

REDLINE OF CHAIRMAN'S MARK

**TITLE V—RENEWABLE ENERGY**

**Subtitle A—General Provisions**

1 **SEC. 501. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.**

2 (a) RESOURCE ASSESSMENT.—Not later than 6 months after the date of enactment of this title,  
3 and each year thereafter, the Secretary of Energy shall review the available assessments of renewable  
4 energy resources within the United States, including solar, wind, biomass, ocean (*tidal and thermal*),  
5 geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking  
6 into account changes in market conditions, available technologies, and other relevant factors.

7 (b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this title, and  
8 each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a).  
9 The report shall contain—

10 (1) a detailed inventory describing the available amount and characteristics of the  
11 renewable energy resources; and

12 (2) such other information as the Secretary believes would be useful in developing such  
13 renewable energy resources, including descriptions of surrounding terrain, population and load  
14 centers, nearby energy infrastructure, location of energy and water resources, and available  
15 estimates of the costs needed to develop each resource, together with an identification of any  
16 barriers to providing adequate transmission for remote sources of renewable energy resources  
17 to current and emerging markets, recommendations for removing or addressing such barriers,  
18 and ways to provide access to the grid that do not unfairly disadvantage renewable or other  
19 energy producers.

20 (c) AUTHORIZATION OF APPROPRIATIONS.— For the purposes of this section, there are  
21 authorized to be appropriated to the Secretary of Energy \$20,000,000 for each of fiscal years 2004  
22 through 2008.

1 **SEC. 502. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

2 Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended as follows:

3  
4 (1) in subsection (a) by striking “and which satisfies” and all that follows through  
5 “Secretary shall establish” and inserting “. The Secretary shall establish other procedures  
6 necessary for efficient administration of the program. The Secretary shall not establish any  
7 criteria or procedures that have the effect of assigning to proposals a higher or lower priority for  
8 eligibility or allocation of appropriated funds on the basis of the energy source proposed.”;

9 (2) in subsection (b) —

10 (A) by striking “a State or any political” and all that follows through “nonprofit  
11 electrical cooperative” and inserting “an electricity-generating cooperative exempt from  
12 taxation under section 501(c)(12) or section 1381(a)(2)(C) of the Internal Revenue  
13 Code of 1986, a public utility described in section 115 of such Code, a State,  
14 Commonwealth, territory, or possession of the United States or the District of  
15 Columbia, or a political subdivision thereof, or an Indian tribal government or sub-  
16 division thereof.”; and

17 (B) by inserting “landfill gas,” after “wind, biomass.”;

18 (3) in subsection (c), by striking “during the 10-fiscal year period beginning with the first  
19 full fiscal year occurring after the enactment of this section” and inserting “before October 1,  
20 2013”;

21 (4) in subsection (d), by inserting “or in which the Secretary finds that all necessary  
22 Federal and State authorizations have been obtained to begin construction of the facility” after  
23 “eligible for such payments”;

24 (5) in subsection (e)(1), by inserting “landfill gas,” after “wind, biomass.”;

25 (6) in subsection (f), by striking “the expiration of” and all that follows through “of this  
26 section” and inserting “September 30, 2023”; and

27 (7) in subsection (g) —

28 (A) by striking “1993, 1994, and 1995” and inserting “2003 through 2023”;

1           and

2                   (B) by inserting “~~Funds may be appropriated pursuant to this subsection to~~  
3                   ~~remain available until expended.~~” after “~~purposes of this section.~~”

4           (a) *INCENTIVE PAYMENTS.*— *Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C.*  
5           *13317(a)) is amended by striking “and which satisfies” and all that follows through “Secretary*  
6           *shall establish.” and inserting “. If there are insufficient appropriations to make full payments*  
7           *for electric production from all qualified renewable energy facilities in any given year, the*  
8           *Secretary shall assign 60 percent of appropriated funds for that year to facilities that use solar,*  
9           *wind, geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate*  
10           *electricity, and assign the remaining 40 percent to other projects. The Secretary may, after*  
11           *transmitting to the Congress an explanation of the reasons therefor, alter the percentage*  
12           *requirements of the preceding sentence.”.*

13           (b) *QUALIFIED RENEWABLE ENERGY FACILITY.*— *Section 1212(b) of the Energy Policy Act*  
14           *of 1992 (42 U.S.C. 13317(b)) is amended —*

15                   (1) by striking “*a State or any political*” and all that follows through “*nonprofit*  
16                   *electrical cooperative*” and inserting “*a not-for-profit electric cooperative, a public*  
17                   *utility described in section 115 of the Internal Revenue Code of 1986, a State,*  
18                   *Commonwealth, territory, or possession of the United States or the District of Columbia,*  
19                   *or a political subdivision thereof, or an Indian tribal government of subdivision*  
20                   *thereof;”*; and

21                   (2) by inserting “*landfill gas,*” after “*wind, biomass,*”.

22           (c) *ELIGIBILITY WINDOW.*— *Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C.*  
23           *13317(c)) is amended by striking “during the 10-fiscal year period beginning with the first full*  
24           *fiscal year occurring after the enactment of this section” and inserting “after October 1, 2003,*  
25           *and before October 1, 2013”.*

26           (d) *AMOUNT OF PAYMENT.*— *Section 1212(e)(1) of the Energy Policy Act of 1992 (42*  
27           *U.S.C. 13317(e)(1)) is amended by inserting “landfill gas,” after “wind, biomass,”.*

1           (e) *SUNSET.*— *Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is*  
2 *amended by striking “the expiration of” and all that follows through “of this section” and*  
3 *inserting “September 30, 2023”.*

4           (f) *AUTHORIZATION OF APPROPRIATIONS.*— *Section 1212(g) of the Energy Policy Act of*  
5 *1992 (42 U.S.C. 13317(g)) is amended to read as follows:*

6           “(g) *AUTHORIZATION OF APPROPRIATIONS.*—

7                   “(1) *IN GENERAL.*— *Subject to paragraph (2), there are authorized to be*  
8 *appropriated such sums as may be necessary to carry out this section for fiscal years*  
9 *2003 through 2023.*

10                   “(2) *AVAILABILITY OF FUNDS.*— *Funds made available under paragraph (1) shall*  
11 *remain available until expended.”.*

12 **SEC. 503. RENEWABLE ENERGY ON FEDERAL LANDS.**

13           (a) *REPORT.*—Within 24 months after the date of enactment of this Act, the Secretary of the  
14 Interior, in cooperation with the Secretary of Agriculture, shall develop and report to the Congress  
15 recommendations on opportunities to develop renewable energy on public lands under the jurisdiction  
16 of the Secretary of the Interior and National Forest System lands under the jurisdiction of the Secretary  
17 of Agriculture. The report shall include—

18                   (1) 5-year plans developed by the Secretary of the Interior and the Secretary of  
19 Agriculture, respectively, for encouraging the development of renewable energy consistent with  
20 applicable law and management plans; and

21                   (2) an analysis of—

22                           (A) the use of rights-of-way, leases, or other methods to develop wind and  
23 solar energy on such lands;

24                           (B) the anticipated benefits of grants, loans, tax credits, or other provisions to  
25 promote wind and solar energy development on such lands; and

26                           (C) any issues that the Secretary of the Interior or the Secretary of Agriculture  
27 have encountered in managing renewable energy projects on such lands, or believe are  
28 likely to arise in relation to the development of renewable energy on such lands;

1 (3) a list, developed in consultation with the Secretary of Energy and the Secretary of  
2 Defense, of lands under the jurisdiction of the Department of Energy or Defense that would be  
3 suitable for development for renewable energy, and any recommended statutory and regulatory  
4 mechanisms for such development; and

5 (4) any recommendations pertaining to the issues addressed in the report.

6 (b) NATIONAL ACADEMY OF SCIENCES STUDY.—

7 (1) Not later than 90 days after the date of the enactment of this section, the Secretary  
8 of the Interior shall contract with the National Academy of Sciences to—

9 (A) study the potential for the development of wind, solar, and ocean (*tidal*  
10 *and thermal*) energy on the Outer Continental Shelf;

11 (B) assess existing Federal authorities for the development of such resources;  
12 and

13 (C) recommend statutory and regulatory mechanisms for such development.

14 (2) The results of the study shall be transmitted to the Congress within 24 months after  
15 the date of the enactment of this section.

16 **SEC. 504. FEDERAL PURCHASE REQUIREMENT.**

17 (a) REQUIREMENT.— The President, acting through the Secretary of Energy, shall seek to  
18 ensure that, to the extent economically feasible and technically practicable, of the total amount of  
19 electric energy the Federal Government consumes during any fiscal year, the following amounts shall be  
20 renewable energy—

21 (1) not less than 3 percent in fiscal years 2005 through 2007,

22 (2) not less than 5 percent in fiscal years 2008 through 2010, and

23 (3) not less than 7.5 percent in fiscal year 2011 and each fiscal year thereafter;

24 (b) DEFINITION.— For purposes of this section; —

25 (1) *the term “biomass” means any solid, nonhazardous, cellulosic waste material*  
26 *which is segregated from other waste materials and which is derived from—*

27 (A) *any of the following forest-related resources: mill residues,*

28 *precommercial thinnings, slash, and brush, or nonmerchantable material;*

1                   (B) *solid wood waste materials, including waste pallets, crates, dunnage,*  
 2                   *manufacturing and construction wood wastes (other than pressure-treated,*  
 3                   *chemically-treated, or painted wood wastes), and landscape or right-of-way tree*  
 4                   *trimmings, but not including municipal solid waste (garbage), gas derived from*  
 5                   *the biodegradation of solid waste, or paper that is commonly recycled; or*

6                   (C) *agriculture sources, including orchard tree crops, vineyard, grain,*  
 7                   *legumes, sugar, and other crop by-products or residues.*

8                   (2) the term “renewable energy” means electric energy generated from solar, wind,  
 9                   biomass, geothermal, municipal solid waste, or ~~additional~~ *new* hydroelectric generation capacity  
 10                   achieved from increased efficiency or additions of new capacity *at an existing hydroelectric*  
 11                   *project.*

12                   (c) CALCULATION.— For purposes of determining compliance with the requirement of this  
 13                   section, the amount of renewable energy shall be doubled if —

- 14                   (1) the renewable energy is produced and used on-site at a Federal facility;  
 15                   (2) the renewable energy is produced on Federal lands and used at a Federal facility;

16                   or

17                   (3) the renewable energy is produced on Indian land as defined in Title XXVI of the  
 18                   Energy Policy Act of 1992 (25 U.S.C. 3501 et. seq.) and used at a Federal facility.

19                   (d) REPORT.— Not later than April 15, 2005, and every 2 years thereafter, the Secretary of  
 20                   Energy shall provide a report to the Congress on the progress of the Federal Government in meeting  
 21                   the goals established by this section.

22                   **SEC. 505. INSULAR AREA RENEWABLE AND ENERGY EFFICIENCY PLANS.**

23                   *The Secretary of Energy shall update the energy surveys, estimates, and assessments for*  
 24                   *the insular areas of Puerto Rico, the Virgin Islands, Guam, American Samoa, the*  
 25                   *Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the*  
 26                   *Federated States of Micronesia, and the Republic of Palau undertaken pursuant to section 604*  
 27                   *of Public Law 96-597 (48 U.S.C. 1492) and revise the comprehensive energy plan for the insular*  
 28                   *areas to reduce reliance on energy imports and increase use of renewable energy resources and*

1 *energy efficiency opportunities. The update and revision shall be undertaken in consultation*  
2 *with the Secretary of the Interior and the chief executive officer of each insular area and shall be*  
3 *completed and submitted to Congress and to the chief executive officer of each insular area by*  
4 *December 31, 2005.*

## 5 **Subtitle B—Hydroelectric Licensing**

### 6 **SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS.**

7 (a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is  
8 amended by inserting after “adequate protection and utilization of such reservation.” at the end of the  
9 first proviso the following:

10 “The license applicant shall be entitled to a determination on the record, after  
11 opportunity for an agency trial-type hearing of any disputed issues of material fact, with respect  
12 to such conditions.”.

13 (b) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by  
14 inserting after “and such fishways as may be prescribed by the Secretary of Commerce.” the following:  
15 “The license applicant shall be entitled to a determination on the record, after opportunity for an agency  
16 trial-type hearing of any disputed issues of material fact, with respect to such fishways.”.

17 (c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power Act (16  
18 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

### 19 **“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

20 **“(a) ALTERNATIVE CONDITIONS.—**

21 **“(1) Whenever any person applies for a license for any project works within any**  
22 **reservation of the United States, and the Secretary of the Department under whose supervision**  
23 **such reservation falls (referred to in this subsection as ‘the Secretary’) deems a condition to**  
24 **such license to be necessary under the first proviso of section 4(e), the license applicant may**  
25 **propose an alternative condition.**

26 **“(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the**  
27 **proposed alternative condition referred to in paragraph (1), and the Commission shall include in**

1 the license such alternative condition, if the Secretary determines, based on substantial evidence  
2 provided by the license applicant or otherwise available to the Secretary, that such alternative  
3 condition –

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

5 “(B) will either—

6 “(i) cost less to implement; or

7 “(ii) result in improved operation of the project works for electricity production,  
8 as compared to the condition initially deemed necessary by the Secretary.

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

20 “(4) Nothing in this section shall prohibit other interested parties from proposing  
21 alternative conditions.

22 “(5) If the Secretary does not accept an applicant’s alternative condition under this  
23 section, and the Commission finds that the Secretary’s condition would be inconsistent with the  
24 purposes of this part, or other applicable law, the Commission may refer the dispute to the  
25 Commission’s Dispute Resolution Service. The Dispute Resolution Service shall consult with  
26 the Secretary and the Commission and issue a non-binding advisory within 90 days. The  
27 Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that

1 the recommendation will not adequately protect the reservation. The Secretary shall submit the  
2 advisory and the Secretary's final written determination into the record of the Commission's  
3 proceeding.

4 "(b) ALTERNATIVE PRESCRIPTIONS.—

5 (1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a  
6 fishway under section 18, the license applicant or licensee may propose an alternative to such  
7 prescription to construct, maintain, or operate a fishway. The alternative may include a fishway  
8 or an alternative to a fishway.

9 "(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of  
10 Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the  
11 proposed alternative referred to in paragraph (1), if the Secretary of the appropriate  
12 department determines, based on substantial evidence provided by the licensee or otherwise  
13 available to the Secretary, that such alternative—

14 "(A) will be no less protective of the fish resources than the fishway initially  
15 prescribed by the Secretary; and

16 "(B) will either—

17 "(i) cost less to implement; or

18 "(ii) result in improved operation of the project works for electricity  
19 production, as compared to the fishway initially deemed necessary by the  
20 Secretary.

21 "(3) The Secretary concerned shall submit into the public record of the Commission  
22 proceeding with any prescription under section 18 or alternative prescription it accepts under  
23 this section, a written statement explaining the basis for such prescription, and reason for not  
24 accepting any alternative prescription under this section. The written statement must  
25 demonstrate that the Secretary gave equal consideration to the effects of the condition adopted  
26 and alternatives not accepted on energy supply, distribution, cost, and use; flood control;  
27 navigation; water supply; and air quality (in addition to the preservation of other aspects of

1 environmental quality); based on such information as may be available to the Secretary,  
 2 including information voluntarily provided in a timely manner by the applicant and others. The  
 3 Secretary shall also submit, together with the aforementioned written statement, all studies,  
 4 data, and other factual information available to the Secretary and relevant to the Secretary's  
 5 decision.

6 “(4) Nothing in this section shall prohibit other interested parties from proposing  
 7 alternative prescriptions.

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

## 17 **Subtitle C—Geothermal Energy**

### 18 **SEC. 521. COMPETITIVE LEASE SALE REQUIREMENTS.**

19 (a) IN GENERAL.— Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is  
 20 amended by ~~adding at the end~~ *striking the text and inserting* the following:

21 “~~(g)~~(a) NOMINATIONS.—The Secretary shall accept nominations at any time from  
 22 qualified companies and individuals of areas to be leased under this Act.

23 “~~(h)~~(b) COMPETITIVE LEASE SALE REQUIRED.— The Secretary shall hold a  
 24 competitive lease sale at least once every 2 years for lands in a State in which there are  
 25 nominations pending under subsection ~~(g)~~ (a) *where such lands are otherwise available for*  
 26 *leasing.*

27 “~~(i)~~(c) NONCOMPETITIVE LEASING.—The Secretary shall make available for a period

1 of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for  
2 which the Secretary does not receive any bids in the competitive lease sale.”.

3 (b) PENDING LEASE APPLICATIONS.— It shall be a priority for the Secretary of the Interior  
4 and, with respect to National Forest lands, the Secretary of Agriculture, to insure timely completion of  
5 administrative actions necessary to conduct competitive lease sales for ~~areas~~ *lands* with pending  
6 applications for geothermal leasing as of the date of enactment of this section *where such lands are*  
7 *available for leasing*.

8 **SEC. 522. GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.**

9 (a) IN GENERAL.— Not later than 180 days after the date of the enactment of this section, the  
10 Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to the Congress a  
11 memorandum of understanding in accordance with this section regarding leasing and permitting for  
12 geothermal development of public lands *and National Forest System lands* under their respective  
13 jurisdictions.

14 (b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall—

15 (1) identify known geothermal *resources* areas on ~~public~~ *lands* ~~within~~ *included in* the  
16 National Forest System and, when necessary, require review of management plans to consider  
17 leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) as a land use; *and*

18 ~~(2) provide that the Secretary receiving a lease application shall within 30 days provide~~  
19 ~~written notice to the lease applicant regarding the status of the application, including an estimate~~  
20 ~~of the time that will be required to complete action on the application; and~~

21 ~~(3)~~ (2) establish an administrative procedure for processing geothermal lease  
22 applications, including lines of authority, steps in application processing, and time limits for  
23 application processing.

24 (c) DATA RETRIEVAL SYSTEM.— The memorandum of understanding shall establish a joint  
25 data retrieval system that is capable of tracking lease and permit applications and providing to the  
26 applicant information as to their status within the Departments of the Interior and Agriculture, including  
27 an estimate of the time required for administrative action.

28 **SEC. 523. LEASING AND PERMITTING ON FEDERAL LANDS WITHDRAWN FOR MILITARY PURPOSES.**

1 Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior  
 2 and the Secretary of Defense, in consultation with interested states, counties, ~~and~~ representatives of the  
 3 geothermal industry, *and interested members of the public* shall ~~jointly~~ submit to the Congress a *joint*  
 4 report concerning leasing and permitting activities for geothermal energy on Federal lands withdrawn for  
 5 military purposes. Such report shall —

6 (1) describe any differences, including differences in royalty structure and revenue  
 7 sharing with states and counties, between—

8 (A) the implementation of the Geothermal Steam Act of 1970 (30 U.S.C. 1001  
 9 et seq.) and other applicable Federal law by the Secretary of the Interior; and

10 (B) the administration of geothermal leasing under Section 2689 of title 10,  
 11 United States Code, by the Secretary of Defense;

12 (2) identify procedures for interagency coordination to ensure efficient processing and  
 13 administration of leases or contracts for geothermal energy on federal lands withdrawn for  
 14 military purposes, consistent with the defense purposes of such withdrawals; and

15 (3) provide recommendations for legislative or administrative actions that could facilitate  
 16 program administration, including a common royalty structure.

17 **SEC. 524. REINSTATEMENT OF LEASES TERMINATED FOR FAILURE TO PAY RENT.**

18 (a) **LEASE REINSTATEMENT.**—Section 5(c) of the Geothermal Steam Act of 1970 (30 U.S.C.  
 19 1004), is amended in the last sentence by inserting “or was inadvertent,” after “reasonable diligence,”.

20 (b) ~~EFFECTIVE DATE.~~—~~This statute, as amended, shall be applicable retroactively to any~~  
 21 ~~geothermal lease with a rental payment due after October 1, 2002.~~

22 ~~**SEC. 525. REVIEW AND REPORT TO CONGRESS.**~~

23 ~~Not later than 1 year after the date of enactment of this section, the Secretary of the Interior~~  
 24 ~~shall promptly review and report to the Congress on the status of all moratoria on and withdrawals from~~  
 25 ~~leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of known geothermal~~  
 26 ~~resources areas (as that term is defined in section 2 of that Act (30 U.S.C. 1001), specifying for each~~  
 27 ~~such area whether the basis for such moratoria or withdrawal still applies.~~

28 ~~**SEC. 526. ROYALTY REDUCTION AND RELIEF.**~~

1           (a) ~~ROYALTY REDUCTION.~~— Section 5(a) of the Geothermal Steam Act of 1970 (30 U.S.C.  
2 1004(a)) is amended by striking “not less than 10 per centum or more than 15 per centum” and  
3 inserting “not more than 8 per centum”.

4           (b) ~~ROYALTY RELIEF.~~— Notwithstanding section 5 of the Geothermal Steam Act of 1970 (30  
5 U.S.C. 1004(a)) and any provision of any lease under that Act, no royalty is required to be paid—

6                   (1) under any qualified geothermal energy lease with respect to the first three years of  
7 commercial production of heat or energy from a facility that begins such production within 5  
8 years after the date of the enactment of this subtitle; or

9                   (2) on qualified expansion geothermal energy.

10          (c) ~~EFFECTIVE DATE.~~— The provisions of this section shall apply only to royalties paid after the  
11 date of enactment of this section with respect to any lease executed under the Geothermal Steam Act of  
12 1970 (30 U.S.C. 1001 et seq.) before, on, or after the date of enactment of this section.

13          (d) ~~DEFINITIONS.~~— In this section:

14                   (1) The term “qualified expansion geothermal energy” means geothermal energy  
15 produced from a generation facility for which the rated capacity is increased by more than 10  
16 percent as a result of expansion of the facility carried out in the 5-year period beginning on the  
17 date of the enactment of this subtitle but does not include the rated capacity of the generation  
18 facility on the date of the enactment of this section.

19                   (2) The term “qualified geothermal energy lease” means a lease under the Geothermal  
20 Steam Act of 1970 (30 U.S.C. 1001 et seq.) that is executed within 5 years after the date of  
21 the enactment of this subtitle, and under which no commercial production of any form of heat or  
22 energy occurred before the date of the enactment of this subtitle.

23 ~~SEC. 527. ROYALTY EXEMPTION FOR DIRECT USE OF LOW TEMPERATURE GEOTHERMAL ENERGY~~  
24 ~~RESOURCES.~~

25          (a) ~~ROYALTY EXEMPTION.~~— Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C.  
26 1004) is amended—

27                   (1) in paragraph (c), by redesignating subparagraphs (1) and (2) as subparagraphs (A)  
28 and (B);

1 (2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);  
 2 (3) by inserting ‘(a) IN GENERAL.—’ after ‘SEC. 5.’; and  
 3 (4) by adding at the end the following new subsection:

4 “(b) EXEMPTION FOR USE OF LOW TEMPERATURE RESOURCES.—

5 “(1) IN GENERAL.—In lieu of any royalty or rental under subsection (a),  
 6 a lease for qualified development and direct utilization of low temperature  
 7 geothermal resources shall provide for payment by the lessee of an annual fee  
 8 of not less than \$100, and not more than \$1,000, in accordance with the  
 9 schedule issued under paragraph (2):

10 “(2) SCHEDULE.—The Secretary shall issue a schedule of fees under  
 11 this section under which a fee is based on the scale of development and  
 12 utilization to which the fee applies.

13 “(3) DEFINITIONS.—In this subsection:

14 “(A) LOW TEMPERATURE GEOTHERMAL RESOURCES.—The  
 15 term ‘low temperature geothermal resources’ means geothermal steam  
 16 and associated geothermal resources having a temperature of less than  
 17 195 degrees Fahrenheit.

18 “(B) QUALIFIED DEVELOPMENT AND DIRECT  
 19 UTILIZATION.—The term ‘qualified development and direct utilization’  
 20 means development and utilization in which all products of geothermal  
 21 resources, other than any heat utilized, are returned to the geothermal  
 22 formation from which they are produced.”

23 **SEC. 525. ROYALTY REDUCTION AND RELIEF.**

24 (a) *RULEMAKING.* – Within one year after the date of enactment of this Act, the Secretary  
 25 shall promulgate a final regulation providing a methodology for determining the amount or  
 26 value of the steam for purposes of calculating the royalty due to be paid on such production  
 27 pursuant to section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004). The final  
 28 regulation shall provide for a simplified methodology for calculating the royalty. In undertaking

1 *the rulemaking, the Secretary shall consider the use of a percent of revenue method and shall*  
 2 *ensure that the final rule will result in the same level of royalty revenues as the regulation in*  
 3 *effect on the date of enactment of this provision.*

4 *(b) LOW TEMPERATURE DIRECT USE. – Notwithstanding the provisions of section 5(a) of*  
 5 *the Geothermal Steam Act of 1979 (30 U.S.C. 1004(a)), with respect to the direct use of low*  
 6 *temperature geothermal resources for purposes other than the generation of electricity, the*  
 7 *Secretary shall establish a schedule of fees and collect fees pursuant to such schedule in lieu of*  
 8 *royalties based upon the total amount of geothermal resources used. The schedule of fees shall*  
 9 *ensure that there is a fair return to the public for the use of the low temperature geothermal*  
 10 *resource. With the consent of the lessee, the Secretary may modify the terms of a lease in*  
 11 *existence on the date of enactment of this Act in order to reflect the provisions of this*  
 12 *subsection.*

## 13 **Subtitle D —Biomass Energy**

### 14 **SEC. 531. DEFINITIONS.**

15 For the purposes of this subtitle:

16 (1) The term “eligible operation” means a facility that is located within the boundaries of  
 17 an eligible community and uses biomass *from federal or Indian lands* as a raw material to  
 18 produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based  
 19 products.

20 (2) The term “biomass” means ~~trees and woody plants, including limbs, tops, needles,~~  
 21 ~~and other woody parts, and byproducts of preventive treatment such as wood, brush, thinnings,~~  
 22 ~~chips, slash, or other non-merchantable material, that are removed to reduce hazardous fuels,~~  
 23 ~~reduce the risk of disease or insect infestation, contain disease or insect infestation, or reduce~~  
 24 ~~stand density.~~ *pre-commercial thinnings of trees and woody plants, or non-merchantable*  
 25 *material, from preventative treatments to reduce hazardous fuels, or reduce or contain*  
 26 *disease or insect infestations.*

27 (3) The term “green ton” means 2,000 pounds of biomass that has not been

1 mechanically or artificially dried.

2 (4) The term “Secretary” means —

3 (A) with respect to lands within the National Forest System, the Secretary of  
4 Agriculture; or

5 (B) with respect to Federal lands under the jurisdiction of the Secretary of the  
6 Interior and Indian lands, the Secretary of the Interior.

7 (5) The term “eligible community” means any *Indian Reservation*, or any county,  
8 town, township, municipality, or other similar unit of local government that has a population of  
9 not more than 50,000 individuals and is determined by the Secretary to be located ~~near~~ *in* an  
10 area *near federal or Indian lands* which is at significant risk of catastrophic wildfire, disease,  
11 or insect infestation or which suffers from disease or insect infestation.

12 (6) The term “Indian tribe” has the meaning given the term in section 4(e) of the Indian  
13 Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

14 (7) The term “person” includes —

15 (A) an individual;

16 (B) an ~~eligible~~ community;

17 (C) an Indian tribe;

18 (D) a small business or a corporation that is incorporated in the United States;

19 or

20 (E) a nonprofit organization.

21 **SEC. 532. BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.**

22 (a) IN GENERAL.—The Secretary may make grants to any person that owns or operates an  
23 eligible operation to offset the costs incurred to purchase biomass for use by such eligible operation  
24 *with priority given to operations using biomass from the highest risk areas.*

25 (b) LIMITATION.—No grant provided under this subsection shall be paid at a rate that exceeds  
26 \$20 per green ton of biomass delivered.

27 (c) RECORDS.— Each grant recipient shall keep such records as the Secretary may require to

1 fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of  
2 biomass. Upon notice by the Secretary, the grant recipient shall provide the Secretary reasonable  
3 access to examine the inventory and records of any ~~facility that purchases or uses biomass and is~~  
4 ~~operated or owned by the grant recipient~~ *eligible operation receiving grant funds.*

5 (d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are  
6 authorized to be appropriated \$12,500,000 each to the Secretary of *the* Interior and the Secretary of  
7 Agriculture for each fiscal year from 2004 through 2008, to remain available until expended.

8 **SEC. 533. IMPROVED BIOMASS UTILIZATION GRANT PROGRAM.**

9 (a) IN GENERAL.—The Secretary may make grants to persons in eligible communities to offset  
10 the costs of developing or researching proposals to improve the use of biomass or add value to biomass  
11 utilization.

12 (b) SELECTION.—Grant recipients shall be selected based on the potential for the proposal  
13 to—

14 (1) develop affordable thermal or electric energy resources for the benefit of an eligible  
15 community;

16 (2) provide opportunities for the creation or expansion of small businesses within an  
17 eligible community;

18 (3) create new job opportunities within an eligible community, and

19 (4) *reduce the hazardous fuels from the highest risk areas.*

20 (c) LIMITATION.—No grant awarded under this subsection shall exceed \$100,000.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are  
22 authorized to be appropriated \$12,500,000 each to the Secretary of *the* Interior and the Secretary of  
23 Agriculture for each fiscal year from 2004 through 2008, to remain available until expended.

24 **SEC. 534. REPORT.**

25 Not later than 3 years after the date of enactment of this subtitle, the Secretary of the Interior  
26 and the Secretary of Agriculture shall jointly submit to the Congress a report that describes the interim  
27 results of the programs authorized under this subtitle. ~~Such report shall include identification of the size,~~

1 ~~type, and the use of biomass by persons that receive grants under this subtitle, including a description of~~  
2 ~~all eligible operations and communities that participate and identification of the economic benefits that~~  
3 ~~result from the grants awarded under this subtitle.~~  
4  
5