and

15 “(B) is measured at the source of capture
16 and verified at the point of disposal or injec-
17 tion.

18 “(2) RECYCLED CARBON DIOXIDE.—The term
19 ‘qualified carbon dioxide’ includes the initial deposit
20 of captured carbon dioxide used as a tertiary
21 injectant. Such term does not include carbon dioxide
22 that is recaptured, recycled, and reinjected as part
23 of the enhanced oil and natural gas recovery process.

24 “(d) SPECIAL RULES AND DEFINITIONS.—For pur-
25 poses of this section—

1 “(1) CREDIT PERIOD.—The term ‘credit period’
2 means, with respect to any qualified facility, the 10-
3 year period beginning on the date on which qualified
4 carbon dioxide for which a credit was allowed under
5 subsection (a) was first captured.

6 “(2) ONLY CARBON DIOXIDE CAPTURED WITH-
7 IN THE UNITED STATES TAKEN INTO ACCOUNT.—
8 The credit under this section shall apply only with
9 respect to qualified carbon dioxide the capture of
10 which is within—

11 “(A) the United States (within the mean-
12 ing of section 638(1)); or

13 “(B) a possession of the United States
14 (within the meaning of section 638(2)).

15 “(3) SECURE GEOLOGICAL STORAGE.—The Sec-
16 retary, in consultation with the Administrator of the
17 Environmental Protection Agency, shall establish
18 regulations for determining adequate security meas-
19 ures for the geological storage of carbon dioxide
20 under subsection (a)(1)(B) such that the carbon di-
21 oxide does not escape into the atmosphere. Such
22 term shall include storage at deep saline formations
23 and unminable coal seams under such conditions as
24 the Secretary may determine under such regulations.

1 “(4) TERTIARY INJECTANT.—The term ‘ter-
2 tiary injectant’ has the same meaning as when used
3 within section 193(b)(1).

4 “(5) QUALIFIED ENHANCED OIL OR NATURAL
5 GAS RECOVERY PROJECT.—The term ‘qualified en-
6 hanced oil or natural gas recovery project’ has the
7 meaning given the term ‘qualified enhanced oil re-
8 covery project’ by section 43(c)(2), by substituting
9 ‘crude oil or natural gas’ for ‘crude oil’ in subpara-
10 graph (A)(i) thereof.

11 “(6) CREDIT ATTRIBUTABLE TO TAXPAYER.—
12 Any credit under this section shall be attributable to
13 the person that captures and physically or contrac-
14 tually ensures the disposal of or the use as a tertiary
15 injectant of the qualified carbon dioxide, except to
16 the extent provided in regulations prescribed by the
17 Secretary.

18 “(7) RECAPTURE.—The Secretary shall, by reg-
19 ulations, provide for recapturing the benefit of any
20 credit allowable under subsection (a) with respect to
21 any qualified carbon dioxide which ceases to be cap-
22 tured, disposed of, or used as a tertiary injectant in
23 a manner consistent with the requirements of this
24 section.

1 “(8) INFLATION ADJUSTMENT.—In the case of
2 any taxable year beginning in a calendar year after
3 2008, there shall be substituted for each dollar
4 amount contained in subsection (a) an amount equal
5 to the product of—

6 “(A) such dollar amount; multiplied by

7 “(B) the inflation adjustment factor for
8 such calendar year determined under section
9 43(b)(3)(B) for such calendar year, determined
10 by substituting ‘2007’ for ‘1990’.”.

11 (b) CONFORMING AMENDMENT.—Section 38(b) of
12 the Internal Revenue Code of 1986 (relating to general
13 business credit), as amended by this Act, is amended by
14 striking “plus” at the end of paragraph (33), by striking
15 the period at the end of paragraph (34) and inserting “,
16 plus”, and by adding at the end of following new para-
17 graph:

18 “(35) the carbon dioxide sequestration credit
19 determined under section 45Q(a).”.

20 (c) CLERICAL AMENDMENT.—The table of sections
21 for subpart B of part IV of subchapter A of chapter 1
22 of the Internal Revenue Code of 1986 (relating to other
23 credits) is amended by adding at the end the following
24 new section:

“Sec. 45Q. Credit for sequestering carbon dioxide in the generation of elec-
tricity.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply carbon dioxide captured after the
3 date of the enactment of this Act.

4 **SEC. 647. CLEAN ENERGY COAL BONDS.**

5 (a) IN GENERAL.—Subpart I of part IV of sub-
6 chapter A of chapter 1 of the Internal Revenue Code of
7 1986 (relating to qualified tax credit bonds) is amended
8 by adding at the end the following new section:

9 **“SEC. 54C. CLEAN ENERGY COAL BONDS.**

10 “(a) CLEAN ENERGY COAL BOND.—For purposes of
11 this subchapter—

12 “(1) IN GENERAL.—The term ‘clean energy
13 coal bond’ means any bond issued as part of an
14 issue if—

15 “(A) the bond is issued by a qualified
16 issuer pursuant to an allocation by the Sec-
17 retary to such issuer of a portion of the na-
18 tional clean energy coal bond limitation under
19 subsection (b)(2);

20 “(B) 100 percent of the available project
21 proceeds from the sale of such issue are to be
22 used for capital expenditures incurred by quali-
23 fied borrowers for 1 or more qualified projects;

1 “(C) the qualified issuer designates such
2 bond for purposes of this section and the bond
3 is in registered form; and

4 “(D) in lieu of the requirements of section
5 54A(d)(2), the issue meets the requirements of
6 subsection (c).

7 “(2) QUALIFIED PROJECT; SPECIAL USE
8 RULES.—

9 “(A) IN GENERAL.—The term ‘qualified
10 project’ means a qualified clean coal project (as
11 defined in subsection (f)(1)) placed in service by
12 a qualified borrower.

13 “(B) REFINANCING RULES.—For purposes
14 of paragraph (1)(B), a qualified project may be
15 refinanced with proceeds of a clean energy coal
16 bond only if the indebtedness being refinanced
17 (including any obligation directly or indirectly
18 refinanced by such indebtedness) was originally
19 incurred by a qualified borrower after the date
20 of the enactment of this section.

21 “(C) REIMBURSEMENT.—For purposes of
22 paragraph (1)(B), a clean energy coal bond
23 may be issued to reimburse a qualified borrower
24 for amounts paid after the date of the enact-

1 ment of this section with respect to a qualified
2 project, but only if—

3 “(i) prior to the payment of the origi-
4 nal expenditure, the qualified borrower de-
5 clared its intent to reimburse such expendi-
6 ture with the proceeds of a clean energy
7 coal bond;

8 “(ii) not later than 60 days after pay-
9 ment of the original expenditure, the quali-
10 fied issuer adopts an official intent to re-
11 imburse the original expenditure with such
12 proceeds; and

13 “(iii) reimbursement is not made later
14 than 18 months after the date the original
15 expenditure is paid or the date the project
16 is placed in service or abandoned, but in
17 no event more than 3 years after the origi-
18 nal expenditure is paid.

19 “(D) TREATMENT OF CHANGES IN USE.—

20 For purposes of paragraph (1)(B), the proceeds
21 of an issue shall not be treated as used for a
22 qualified project to the extent that a qualified
23 borrower takes any action within its control
24 which causes such proceeds not to be used for
25 a qualified project. The Secretary shall pre-

1 scribe regulations specifying remedial actions
2 that may be taken (including conditions to tak-
3 ing such remedial actions) to prevent an action
4 described in the preceding sentence from caus-
5 ing a bond to fail to be a clean energy coal
6 bond.

7 “(b) LIMITATION ON AMOUNT OF BONDS DES-
8 IGNATED.—

9 “(1) NATIONAL LIMITATION.—There is a na-
10 tional clean energy coal bond limitation of
11 \$5,000,000,000.

12 “(2) ALLOCATION BY SECRETARY.—The Sec-
13 retary shall allocate the amount described in para-
14 graph (1) among qualified projects in such manner
15 as the Secretary determines appropriate.

16 “(c) SPECIAL RULES RELATING TO EXPENDI-
17 TURES.—

18 “(1) IN GENERAL.—An issue shall be treated as
19 meeting the requirements of this subsection if, as of
20 the date of issuance, the qualified issuer reasonably
21 expects—

22 “(A) 100 percent or more of the available
23 project proceeds from the sale of the issue are
24 to be spent for 1 or more qualified projects

1 within the 5-year period beginning on the date
2 of issuance of the clean energy bond;

3 “(B) a binding commitment with a third
4 party to spend at least 10 percent of such avail-
5 able project proceeds from the sale of the issue
6 will be incurred within the 6-month period be-
7 ginning on the date of issuance of the clean en-
8 ergy bond or, in the case of a clean energy bond
9 the available project proceeds of which are to be
10 loaned to 2 or more qualified borrowers, such
11 binding commitment will be incurred within the
12 6-month period beginning on the date of the
13 loan of such proceeds to a qualified borrower;
14 and

15 “(C) such projects will be completed with
16 due diligence and the available project proceeds
17 from the sale of the issue will be spent with due
18 diligence.

19 “(2) EXTENSION OF PERIOD.—Upon submis-
20 sion of a request prior to the expiration of the period
21 described in paragraph (1)(A), the Secretary may
22 extend such period if the qualified issuer establishes
23 that the failure to satisfy the 5-year requirement is
24 due to reasonable cause and the related projects will
25 continue to proceed with due diligence.

1 “(3) FAILURE TO SPEND REQUIRED AMOUNT
2 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
3 tent that less than 100 percent of the available
4 project proceeds of such issue are expended by the
5 close of the 5-year period beginning on the date of
6 issuance (or if an extension has been obtained under
7 paragraph (2), by the close of the extended period),
8 the qualified issuer shall redeem all of the non-
9 qualified bonds within 90 days after the end of such
10 period. For purposes of this paragraph, the amount
11 of the nonqualified bonds required to be redeemed
12 shall be determined in the same manner as under
13 section 142.

14 “(d) COOPERATIVE ELECTRIC COMPANY; QUALIFIED
15 ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL
16 BODY; QUALIFIED BORROWER.—For purposes of this sec-
17 tion—

18 “(1) COOPERATIVE ELECTRIC COMPANY.—The
19 term ‘cooperative electric company’ means a mutual
20 or cooperative electric company described in section
21 501(c)(12) or section 1381(a)(2)(C), or a not-for-
22 profit electric utility which has received a loan or
23 loan guarantee under the Rural Electrification Act.

24 “(2) CLEAN ENERGY BOND LENDER.—The
25 term ‘clean energy bond lender’ means a lender

1 which is a cooperative which is owned by, or has out-
2 standing loans to, 100 or more cooperative electric
3 companies and is in existence on February 1, 2002,
4 and shall include any affiliated entity which is con-
5 trolled by such lender.

6 “(3) PUBLIC POWER ENTITY.—The term ‘public
7 power entity’ means a State utility with a service ob-
8 ligation, as such terms are defined in section 217 of
9 the Federal Power Act (as in effect on the date of
10 enactment of this paragraph).

11 “(4) QUALIFIED ISSUER.—The term ‘qualified
12 issuer’ means—

13 “(A) a clean energy bond lender;

14 “(B) a cooperative electric company; or

15 “(C) a public power entity.

16 “(5) QUALIFIED BORROWER.—The term ‘quali-
17 fied borrower’ means—

18 “(A) a mutual or cooperative electric com-
19 pany described in section 501(c)(12) or
20 1381(a)(2)(C); or

21 “(B) a public power entity.

22 “(e) SPECIAL RULES RELATING TO POOL BONDS.—
23 No portion of a pooled financing bond may be allocable
24 to any loan unless the borrower has entered into a written

1 loan commitment for such portion prior to the issue date
2 of such issue.

3 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—

4 For purposes of this section—

5 “(1) QUALIFIED CLEAN COAL PROJECT.—For
6 purposes of this section, the term ‘qualified clean
7 coal project’ means—

8 “(A) an atmospheric pollution control facil-
9 ity (within the meaning of section
10 169(d)(5)(C));

11 “(B) a closed-loop biomass facility (within
12 the meaning of section 45(d)(2));

13 “(C) a qualified new clean coal power plant
14 (within the meaning of section 48D(d)(1));

15 “(D) a qualifying carbon dioxide equip-
16 ment described in section 48E(c)(1); or

17 “(E) a qualified facility (within the mean-
18 ing of section 450(e)).

19 “(2) POOLED FINANCING BOND.—The term
20 ‘pooled financing bond’ shall have the meaning given
21 such term by section 149(f)(4)(A).

22 “(g) TERMINATION.—This section shall not apply
23 with respect to any bond issued after December 31,
24 2018.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Paragraph (1) of section 54A(d) of the In-
2 ternal Revenue Code of 1986 is amended to read as
3 follows:

4 “(1) QUALIFIED TAX CREDIT BOND.—The term
5 ‘qualified tax credit bond’ means—

6 “(A) a qualified forestry conservation
7 bond, or

8 “(B) a clean energy coal bond,
9 which is part of an issue that meets requirements of
10 paragraphs (2), (3), (4), (5), and (6).”.

11 (2) Subparagraph (C) of section 54A(d)(2) of
12 such Code is amended to read as follows:

13 “(C) QUALIFIED PURPOSE.—For purposes
14 of this paragraph, the term ‘qualified purpose’
15 means—

16 “(i) in the case of a qualified forestry
17 conservation bond, a purpose specified in
18 section 54B(e); and

19 “(ii) in the case of a clean energy coal
20 bond, a purpose specified in section
21 54C(f)(1).”.

22 (c) CLERICAL AMENDMENT.—The table of sections
23 for subpart I of part IV of subchapter A of chapter 1 of
24 the Internal Revenue Code of 1986 is amended by adding
25 at the end the following new item:

“Sec. 54C. Clean energy coal bonds.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to bonds issued after December
3 31, 2008.

4 **TITLE VII—NUCLEAR ENERGY**
5 **Subtitle A—Nuclear Waste Access**
6 **to Yucca Mountain**

7 **SEC. 701. DEFINITIONS.**

8 In this subtitle:

9 (1) DISPOSAL.—The term “disposal” has the
10 meaning given the term in section 2 of the Nuclear
11 Waste Policy Act of 1982 (42 U.S.C. 10101).

12 (2) HIGH-LEVEL RADIOACTIVE WASTE.—The
13 term “high-level radioactive waste” has the meaning
14 given the term in section 2 of the Nuclear Waste
15 Policy Act of 1982 (42 U.S.C. 10101).

16 (3) PROJECT.—The term “Project” means the
17 Yucca Mountain Project.

18 (4) REPOSITORY.—The term “repository” has
19 the meaning given the term in section 2 of the Nu-
20 clear Waste Policy Act of 1982 (42 U.S.C. 10101).

21 (5) SECRETARY.—The term “Secretary” means
22 the Secretary of Energy.

23 (6) SPENT NUCLEAR FUEL.—The term “spent
24 nuclear fuel” has the meaning given the term in sec-

1 tion 2 of the Nuclear Waste Policy Act of 1982 (42
2 U.S.C. 10101).

3 (7) YUCCA MOUNTAIN SITE.—The term “Yucca
4 Mountain site” has the meaning given the term in
5 section 2 of the Nuclear Waste Policy Act of 1982
6 (42 U.S.C. 10101).

7 **SEC. 702. WITHDRAWAL OF LAND.**

8 (a) LAND WITHDRAWAL; JURISDICTION; RESERVA-
9 TION; ACQUISITION.—

10 (1) LAND WITHDRAWAL.—Subject to valid ex-
11 isting rights, and except as otherwise provided in
12 this subtitle, the land described in subsection (b) is
13 withdrawn permanently from any form of entry, ap-
14 propriation, or disposal under the public land laws,
15 including, without limitation—

16 (A) the mineral leasing laws;

17 (B) the geothermal leasing laws;

18 (C) materials sales laws; and

19 (D) the mining laws.

20 (2) JURISDICTION.—As of the date of enact-
21 ment of this Act, any land described in subsection
22 (b) that is under the jurisdiction of the Secretary of
23 the Air Force or the Secretary of the Interior shall
24 be—

25 (A) transferred to the Secretary; and

1 (B) under the jurisdiction of the Secretary.

2 (3) RESERVATION.—The land described in sub-
3 section (b) is reserved for use by the Secretary for
4 activities associated with the disposal of high-level
5 radioactive waste and spent nuclear fuel under the
6 Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101
7 et seq.), including—

8 (A) development;

9 (B) preconstruction testing and perform-
10 ance confirmation;

11 (C) licensing;

12 (D) construction;

13 (E) management and operation;

14 (F) monitoring;

15 (G) closure and post-closure; and

16 (H) other such activities associated with
17 the disposal of high-level radioactive waste and
18 spent nuclear fuel under the Nuclear Waste
19 Policy Act of 1982 (42 U.S.C. 10101 et seq.).

20 (b) LAND DESCRIPTION.—

21 (1) BOUNDARIES.—The land referred to in sub-
22 section (a) is the approximately 147,000 acres of
23 land located in Nye County, Nevada, as generally
24 depicted on the map relating to the Project, num-

1 bered YMP-03-024.2, entitled “Proposed Land
2 Withdrawal”, and dated July 21, 2005.

3 (2) LEGAL DESCRIPTION AND MAP.—

4 (A) IN GENERAL.—As soon as practicable
5 after the date of enactment of this Act, the Sec-
6 retary of the Interior shall—

7 (i) publish in the Federal Register a
8 notice containing a legal description of the
9 land described in this subsection; and

10 (ii) provide to Congress, the Governor
11 of the State of Nevada, and the Archivist
12 of the United States—

13 (I) a copy of the map referred to
14 in paragraph (1); and

15 (II) the legal description of the
16 land.

17 (B) TREATMENT.—

18 (i) IN GENERAL.—The map and legal
19 description referred to in subparagraph
20 (A) shall have the same force and effect as
21 if the map and legal description were in-
22 cluded in this subtitle.

23 (ii) TECHNICAL CORRECTIONS.—The
24 Secretary of the Interior may correct any
25 clerical or typographical error in the map

1 and legal description referred to in sub-
2 paragraph (A).

3 (c) REVOCATIONS.—

4 (1) PUBLIC LAND ORDER.—Public Land Order
5 6802, dated September 25, 1990 (as extended by
6 Public Land Order 7534), and any condition or
7 memorandum of understanding accompanying the
8 land order (as so extended), is revoked.

9 (2) RIGHT OF WAY.—The rights-of-way reserva-
10 tions relating to the Project, numbered N-48602
11 and N-47748 and dated January 5, 2001, are re-
12 voked.

13 (d) MANAGEMENT OF WITHDRAWN LAND.—

14 (1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Secretary of the Air Force and the
16 Secretary of the Interior, as appropriate, shall man-
17 age the land withdrawn under subsection (a)(1) in
18 accordance with—

19 (A) the Federal Land Policy and Manage-
20 ment Act of 1976 (43 U.S.C. 1701 et seq.);

21 (B) this subtitle; and

22 (C) other applicable laws.

23 (2) MANAGEMENT PLAN.—

24 (A) DEVELOPMENT.—Not later than 3
25 years after the date of enactment of this Act,

1 the Secretary, in consultation with the Sec-
2 retary of the Air Force and the Secretary of the
3 Interior, as appropriate, shall develop and sub-
4 mit to Congress and the State of Nevada a
5 management plan for the use of the land with-
6 drawn under subsection (a)(1).

7 (B) PRIORITY.—Subject to subparagraphs
8 (C), (D), and (E), use of the land withdrawn
9 under subsection (a)(1) for an activity not re-
10 lating to the Project shall be subject to such
11 conditions and restrictions as the Secretary con-
12 siders to be appropriate to facilitate activities
13 relating to the Project.

14 (C) AIR FORCE USE.—The management
15 plan may provide for the continued use by the
16 Department of the Air Force of the portion of
17 the land withdrawn under subsection (a)(1) lo-
18 cated within the Nellis Air Force base test and
19 training range under such terms and conditions
20 as may be agreed to by the Secretary and the
21 Secretary of the Air Force.

22 (D) NEVADA TEST SITE USE.—The man-
23 agement plan may provide for the continued use
24 by the National Nuclear Security Administra-
25 tion of the portion of the land withdrawn under

1 subsection (a)(1) located within the Nevada test
2 site of the Administration under such condi-
3 tions as the Secretary considers to be necessary
4 to minimize any effect on activities relating to
5 the Project or other activities of the Adminis-
6 tration.

7 (E) OTHER USES.—

8 (i) IN GENERAL.—The management
9 plan shall include provisions—

10 (I) relating to the maintenance of
11 wildlife habitat on the land withdrawn
12 under subsection (a)(1); and

13 (II) under which the Secretary
14 may permit any use not relating to
15 the Project, as the Secretary considers
16 to be appropriate, in accordance with
17 the requirements under clause (ii).

18 (ii) REQUIREMENTS.—

19 (I) GRAZING.—The Secretary
20 may permit any grazing use to con-
21 tinue on the land withdrawn under
22 subsection (a)(1) if the grazing use
23 was established before the date of en-
24 actment of this Act, subject to such
25 regulations, policies, and practices as

1 the Secretary, in consultation with the
2 Secretary of the Interior, determines
3 to be appropriate, and in accordance
4 with applicable grazing laws and poli-
5 cies, including—

6 (aa) the Act of June 28,
7 1934 (commonly known as the
8 “Taylor Grazing Act”) (43
9 U.S.C. 315 et seq.);

10 (bb) title IV of the Federal
11 Land Policy Management Act of
12 1976 (43 U.S.C. 1751 et seq.);
13 and

14 (cc) the Public Rangelands
15 Improvement Act of 1978 (43
16 U.S.C. 1901 et seq.).

17 (II) HUNTING AND TRAPPING.—

18 The Secretary may permit any hunt-
19 ing or trapping use to continue on the
20 land withdrawn under subsection
21 (a)(1) if the hunting or trapping use
22 was established before the date of en-
23 actment of this Act, at such time and
24 in such zones as the Secretary, in con-
25 sultation with the Secretary of the In-

1 terior and the State of Nevada, may
2 establish, taking into consideration
3 public safety, national security, ad-
4 ministration, and public use and en-
5 joyment of the land.

6 (F) PUBLIC ACCESS.—

7 (i) IN GENERAL.—The management
8 plan may provide for limited public access
9 to the portion of the land withdrawn under
10 subsection (a)(1) that was under the con-
11 trol of the Bureau of Land Management
12 on the day before the date of enactment of
13 this Act.

14 (ii) SPECIFIC USES.—The manage-
15 ment plan may permit public uses of the
16 land relating to the Nye County Early
17 Warning Drilling Program, utility cor-
18 ridors, and other uses the Secretary, in
19 consultation with the Secretary of the Inte-
20 rior, considers to be consistent with the
21 purposes of the withdrawal under sub-
22 section (a)(1).

23 (3) MINING.—

24 (A) IN GENERAL.—Surface and subsurface
25 mining and oil and gas production, including

1 slant drilling from outside the boundaries of the
2 land withdrawn under subsection (a)(1), shall
3 be prohibited at any time on or under the land.

4 (B) EVALUATION OF CLAIMS.—The Sec-
5 retary of the Interior shall evaluate and adju-
6 dicate the validity of any mining claim relating
7 to any portion of the land withdrawn under
8 subsection (a)(1) that was under the control of
9 the Bureau of Land Management on the day
10 before the date of enactment of this Act.

11 (C) COMPENSATION.—The Secretary shall
12 provide just compensation for the acquisition of
13 any valid property right relating to mining pur-
14 suant to the withdrawal under subsection
15 (a)(1).

16 (4) CLOSURES.—If the Secretary, in consulta-
17 tion with the Secretary of the Air Force and the
18 Secretary of the Interior, as appropriate, determines
19 that the health and safety of the public or the na-
20 tional defense and security require the closure of a
21 road, trail, or other portion of the land withdrawn
22 under subsection (a)(1) (including the airspace
23 above the land), the Secretary—

24 (A) may close the road, trail, or portion of
25 land (including airspace); and

1 (B) shall provide to the public a notice of
2 the closure.

3 (5) IMPLEMENTATION.—The Secretary and the
4 Secretary of the Air Force or the Secretary of the
5 Interior, as appropriate, shall implement the man-
6 agement plan developed under paragraph (2) under
7 such terms and conditions as may be agreed to by
8 the Secretaries.

9 **SEC. 703. RECEIPT AND STORAGE FACILITIES.**

10 Section 114(b) of the Nuclear Waste Policy Act of
11 1982 (42 U.S.C. 10134(b)) is amended—

12 (1) by striking “If the President” and inserting
13 the following:

14 “(1) IN GENERAL.—If the President”; and

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

16 “(2) APPLICATION FOR RECEIPT AND STORAGE
17 FACILITIES.—

18 “(A) IN GENERAL.—In conjunction with
19 the submission of an application for a construc-
20 tion authorization under this subsection, the
21 Secretary shall apply to the Commission for a
22 license in accordance with part 72 of title 10,
23 Code of Federal Regulations (or a successor
24 regulation), to construct and operate facilities
25 to receive and store spent nuclear fuel and

1 high-level radioactive waste at the Yucca Moun-
2 tain site.

3 “(B) DEADLINE FOR FINAL DECISION BY
4 COMMISSION.—The Commission shall issue a
5 final decision approving or disapproving the
6 issuance of the license not later than 18 months
7 after the date of submission of the application
8 to the Commission.”.

9 **SEC. 704. REPEAL OF CAPACITY LIMITATION.**

10 Section 114(d) of the Nuclear Waste Policy Act of
11 1982 (42 U.S.C. 10134(d)) is amended by striking the
12 second and third sentences.

13 **SEC. 705. INFRASTRUCTURE ACTIVITIES.**

14 Section 114 of the Nuclear Waste Policy Act of 1982
15 (42 U.S.C. 10134) is amended by adding at the end the
16 following:

17 “(g) INFRASTRUCTURE ACTIVITIES.—

18 “(1) CONSTRUCTION OF CONNECTED FACILI-
19 TIES.—At any time after the completion by the Sec-
20 retary of a final environmental impact statement
21 that evaluates the activities to be performed under
22 this subsection, the Secretary may commence the
23 following activities in connection with any activity or
24 facility licensed or to be licensed by the Commission
25 at the Yucca Mountain site:

1 “(A) Preparation of the site for construc-
2 tion of the facility (including such activities as
3 clearing, grading, and construction of tem-
4 porary access roads and borrow areas).

5 “(B) Installation of temporary construc-
6 tion support facilities (including such items as
7 warehouse and shop facilities, utilities, concrete
8 mixing plants, docking and unloading facilities,
9 and construction support buildings).

10 “(C) Excavation for facility structures.

11 “(D) Construction of service facilities (in-
12 cluding such facilities as roadways, paving, rail-
13 road spurs, fencing, exterior utility and lighting
14 systems, transmission lines, and sanitary sewer-
15 age treatment facilities).

16 “(E) Construction of structures, systems,
17 and components that do not prevent or mitigate
18 the consequences of possible accidents that
19 could cause undue risk to the health and safety
20 of the public.

21 “(F) Installation of structural foundations
22 (including any necessary subsurface prepara-
23 tion) for structures, systems, and components
24 that prevent or mitigate the consequences of

1 possible accidents that could cause undue risk
2 to the health and safety of the public.

3 “(2) AUTHORIZATION TO RECEIVE AND
4 STORE.—

5 “(A) DEFINITIONS.—In this paragraph:

6 “(i) DEFENSE WASTE.—The term ‘de-
7 fense waste’ means high-level radioactive
8 waste, and spent nuclear fuel, that results
9 from an atomic energy defense activity.

10 “(ii) LEGACY SPENT NUCLEAR
11 FUEL.—The term ‘legacy spent nuclear
12 fuel’ means spent nuclear fuel—

13 “(I) that is subject to a contract
14 entered into pursuant to section 302;
15 and

16 “(II) for which the Secretary de-
17 termines that there is not at the time
18 of the determination, and will not be
19 within a reasonable time after the de-
20 termination, sufficient domestic capac-
21 ity available to recycle the spent nu-
22 clear fuel.

23 “(B) AUTHORIZATION FOR DEFENSE
24 WASTE.—At any time after the issuance of a li-
25 cense for receipt and storage facilities under

1 subsection (b)(2), the Secretary may transport
2 defense waste to receipt and storage facilities at
3 the Yucca Mountain site.

4 “(C) AUTHORIZATION FOR LEGACY SPENT
5 NUCLEAR FUEL.—At any time after the
6 issuance of a construction authorization under
7 subsection (d) and the issuance of a license for
8 receipt and storage facilities under subsection
9 (b)(2), the Secretary may receive and store leg-
10 acy spent nuclear fuel and high-level radioactive
11 waste at the Yucca Mountain site.”.

12 **SEC. 706. RAIL LINE.**

13 (a) CONSTRUCTION OF RAIL LINE.—The Secretary
14 shall acquire rights-of-way within the corridor designated
15 in subsection (b) in accordance with this section, and shall
16 construct and operate, or cause to be constructed and op-
17 erated, a railroad and such facilities as are required to
18 transport spent nuclear fuel and high-level radioactive
19 waste from existing rail systems to the site of surface fa-
20 cilities within the geologic repository operations area for
21 the receipt, handling, packaging, and storage of spent nu-
22 clear fuel and high-level radioactive waste prior to em-
23 placement.

24 (b) ACQUISITION AND WITHDRAWAL OF LAND.—

25 (1) ROUTE DESIGNATION AND ACQUISITION.—

1 (A) RIGHTS-OF-WAY AND FACILITIES.—
2 The Secretary shall acquire such rights-of-way
3 and develop such facilities within the corridor
4 referred to as “X” on the map dated [_____]]
5 and on file with the Secretary as are necessary
6 to carry out subsection (a).

7 (B) RECOMMENDATIONS.—The Secretary
8 shall consider specific alignment proposals for
9 the route for the corridor made by the State of
10 Nevada and the units of local government with-
11 in whose jurisdiction the route is proposed to
12 pass.

13 (C) NOTICE AND DESCRIPTION.—Not later
14 than 180 days after the date of enactment of
15 this section, the Secretary shall—

16 (i) publish in the Federal Register a
17 notice containing a legal description of the
18 corridor; and

19 (ii) file copies of the map referred to
20 in paragraph (1) and the legal description
21 of the corridor with—

22 (I) Congress;

23 (II) the Secretary of the Interior;

24 (III) the Governor of the State of
25 Nevada;

1 (IV) the Board of County Com-
2 missioners of Lincoln County, Ne-
3 vada;

4 (V) the Board of County Com-
5 missioners of Nye County, Nevada;
6 and

7 (VI) the Archivist of the United
8 States.

9 (D) ADMINISTRATION.—

10 (i) EFFECT.—The map and legal de-
11 scription referred to in subparagraph (C)
12 shall have the same force and effect as if
13 the map and legal description were in-
14 cluded in this subtitle.

15 (ii) CORRECTIONS.—The Secretary
16 may correct clerical and typographical er-
17 rors in the map and legal description and
18 make minor adjustments in the boundaries
19 of the corridor.

20 (2) WITHDRAWAL AND RESERVATION.—

21 (A) PUBLIC LAND.—Subject to valid exist-
22 ing rights, the public land depicted on the map
23 referred to in paragraph (1)(C) is withdrawn
24 from all forms of entry, appropriation, and dis-
25 posal under the public land laws, including the

1 mineral leasing laws, the geothermal laws, the
2 material sale laws, and the mining laws.

3 (B) ADMINISTRATIVE JURISDICTION.—Ad-
4 ministrative jurisdiction over the land is trans-
5 ferred from the Secretary of the Interior to the
6 Secretary.

7 (C) RESERVATION.—The land is reserved
8 for the use of the Secretary for the construction
9 and operation of transportation facilities and
10 associated activities under title I of the Nuclear
11 Waste Policy Act of 1982 (42 U.S.C. 10121 et
12 seq.)

13 (D) MEMORANDUM OF UNDER-
14 STANDING.—The Secretary may also enter into
15 a memorandum of understanding with the head
16 of any other agency having administrative juris-
17 diction over other Federal land used for pur-
18 poses of the corridor referred to in paragraph
19 (1)(A).

20 (e) ENVIRONMENTAL IMPACT.—

21 (1) IN GENERAL.—The Secretary shall comply
22 with all applicable requirements under the National
23 Environmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.) with respect to activities carried out under
25 this section.

1 (2) CONSIDERATION OF POTENTIAL IMPACTS.—

2 To the extent a Federal agency is required to con-
3 sider the potential environmental impact of an activ-
4 ity carried out under this section, the Federal agen-
5 cy shall adopt, to the maximum extent practicable,
6 an environmental impact statement prepared under
7 this section.

8 (3) EFFECT OF ADOPTION OF STATEMENT.—

9 The adoption by a Federal agency of an environ-
10 mental impact statement under paragraph (2) shall
11 be considered to satisfy the responsibilities of the
12 Federal agency under the National Environmental
13 Policy Act of 1969 (42 U.S.C. 4321 et seq.), and no
14 further consideration under that subtitle shall be re-
15 quired by the Federal agency.

16 **SEC. 707. NUCLEAR WASTE FUND.**

17 (a) BUDGET ACT ALLOCATIONS.—Effective for fiscal
18 year 2008 and each fiscal year thereafter, funds appro-
19 priated from the Nuclear Waste Fund established under
20 section 302 of the Nuclear Waste Policy Act of 1982 (42
21 U.S.C. 10222) shall not be subject to—

22 (1) the allocations for discretionary spending
23 under section 302(a) of the Congressional Budget
24 Act of 1974 (2 U.S.C. 633(a)); or

1 (2) the suballocations of appropriations commit-
2 tees under section 302(b) of that Act.

3 (b) FUND USES.—Section 302(d)(4) of the Nuclear
4 Waste Policy Act of 1982 (42 U.S.C. 10222(d)(4)) is
5 amended by striking “with” and all that follows through
6 “storage site” and inserting “with surface facilities within
7 the geologic repository operations area (including surface
8 facilities for the receipt, handling, packaging, and storage
9 of spent nuclear fuel and high-level radioactive waste prior
10 to emplacement, or transportation to the repository of
11 spent nuclear fuel or high-level radioactive waste to sur-
12 face facilities for the receipt, handling, packaging, and
13 storage of spent nuclear fuel and high-level radioactive
14 waste prior to emplacement and the transportation, treat-
15 ing, or packaging of spent nuclear fuel or high-level radio-
16 active waste to be disposed of in the repository, to be
17 stored in a monitored retrievable storage site),”.

18 **SEC. 708. WASTE CONFIDENCE.**

19 For purposes of a determination by the Nuclear Reg-
20 ulatory Commission on whether to grant or amend any
21 license to operate any civilian nuclear power reactor or
22 high-level radioactive waste or spent fuel storage or treat-
23 ment facility under the Atomic Energy Act of 1954 (42
24 U.S.C. 2011 et seq.), the provisions of this subtitle (in-
25 cluding the amendments made by this subtitle) and the

1 obligation of the Secretary to develop a repository in ac-
 2 cordance with the Nuclear Waste Policy Act of 1982 (42
 3 U.S.C. 10101 et seq.), shall provide sufficient and inde-
 4 pendent grounds for any further findings by the Nuclear
 5 Regulatory Commission of reasonable assurances that
 6 spent nuclear fuel and high-level radioactive waste would
 7 be disposed of safely and in a timely manner.

8 **Subtitle B—Tax Provisions**

9 **SEC. 711. INVESTMENT TAX CREDIT FOR INVESTMENTS IN** 10 **NUCLEAR POWER FACILITIES.**

11 (a) NEW CREDIT FOR NUCLEAR POWER FACILI-
 12 TIES.—Section 46 of the Internal Revenue Code of 1986,
 13 as amended by this Act, is amended—

14 (1) by striking “and” at the end of paragraph

15 (6),

16 (2) by striking the period at the end of para-
 17 graph (7) and inserting “, and”, and

18 (3) by inserting after paragraph (7) the fol-
 19 lowing new paragraph:

20 “(8) the nuclear power facility construction
 21 credit.”.

22 (b) NUCLEAR POWER FACILITY CONSTRUCTION
 23 CREDIT.—Subpart E of part IV of subchapter A of chap-
 24 ter 1 of the Internal Revenue Code of 1986, as amended

1 by this Act, is amended by inserting after section 48E the
2 following new section:

3 **“SEC. 48F. NUCLEAR POWER FACILITY CONSTRUCTION**
4 **CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 46, the
6 nuclear power facility construction credit for any taxable
7 year is 10 percent of the qualified nuclear power facility
8 expenditures with respect to a qualified nuclear power fa-
9 cility.

10 “(b) WHEN EXPENDITURES TAKEN INTO AC-
11 COUNT.—

12 “(1) IN GENERAL.—Qualified nuclear power fa-
13 cility expenditures shall be taken into account for
14 the taxable year in which the qualified nuclear power
15 facility is placed in service.

16 “(2) COORDINATION WITH SUBSECTION (C).—
17 The amount which would (but for this paragraph) be
18 taken into account under paragraph (1) with respect
19 to any qualified nuclear power facility shall be re-
20 duced (but not below zero) by any amount of quali-
21 fied nuclear power facility expenditures taken into
22 account under subsection (c) by the taxpayer or a
23 predecessor of the taxpayer (or, in the case of a sale
24 and leaseback described in section 50(a)(2)(C), by
25 the lessee), to the extent any amount so taken into

1 account under subsection (c) has not been required
2 to be recaptured under section 50(a).

3 “(c) PROGRESS EXPENDITURES.—

4 “(1) IN GENERAL.—A taxpayer may elect to
5 take into account qualified nuclear power facility ex-
6 penditures—

7 “(A) SELF-CONSTRUCTED PROPERTY.—In
8 the case of a qualified nuclear power facility
9 which is a self-constructed facility, no earlier
10 than the taxable year for which such expendi-
11 tures are properly chargeable to capital account
12 with respect to such facility, and

13 “(B) ACQUIRED FACILITY.—In the case of
14 a qualified nuclear facility which is not self-con-
15 structed property, no earlier than the taxable
16 year in which such expenditures are paid.

17 “(2) SPECIAL RULES FOR APPLYING PARA-
18 GRAPH (1).—For purposes of paragraph (1)—

19 “(A) COMPONENT PARTS, ETC.—Notwith-
20 standing that a qualified nuclear power facility
21 is a self-constructed facility, property described
22 in paragraph (3)(B) shall be taken into account
23 in accordance with paragraph (1)(B), and such
24 amounts shall not be included in determining

1 qualified nuclear power facility expenditures
2 under paragraph (1)(A).

3 “(B) CERTAIN BORROWING DIS-
4 REGARDED.—Any amount borrowed directly or
5 indirectly by the taxpayer on a nonrecourse
6 basis from the person constructing the facility
7 for the taxpayer shall not be treated as an
8 amount expended for such facility.

9 “(C) LIMITATION FOR FACILITIES OR COM-
10 PONENTS WHICH ARE NOT SELF-CON-
11 STRUCTED.—

12 “(i) IN GENERAL.—In the case of a
13 facility or a component of a facility which
14 is not self-constructed, the amount taken
15 into account under paragraph (1)(B) for
16 any taxable year shall not exceed the ex-
17 cess of—

18 “(I) the product of the overall
19 cost to the taxpayer of the facility or
20 component of a facility, multiplied by
21 the percentage of completion of the
22 facility or component of a facility, less

23 “(II) the amount taken into ac-
24 count under paragraph (1)(B) for all

1 prior taxable years as to such facility
2 or component of a facility.

3 “(ii) CARRYOVER OF CERTAIN
4 AMOUNTS.—In the case of a facility or
5 component of a facility which is not self-
6 constructed, if for the taxable year the
7 amount which (but for clause (i)) would
8 have been taken into account under para-
9 graph (1)(B) exceeds the amount allowed
10 by clause (i), then the amount of such ex-
11 cess shall increase the amount taken into
12 account under paragraph (1)(B) for the
13 succeeding taxable year without regard to
14 this paragraph.

15 “(D) DETERMINATION OF PERCENTAGE OF
16 COMPLETION.—The determination under sub-
17 paragraph (C) of the portion of the overall cost
18 to the taxpayer of the construction which is
19 properly attributable to construction completed
20 during any taxable year shall be made on the
21 basis of engineering or architectural estimates
22 or on the basis of cost accounting records,
23 using information available at the close of the
24 taxable year in which the credit is being
25 claimed.

1 “(E) DETERMINATION OF OVERALL
2 COST.—The determination under subparagraph
3 (C) of the overall cost to the taxpayer of the
4 construction of a facility shall be made on the
5 basis of engineering or architectural estimates
6 or on the basis of cost accounting records,
7 using information available at the close of the
8 taxable year in which the credit is being
9 claimed.

10 “(F) NO PROGRESS EXPENDITURES FOR
11 PROPERTY FOR YEAR PLACED IN SERVICE,
12 ETC.—In the case of any qualified nuclear facil-
13 ity, no qualified nuclear facility expenditures
14 shall be taken into account under this sub-
15 section for the earlier of—

16 “(i) the taxable year in which the fa-
17 cility is placed in service, or

18 “(ii) the first taxable year for which
19 recapture is required under section
20 50(a)(2) with respect to such facility or for
21 any taxable year thereafter.

22 “(3) SELF-CONSTRUCTED.—For purposes of
23 this subsection—

24 “(A) The term ‘self-constructed facility’
25 means any facility if, at the close of the first

1 taxable year to which the election in this sub-
2 section applies, it is reasonable to believe that
3 more than 80 percent of the qualified nuclear
4 facility expenditures for such facility will be
5 made directly by the taxpayer.

6 “(B) A component of a facility shall be
7 treated as not self-constructed if, at the close of
8 the first taxable year in which expenditures for
9 the component are paid, it is reasonable to be-
10 lieve that the cost of the component is at least
11 5 percent of the expected cost of the facility.

12 “(4) ELECTION.—An election shall be made
13 under this subsection for a qualified nuclear power
14 facility by claiming the nuclear power facility con-
15 struction credit for expenditures described in para-
16 graph (1) on the taxpayer’s return of the tax im-
17 posed by this chapter for the taxable year. Such an
18 election shall apply to the taxable year for which
19 made and all subsequent taxable years. Such an
20 election, once made, may be revoked only with the
21 consent of the Secretary.

22 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
23 poses of this section—

24 “(1) QUALIFIED NUCLEAR POWER FACILITY.—
25 The term ‘qualified nuclear power facility’ means a

1 facility which, when placed in service, will use nu-
2 clear power to produce electricity, the reactor design
3 for which was approved after December 31, 1993 by
4 the Nuclear Regulatory Commission (and such de-
5 sign or a substantially similar design of comparable
6 capacity was not approved on or before such date),
7 and the construction of which was approved by the
8 Nuclear Regulatory Commission on or before De-
9 cember 31, 2013.

10 “(2) QUALIFIED NUCLEAR POWER FACILITY
11 EXPENDITURES.—

12 “(A) IN GENERAL.—The term ‘qualified
13 nuclear power facility expenditures’ means any
14 amount paid, accrued, or properly chargeable to
15 capital account—

16 “(i) with respect to a qualified nuclear
17 power facility,

18 “(ii) for which depreciation will be al-
19 lowable under section 168 once the facility
20 is placed in service, and

21 “(iii) which is incurred before the
22 qualified nuclear power facility is placed in
23 service or in connection with the placement
24 of such facility in service.

1 “(B) PRE-EFFECTIVE DATE EXPENDI-
2 TURES.—Qualified nuclear power facility ex-
3 penditures do not include any expenditures in-
4 curred by the taxpayer before January 1, 2008,
5 to the extent that, at the close of the first tax-
6 able year to which the election in subsection (c)
7 applies, it is reasonable to believe that such ex-
8 penditures will constitute more than 20 percent
9 of the total qualified nuclear power facility ex-
10 penditures.

11 “(3) DELAYS AND SUSPENSION OF CONSTRUC-
12 TION.—

13 “(A) IN GENERAL.—Except as provided in
14 section 50(a)(2)(C) and except for sales or dis-
15 positions between entities which meet the own-
16 ership test in section 1504(a), for purposes of
17 applying this section and section 50, a nuclear
18 power facility that is under construction shall
19 cease, with respect to the taxpayer, to be a
20 qualified nuclear power facility as of the date
21 on which the taxpayer sells, disposes of, or can-
22 cels, abandons, or otherwise terminates the con-
23 struction of, the facility.

24 “(B) RESUMPTION OF CONSTRUCTION.—If
25 a nuclear power facility that is under construc-

1 tion ceases, with respect to the taxpayer, to be
 2 a qualified nuclear power facility by reason of
 3 subparagraph (A) and work is subsequently re-
 4 sumed on the construction of such facility the
 5 qualified nuclear power facility expenditures
 6 shall be determined without regard to any delay
 7 or temporary termination of construction of the
 8 facility.

9 “(e) APPLICATION OF OTHER RULES.—Rules similar
 10 to the rules of subsections (c)(4) and (d) of section 46
 11 (as in effect on the day before the enactment of the Rev-
 12 enue Reconciliation Act of 1990) shall apply for purposes
 13 of this section to the extent not inconsistent herewith.”.

14 (c) PROVISIONS RELATING TO CREDIT RECAP-
 15 TURE.—

16 (1) PROGRESS EXPENDITURE RECAPTURE
 17 RULES.—

18 (A) BASIC RULES.—Subparagraph (A) of
 19 section 50(a)(2) of the Internal Revenue Code
 20 of 1986 is amended to read as follows:

21 “(A) IN GENERAL.—If during any taxable
 22 year any building to which section 47(d) applied
 23 or any facility to which section 48F(e) applied
 24 ceases (by reason of sale or other disposition,
 25 cancellation or abandonment of contract, or

1 otherwise) to be, with respect to the taxpayer,
2 property which, when placed in service, will be
3 a qualified rehabilitated building or a qualified
4 nuclear power facility, then the tax under this
5 chapter for such taxable year shall be increased
6 by an amount equal to the aggregate decrease
7 in the credits allowed under section 38 for all
8 prior taxable years which would have resulted
9 solely from reducing to zero the credit deter-
10 mined under this subpart with respect to such
11 building or facility.”.

12 (B) AMENDMENT TO EXCESS CREDIT RE-
13 CAPTURE RULE.—Subparagraph (B) of section
14 50(a)(2) of such Code is amended by—

15 (i) inserting “or paragraph (2) of sec-
16 tion 48F(b)” after “paragraph (2) of sec-
17 tion 47(b)”,

18 (ii) inserting “or section 48F(b)(1)”
19 after “section 47(b)(1)”, and

20 (iii) inserting “or facility” after
21 “building”.

22 (C) AMENDMENT OF SALE AND LEASE-
23 BACK RULE.—Subparagraph (C) of section
24 50(a)(2) of such Code is amended by—

1 (i) inserting “or section 48F(c)” after
2 “section 47(d)”, and

3 (ii) inserting “or qualified nuclear
4 power facility expenditures” after “quali-
5 fied rehabilitation expenditures”.

6 (D) OTHER AMENDMENT.—Subparagraph
7 (D) of section 50(a)(2) of such Code is amend-
8 ed by inserting “or section 48F(c)” after “sec-
9 tion 47(d)”.

10 (d) NO BASIS ADJUSTMENT.—Section 50(c) of the
11 Internal Revenue Code of 1986 is amended by adding at
12 the end the following new paragraph:

13 “(6) NUCLEAR POWER FACILITY CONSTRUC-
14 TION CREDIT.—This subsection shall not apply to
15 the nuclear power facility construction credit.”.

16 (e) APPLICATION OF SECTION 49.—Subparagraph
17 (C) of section 49(a)(1) of the Internal Revenue Code of
18 1986, as amended by this Act, is amended—

19 (1) by striking “and” at the end of clause (vi),

20 (2) by striking the period at the end of clause
21 (vii) and inserting “, and”, and

22 (3) by inserting after clause (vii) the following
23 new clause:

1 “(viii) the basis of any property which
2 is part of a qualified nuclear power facility
3 under section 48F.”.

4 (f) CLERICAL AMENDMENT.—The table of sections
5 for subpart E of part IV of subchapter A of chapter 1
6 of the Internal Revenue Code of 1986, as amended by this
7 Act, is amended by inserting after the item relating to sec-
8 tion 48E the following new item:

“Sec. 48F. Nuclear power facility construction credit.”.

9 (g) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to expenditures incurred and prop-
11 erty placed in service in taxable years beginning after the
12 date of enactment of this Act.

13 **SEC. 712. 5-YEAR ACCELERATED DEPRECIATION FOR NEW**
14 **NUCLEAR POWER FACILITIES.**

15 (a) IN GENERAL.—Subparagraph (B) of section
16 168(e)(3) of the Internal Revenue Code of 1986 (relating
17 to 5-year property) is amended—

18 (1) by striking “and” at the end of clause (v),

19 (2) by striking the period at the end of clause
20 (vi) and inserting “, and”, and

21 (3) by adding at the end the following new
22 clause:

23 “(vii) any qualified nuclear power fa-
24 cility described in section 48F(d)(1).”.

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

5 **TITLE VIII—LEASING PROGRAM**
 6 **FOR LAND WITHIN COASTAL**
 7 **PLAIN**

8 **SEC. 801. DEFINITIONS.**

9 In this title:

10 (1) COASTAL PLAIN.—The term “Coastal
 11 Plain” means that area identified as the “1002
 12 Coastal Plain Area” on the map.

13 (2) FEDERAL AGREEMENT.—The term “Fed-
 14 eral Agreement” means the Federal Agreement and
 15 Grant Right-of-Way for the Trans-Alaska Pipeline
 16 issued on January 23, 1974, in accordance with sec-
 17 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)
 18 and the Trans-Alaska Pipeline Authorization Act
 19 (43 U.S.C. 1651 et seq.).

20 (3) FINAL STATEMENT.—The term “Final
 21 Statement” means the final legislative environmental
 22 impact statement on the Coastal Plain, dated April
 23 1987, and prepared pursuant to section 1002 of the
 24 Alaska National Interest Lands Conservation Act
 25 (16 U.S.C. 3142) and section 102(2)(C) of the Na-

1 tional Environmental Policy Act of 1969 (42 U.S.C.
2 4332(2)(C)).

3 (4) MAP.—The term “map” means the map en-
4 titled “Arctic National Wildlife Refuge”, dated Sep-
5 tember 2005, and prepared by the United States Ge-
6 ological Survey.

7 (5) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior (or the designee of the
9 Secretary), acting through the Director of the Bu-
10 reau of Land Management in consultation with the
11 Director of the United States Fish and Wildlife
12 Service and in coordination with a State coordinator
13 appointed by the Governor of the State of Alaska.

14 **SEC. 802. LEASING PROGRAM FOR LAND WITHIN THE**
15 **COASTAL PLAIN.**

16 (a) IN GENERAL.—

17 (1) AUTHORIZATION.—Congress authorizes the
18 exploration, leasing, development, production, and
19 economically feasible and prudent transportation of
20 oil and gas in and from the Coastal Plain.

21 (2) ACTIONS.—The Secretary shall take such
22 actions as are necessary—

23 (A) to establish and implement, in accord-
24 ance with this title, a competitive oil and gas
25 leasing program that will result in an environ-

1 mentally sound program for the exploration, de-
2 velopment, and production of the oil and gas re-
3 sources of the Coastal Plain while taking into
4 consideration the interests and concerns of resi-
5 dents of the Coastal Plain, which is the home-
6 land of the Kaktovikmiut Inupiat; and

7 (B) to administer this title through regula-
8 tions, lease terms, conditions, restrictions, pro-
9 hibitions, stipulations, and other provisions
10 that—

11 (i) ensure the oil and gas exploration,
12 development, and production activities on
13 the Coastal Plain will result in no signifi-
14 cant adverse effect on fish and wildlife,
15 their habitat, subsistence resources, and
16 the environment; and

17 (ii) require the application of the best
18 commercially available technology for oil
19 and gas exploration, development, and pro-
20 duction to all exploration, development,
21 and production operations under this title
22 in a manner that ensures the receipt of
23 fair market value by the public for the
24 mineral resources to be leased.

25 (b) REPEAL.—

1 (1) REPEAL.—Section 1003 of the Alaska Na-
2 tional Interest Lands Conservation Act (16 U.S.C.
3 3143) is repealed.

4 (2) CONFORMING AMENDMENT.—The table of
5 contents contained in section 1 of that Act (16
6 U.S.C. 3101 note) is amended by striking the item
7 relating to section 1003.

8 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
9 TAIN OTHER LAWS.—

10 (1) COMPATIBILITY.—For purposes of the Na-
11 tional Wildlife Refuge System Administration Act of
12 1966 (16 U.S.C. 668dd et seq.)—

13 (A) the oil and gas pre-leasing and leasing
14 program, and activities authorized by this sec-
15 tion in the Coastal Plain, shall be considered to
16 be compatible with the purposes for which the
17 Arctic National Wildlife Refuge was established;
18 and

19 (B) no further findings or decisions shall
20 be required to implement that program and
21 those activities.

22 (2) ADEQUACY OF THE DEPARTMENT OF THE
23 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
24 STATEMENT.—The Final Statement shall be consid-
25 ered to satisfy the requirements under the National

1 Environmental Policy Act of 1969 (42 U.S.C. 4321
2 et seq.) that apply with respect to preleasing activi-
3 ties, including exploration programs and actions au-
4 thorized to be taken by the Secretary to develop and
5 promulgate the regulations for the establishment of
6 a leasing program authorized by this title before the
7 conduct of the first lease sale.

8 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
9 TIONS.—

10 (A) IN GENERAL.—Before conducting the
11 first lease sale under this title, the Secretary
12 shall prepare an environmental impact state-
13 ment in accordance with the National Environ-
14 mental Policy Act of 1969 (42 U.S.C. 4321 et
15 seq.) with respect to the actions authorized by
16 this title that are not referred to in paragraph
17 (2).

18 (B) IDENTIFICATION AND ANALYSIS.—
19 Notwithstanding any other provision of law, in
20 carrying out this paragraph, the Secretary shall
21 not be required—

22 (i) to identify nonleasing alternative
23 courses of action; or

24 (ii) to analyze the environmental ef-
25 fects of those courses of action.

1 (C) IDENTIFICATION OF PREFERRED AC-
2 TION.—Not later than 18 months after the date
3 of enactment of this Act, the Secretary shall—

4 (i) identify only a preferred action and
5 a single leasing alternative for the first
6 lease sale authorized under this title; and

7 (ii) analyze the environmental effects
8 and potential mitigation measures for
9 those 2 alternatives.

10 (D) PUBLIC COMMENTS.—In carrying out
11 this paragraph, the Secretary shall consider
12 only public comments that are filed not later
13 than 20 days after the date of publication of a
14 draft environmental impact statement.

15 (E) EFFECT OF COMPLIANCE.—Notwith-
16 standing any other provision of law, compliance
17 with this paragraph shall be considered to sat-
18 isfy all requirements for the analysis and con-
19 sideration of the environmental effects of pro-
20 posed leasing under this title.

21 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
22 ITY.—Nothing in this title expands or limits any State or
23 local regulatory authority.

24 (e) SPECIAL AREAS.—

25 (1) DESIGNATION.—

1 (A) IN GENERAL.—The Secretary, after
2 consultation with the State of Alaska, the
3 North Slope Borough, Alaska, and the City of
4 Kaktovik, Alaska, may designate not more than
5 45,000 acres of the Coastal Plain as a special
6 area if the Secretary determines that the special
7 area would be of such unique character and in-
8 terest as to require special management and
9 regulatory protection.

10 (B) SADLEROCHIT SPRING AREA.—The
11 Secretary shall designate as a special area in
12 accordance with subparagraph (A) the
13 Sadlerochit Spring area, comprising approxi-
14 mately 4,000 acres as depicted on the map.

15 (2) MANAGEMENT.—The Secretary shall man-
16 age each special area designated under this sub-
17 section in a manner that—

18 (A) respects and protects the Native people
19 of the area; and

20 (B) preserves the unique and diverse char-
21 acter of the area, including fish, wildlife, sub-
22 sistence resources, and cultural values of the
23 area.

24 (3) EXCLUSION FROM LEASING OR SURFACE
25 OCCUPANCY.—

1 (A) IN GENERAL.—The Secretary may ex-
2 clude any special area designated under this
3 subsection from leasing.

4 (B) NO SURFACE OCCUPANCY.—If the Sec-
5 retary leases all or a portion of a special area
6 for the purposes of oil and gas exploration, de-
7 velopment, production, and related activities,
8 there shall be no surface occupancy of the land
9 comprising the special area.

10 (4) DIRECTIONAL DRILLING.—Notwithstanding
11 any other provision of this subsection, the Secretary
12 may lease all or a portion of a special area under
13 terms that permit the use of horizontal drilling tech-
14 nology from sites on leases located outside the spe-
15 cial area.

16 (f) LIMITATION ON CLOSED AREAS.—The Secretary
17 may not close land within the Coastal Plain to oil and gas
18 leasing or to exploration, development, or production ex-
19 cept in accordance with this title.

20 (g) REGULATIONS.—

21 (1) IN GENERAL.—Not later than 15 months
22 after the date of enactment of this Act, in consulta-
23 tion with appropriate agencies of the State of Alas-
24 ka, the North Slope Borough, Alaska, and the City
25 of Kaktovik, Alaska, the Secretary shall issue such

1 regulations as are necessary to carry out this title,
2 including rules and regulations relating to protection
3 of the fish and wildlife, fish and wildlife habitat, and
4 subsistence resources of the Coastal Plain.

5 (2) REVISION OF REGULATIONS.—The Sec-
6 retary may periodically review and, as appropriate,
7 revise the rules and regulations issued under para-
8 graph (1) to reflect any significant scientific or engi-
9 neering data that come to the attention of the Sec-
10 retary.

11 **SEC. 803. LEASE SALES.**

12 (a) IN GENERAL.—Land may be leased pursuant to
13 this title to any person qualified to obtain a lease for de-
14 posits of oil and gas under the Mineral Leasing Act (30
15 U.S.C. 181 et seq.).

16 (b) PROCEDURES.—The Secretary shall, by regula-
17 tion, establish procedures for—

18 (1) receipt and consideration of sealed nomina-
19 tions for any area in the Coastal Plain for inclusion
20 in, or exclusion (as provided in subsection (c)) from,
21 a lease sale;

22 (2) the holding of lease sales after that nomina-
23 tion process; and

1 (3) public notice of and comment on designa-
2 tion of areas to be included in, or excluded from, a
3 lease sale.

4 (c) LEASE SALE BIDS.—Bidding for leases under
5 this title shall be by sealed competitive cash bonus bids.

6 (d) ACREAGE MINIMUM IN FIRST SALE.—For the
7 first lease sale under this title, the Secretary shall offer
8 for lease those tracts the Secretary considers to have the
9 greatest potential for the discovery of hydrocarbons, tak-
10 ing into consideration nominations received pursuant to
11 subsection (b)(1), but in no case less than 200,000 acres.

12 (e) TIMING OF LEASE SALES.—The Secretary
13 shall—

14 (1) not later than 22 months after the date of
15 enactment of this Act, conduct the first lease sale
16 under this title;

17 (2) not later than September 30, 2012, conduct
18 a second lease sale under this title; and

19 (3) conduct additional sales at appropriate in-
20 tervals if sufficient interest in exploration or devel-
21 opment exists to warrant the conduct of the addi-
22 tional sales.

23 **SEC. 804. GRANT OF LEASES BY THE SECRETARY.**

24 (a) IN GENERAL.—Upon payment by a lessee of such
25 bonus as may be accepted by the Secretary, the Secretary

1 may grant to the highest responsible qualified bidder in
2 a lease sale conducted pursuant to section 803 a lease for
3 any land on the Coastal Plain.

4 (b) SUBSEQUENT TRANSFERS.—

5 (1) IN GENERAL.—No lease issued under this
6 title may be sold, exchanged, assigned, sublet, or
7 otherwise transferred except with the approval of the
8 Secretary.

9 (2) CONDITION FOR APPROVAL.—Before grant-
10 ing any approval described in paragraph (1), the
11 Secretary shall consult with and give due consider-
12 ation to the opinion of the Attorney General.

13 **SEC. 805. LEASE TERMS AND CONDITIONS.**

14 (a) IN GENERAL.—An oil or gas lease issued pursu-
15 ant to this title shall—

16 (1) provide for the payment of a royalty of not
17 less than 16½ percent of the amount or value of the
18 production removed or sold from the lease, as deter-
19 mined by the Secretary in accordance with regula-
20 tions applicable to other Federal oil and gas leases;

21 (2) provide that the Secretary may close, on a
22 seasonal basis, such portions of the Coastal Plain to
23 exploratory drilling activities as are necessary to
24 protect caribou calving areas and other species of
25 fish and wildlife;

1 (3) require that each lessee of land within the
2 Coastal Plain shall be fully responsible and liable for
3 the reclamation of land within the Coastal Plain and
4 any other Federal land that is adversely affected in
5 connection with exploration, development, produc-
6 tion, or transportation activities within the Coastal
7 Plain conducted by the lessee or by any of the sub-
8 contractors or agents of the lessee;

9 (4) provide that the lessee may not delegate or
10 convey, by contract or otherwise, that reclamation
11 responsibility and liability to another person without
12 the express written approval of the Secretary;

13 (5) provide that the standard of reclamation for
14 land required to be reclaimed under this title shall
15 be, to the maximum extent practicable—

16 (A) a condition capable of supporting the
17 uses that the land was capable of supporting
18 prior to any exploration, development, or pro-
19 duction activities; or

20 (B) upon application by the lessee, to a
21 higher or better standard, as approved by the
22 Secretary;

23 (6) contain terms and conditions relating to
24 protection of fish and wildlife, fish and wildlife habi-

1 tat, subsistence resources, and the environment as
2 required under section 802(a)(2);

3 (7) provide that each lessee, and each agent
4 and contractor of a lessee, use their best efforts to
5 provide a fair share of employment and contracting
6 for Alaska Natives and Alaska Native Corporations
7 from throughout the State of Alaska, as determined
8 by the level of obligation previously agreed to in the
9 Federal Agreement; and

10 (8) contain such other provisions as the Sec-
11 retary determines to be necessary to ensure compli-
12 ance with this title and regulations issued under this
13 title.

14 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
15 as a term and condition of each lease under this title, and
16 in recognizing the proprietary interest of the Federal Gov-
17 ernment in labor stability and in the ability of construction
18 labor and management to meet the particular needs and
19 conditions of projects to be developed under the leases
20 issued pursuant to this title (including the special concerns
21 of the parties to those leases), shall require that each les-
22 see, and each agent and contractor of a lessee, under this
23 title negotiate to obtain a project labor agreement for the
24 employment of laborers and mechanics on production,
25 maintenance, and construction under the lease.

1 **SEC. 806. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

2 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
3 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—

4 In accordance with section 802, the Secretary shall admin-
5 ister this title through regulations, lease terms, conditions,
6 restrictions, prohibitions, stipulations, or other provisions
7 that—

8 (1) ensure, to the maximum extent practicable,
9 that oil and gas exploration, development, and pro-
10 duction activities on the Coastal Plain will result in
11 no significant adverse effect on fish and wildlife, fish
12 and wildlife habitat, and the environment;

13 (2) require the application of the best commer-
14 cially available technology for oil and gas explo-
15 ration, development, and production on all new ex-
16 ploration, development, and production operations;
17 and

18 (3) ensure that the maximum surface acreage
19 covered in connection with the leasing program by
20 production and support facilities, including airstrips
21 and any areas covered by gravel berms or piers for
22 support of pipelines, does not exceed 2,000 acres on
23 the Coastal Plain.

24 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—

25 The Secretary shall require, with respect to any proposed
26 drilling and related activities on the Coastal Plain, that—

1 (1) a site-specific environmental analysis be
 2 made of the probable effects, if any, that the drilling
 3 or related activities will have on fish and wildlife,
 4 fish and wildlife habitat, subsistence resources, sub-
 5 sistence uses, and the environment;

6 (2) a plan be implemented to avoid, minimize,
 7 and mitigate (in that order and to the maximum ex-
 8 tent practicable) any significant adverse effect iden-
 9 tified under paragraph (1); and

10 (3) the development of the plan occur after con-
 11 sultation with—

12 (A) each agency having jurisdiction over
 13 matters mitigated by the plan;

14 (B) the State of Alaska;

15 (C) North Slope Borough, Alaska; and

16 (D) the City of Kaktovik, Alaska.

17 (c) REGULATIONS TO PROTECT COASTAL PLAIN
 18 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
 19 AND THE ENVIRONMENT.—Before implementing the leas-
 20 ing program authorized by this title, the Secretary shall
 21 prepare and issue regulations, lease terms, conditions, re-
 22 strictions, prohibitions, stipulations, or other measures de-
 23 signed to ensure, to the maximum extent practicable, that
 24 the activities carried out on the Coastal Plain under this

1 title are conducted in a manner consistent with the pur-
2 poses and environmental requirements of this title.

3 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
4 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
5 proposed regulations, lease terms, conditions, restrictions,
6 prohibitions, and stipulations for the leasing program
7 under this title shall require—

8 (1) compliance with all applicable provisions of
9 Federal and State environmental law (including reg-
10 ulations);

11 (2) implementation of and compliance with—

12 (A) standards that are at least as effective
13 as the safety and environmental mitigation
14 measures, as described in items 1 through 29
15 on pages 167 through 169 of the Final State-
16 ment, on the Coastal Plain;

17 (B) seasonal limitations on exploration, de-
18 velopment, and related activities, as necessary,
19 to avoid significant adverse effects during peri-
20 ods of concentrated fish and wildlife breeding,
21 denning, nesting, spawning, and migration;

22 (C) design safety and construction stand-
23 ards for all pipelines and any access and service
24 roads that minimize, to the maximum extent
25 practicable, adverse effects on—

1 (i) the passage of migratory species
2 (such as caribou); and

3 (ii) the flow of surface water by re-
4 quiring the use of culverts, bridges, or
5 other structural devices;

6 (D) prohibitions on general public access
7 to, and use of, all pipeline access and service
8 roads;

9 (E) stringent reclamation and rehabilita-
10 tion requirements in accordance with this title
11 for the removal from the Coastal Plain of all oil
12 and gas development and production facilities,
13 structures, and equipment on completion of oil
14 and gas production operations, except in a case
15 in which the Secretary determines that those
16 facilities, structures, or equipment—

17 (i) would assist in the management of
18 the Arctic National Wildlife Refuge; and

19 (ii) are donated to the United States
20 for that purpose;

21 (F) appropriate prohibitions or restrictions
22 on—

23 (i) access by all modes of transpor-
24 tation;

25 (ii) sand and gravel extraction; and

1 (iii) use of explosives;

2 (G) reasonable stipulations for protection
3 of cultural and archaeological resources;

4 (H) measures to protect groundwater and
5 surface water, including—

6 (i) avoidance, to the maximum extent
7 practicable, of springs, streams, and river
8 systems;

9 (ii) the protection of natural surface
10 drainage patterns and wetland and ripar-
11 ian habitats; and

12 (iii) the regulation of methods or tech-
13 niques for developing or transporting ade-
14 quate supplies of water for exploratory
15 drilling; and

16 (I) research, monitoring, and reporting re-
17 quirements;

18 (3) that exploration activities (except surface
19 geological studies) be limited to the period between
20 approximately November 1 and May 1 of each year
21 and be supported, if necessary, by ice roads, winter
22 trails with adequate snow cover, ice pads, ice air-
23 strips, and air transport methods (except that those
24 exploration activities may be permitted at other
25 times if the Secretary determines that the explo-

1 ration will have no significant adverse effect on fish
2 and wildlife, fish and wildlife habitat, subsistence re-
3 sources, and the environment of the Coastal Plain);

4 (4) consolidation of facility siting;

5 (5) avoidance or reduction of air traffic-related
6 disturbance to fish and wildlife;

7 (6) treatment and disposal of hazardous and
8 toxic wastes, solid wastes, reserve pit fluids, drilling
9 muds and cuttings, and domestic wastewater, includ-
10 ing, in accordance with applicable Federal and State
11 environmental laws (including regulations)—

12 (A) preparation of an annual waste man-
13 agement report;

14 (B) development and implementation of a
15 hazardous materials tracking system; and

16 (C) prohibition on the use of chlorinated
17 solvents;

18 (7) fuel storage and oil spill contingency plan-
19 ning;

20 (8) conduct of periodic field crew environmental
21 briefings;

22 (9) avoidance of significant adverse effects on
23 subsistence hunting, fishing, and trapping;

24 (10) compliance with applicable air and water
25 quality standards;

1 (11) appropriate seasonal and safety zone des-
2 ignations around well sites, within which subsistence
3 hunting and trapping shall be limited; and

4 (12) development and implementation of such
5 other protective environmental requirements, restric-
6 tions, terms, or conditions as the Secretary, after
7 consultation with the State of Alaska, North Slope
8 Borough, Alaska, and the City of Kaktovik, Alaska,
9 determines to be necessary.

10 (e) CONSIDERATIONS.—In preparing and issuing reg-
11 ulations, lease terms, conditions, restrictions, prohibitions,
12 or stipulations under this section, the Secretary shall take
13 into consideration—

14 (1) the stipulations and conditions that govern
15 the National Petroleum Reserve-Alaska leasing pro-
16 gram, as set forth in the 1999 Northeast National
17 Petroleum Reserve-Alaska Final Integrated Activity
18 Plan/Environmental Impact Statement;

19 (2) the environmental protection standards that
20 governed the initial Coastal Plain seismic exploration
21 program under parts 37.31 through 37.33 of title
22 50, Code of Federal Regulations (or successor regu-
23 lations); and

24 (3) the land use stipulations for exploratory
25 drilling on the KIC-ASRC private land described in

1 Appendix 2 of the agreement between Arctic Slope
2 Regional Corporation and the United States dated
3 August 9, 1983.

4 (f) FACILITY CONSOLIDATION PLANNING.—

5 (1) IN GENERAL.—After providing for public
6 notice and comment, the Secretary shall prepare and
7 periodically update a plan to govern, guide, and di-
8 rect the siting and construction of facilities for the
9 exploration, development, production, and transpor-
10 tation of oil and gas resources from the Coastal
11 Plain.

12 (2) OBJECTIVES.—The objectives of the plan
13 shall be—

14 (A) the avoidance of unnecessary duplica-
15 tion of facilities and activities;

16 (B) the encouragement of consolidation of
17 common facilities and activities;

18 (C) the location or confinement of facilities
19 and activities to areas that will minimize impact
20 on fish and wildlife, fish and wildlife habitat,
21 subsistence resources, and the environment;

22 (D) the use of existing facilities, to the
23 maximum extent practicable; and

24 (E) the enhancement of compatibility be-
25 tween wildlife values and development activities.

1 (g) ACCESS TO PUBLIC LAND.—The Secretary
2 shall—

3 (1) manage public land in the Coastal Plain in
4 accordance with subsections (a) and (b) of section
5 811 of the Alaska National Interest Lands Con-
6 servation Act (16 U.S.C. 3121); and

7 (2) ensure that local residents shall have rea-
8 sonable access to public land in the Coastal Plain for
9 traditional uses.

10 **SEC. 807. EXPEDITED JUDICIAL REVIEW.**

11 (a) FILING OF COMPLAINTS.—

12 (1) DEADLINE.—A complaint seeking judicial
13 review of a provision of this title or an action of the
14 Secretary under this title shall be filed—

15 (A) except as provided in subparagraph
16 (B), during the 90-day period beginning on the
17 date on which the action being challenged was
18 carried out; or

19 (B) in the case of a complaint based solely
20 on grounds arising after the 90-day period de-
21 scribed in subparagraph (A), during the 90-day
22 period beginning on the date on which the com-
23 plainant knew or reasonably should have known
24 about the grounds for the complaint.

1 (2) VENUE.—A complaint seeking judicial re-
2 view of a provision of this title or an action of the
3 Secretary under this title shall be filed in the United
4 States Court of Appeals for the District of Colum-
5 bia.

6 (3) SCOPE.—

7 (A) IN GENERAL.—Judicial review of a de-
8 cision of the Secretary under this title (includ-
9 ing an environmental analysis of such a lease
10 sale) shall be—

11 (i) limited to a review of whether the
12 decision is in accordance with this title;
13 and

14 (ii) based on the administrative record
15 of the decision.

16 (B) PRESUMPTIONS.—Any identification
17 by the Secretary of a preferred course of action
18 relating to a lease sale, and any analysis by the
19 Secretary of environmental effects, under this
20 title shall be presumed to be correct unless
21 proven otherwise by clear and convincing evi-
22 dence.

23 (b) LIMITATION ON OTHER REVIEW.—Any action of
24 the Secretary that is subject to judicial review under this

1 section shall not be subject to judicial review in any civil
2 or criminal proceeding for enforcement.

3 **SEC. 808. RIGHTS-OF-WAY AND EASEMENTS ACROSS COAST-**
4 **AL PLAIN.**

5 For purposes of section 1102(4)(A) of the Alaska Na-
6 tional Interest Lands Conservation Act (16 U.S.C.
7 3162(4)(A)), any rights-of-way or easements across the
8 Coastal Plain for the exploration, development, produc-
9 tion, or transportation of oil and gas shall be considered
10 to be established incident to the management of the Coast-
11 al Plain under this section.

12 **SEC. 809. CONVEYANCE.**

13 Notwithstanding section 1302(h)(2) of the Alaska
14 National Interest Lands Conservation Act (16 U.S.C.
15 3192(h)(2)), to remove any cloud on title to land, and to
16 clarify land ownership patterns in the Coastal Plain, the
17 Secretary shall—

18 (1) to the extent necessary to fulfill the entitle-
19 ment of the Kaktovik Inupiat Corporation under sec-
20 tions 12 and 14 of the Alaska Native Claims Settle-
21 ment Act (43 U.S.C. 1611, 1613), as determined by
22 the Secretary, convey to that Corporation the sur-
23 face estate of the land described in paragraph (1) of
24 Public Land Order 6959, in accordance with the
25 terms and conditions of the agreement between the

1 Secretary, the United States Fish and Wildlife Serv-
2 ice, the Bureau of Land Management, and the
3 Kaktovik Inupiat Corporation, dated January 22,
4 1993; and

5 (2) convey to the Arctic Slope Regional Cor-
6 poration the remaining subsurface estate to which
7 that Corporation is entitled under the agreement be-
8 tween that corporation and the United States, dated
9 August 9, 1983.

10 **SEC. 810. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
11 **NITY SERVICE ASSISTANCE.**

12 (a) ESTABLISHMENT OF FUND.—

13 (1) IN GENERAL.—As a condition on the receipt
14 of funds under section 812(2), the State of Alaska
15 shall establish in the treasury of the State, and ad-
16 minister in accordance with this section, a fund to
17 be known as the “Coastal Plain Local Government
18 Impact Aid Assistance Fund” (referred to in this
19 section as the “Fund”).

20 (2) DEPOSITS.—Subject to paragraph (1), the
21 Secretary of the Treasury shall deposit into the
22 Fund, \$35,000,000 each year from the amount
23 available under section 812(2)(A).

24 (3) INVESTMENT.—The Governor of the State
25 of Alaska (referred to in this section as the “Gov-

1 ernor”) shall invest amounts in the Fund in interest-
2 bearing securities of the United States or the State
3 of Alaska.

4 (b) ASSISTANCE.—The Governor, in cooperation with
5 the Mayor of the North Slope Borough, shall use amounts
6 in the Fund to provide assistance to North Slope Borough,
7 Alaska, the City of Kaktovik, Alaska, and any other bor-
8 rough, municipal subdivision, village, or other community
9 in the State of Alaska that is directly impacted by explo-
10 ration for, or the production of, oil or gas on the Coastal
11 Plain under this title, or any Alaska Native Regional Cor-
12 poration acting on behalf of the villages and communities
13 within its region whose lands lie along the right of way
14 of the Trans Alaska Pipeline System, as determined by
15 the Governor.

16 (c) APPLICATION.—

17 (1) IN GENERAL.—To receive assistance under
18 subsection (b), a community or Regional Corporation
19 described in that subsection shall submit to the Gov-
20 ernor, or to the Mayor of the North Slope Borough,
21 an application in such time, in such manner, and
22 containing such information as the Governor may re-
23 quire.

24 (2) ACTION BY NORTH SLOPE BOROUGH.—The
25 Mayor of the North Slope Borough shall submit to

1 the Governor each application received under para-
2 graph (1) as soon as practicable after the date on
3 which the application is received.

4 (3) ASSISTANCE OF GOVERNOR.—The Governor
5 shall assist communities in submitting applications
6 under this subsection, to the maximum extent prac-
7 ticable.

8 (d) USE OF FUNDS.—A community or Regional Cor-
9 poration that receives funds under subsection (b) may use
10 the funds—

11 (1) to plan for mitigation, implement a mitiga-
12 tion plan, or maintain a mitigation project to ad-
13 dress the potential effects of oil and gas exploration
14 and development on environmental, social, cultural,
15 recreational, and subsistence resources of the com-
16 munity;

17 (2) to develop, carry out, and maintain—

18 (A) a project to provide new or expanded
19 public facilities; or

20 (B) services to address the needs and prob-
21 lems associated with the effects described in
22 paragraph (1), including firefighting, police,
23 water and waste treatment, first responder, and
24 other medical services;

1 (3) to compensate residents of the Coastal
2 Plain for significant damage to environmental, so-
3 cial, cultural, recreational, or subsistence resources;
4 and

5 (4) in the City of Kaktovik, Alaska—

6 (A) to develop a mechanism for providing
7 members of the Kaktovikmiut Inupiat commu-
8 nity an opportunity to—

9 (i) monitor development on the Coast-
10 al Plain; and

11 (ii) provide information and rec-
12 ommendations to the Governor based on
13 traditional aboriginal knowledge of the nat-
14 ural resources, flora, fauna, and ecological
15 processes of the Coastal Plain; and

16 (B) to establish a local coordination office,
17 to be managed by the Mayor of the North Slope
18 Borough, in coordination with the City of
19 Kaktovik, Alaska—

20 (i) to coordinate with and advise de-
21 velopers on local conditions and the history
22 of areas affected by development;

23 (ii) to provide to the Committee on
24 Resources of the House of Representatives
25 and the Committee on Energy and Natural

1 Resources of the Senate annual reports on
2 the status of the coordination between de-
3 velopers and communities affected by de-
4 velopment;

5 (iii) to collect from residents of the
6 Coastal Plain information regarding the
7 impacts of development on fish, wildlife,
8 habitats, subsistence resources, and the en-
9 vironment of the Coastal Plain; and

10 (iv) to ensure that the information
11 collected under clause (iii) is submitted
12 to—

13 (I) developers; and

14 (II) any appropriate Federal
15 agency.

16 **SEC. 811. PROHIBITION ON EXPORTS.**

17 An oil or gas lease issued under this title shall pro-
18 hibit the exportation of oil or gas produced under the
19 lease.

20 **SEC. 812. ALLOCATION OF REVENUES.**

21 Notwithstanding the Mineral Leasing Act (30 U.S.C.
22 181 et seq.) or any other provision of law, of the adjusted
23 bonus, rental, and royalty receipts from Federal oil and
24 gas leasing and operations authorized under this title:

1 (1) 50 percent shall be deposited in the general
2 fund of the Treasury.

3 (2) The remainder shall be available as follows:

4 (A) \$35,000,000 shall be deposited by the
5 Secretary of the Treasury into the fund created
6 under section 810(a)(1).

7 (B) The remainder shall be disbursed to
8 the State of Alaska.

○