

[CHAIRMEN'S PROPOSED CONFERENCE REPORT]

NOVEMBER 17, 2003

1 **TITLE III—OIL AND GAS**
2 **Subtitle A—Petroleum Reserve and**
3 **Home Heating Oil**

4 **SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRA-**
5 **TEGIC PETROLEUM RESERVE AND OTHER**
6 **ENERGY PROGRAMS.**

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

11 (1) by striking section 166 (42 U.S.C. 6246)
12 and inserting the following:

13 “AUTHORIZATION OF APPROPRIATIONS

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

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

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

22 (b) AMENDMENT TO TITLE II OF THE ENERGY POL-
23 ICY AND CONSERVATION ACT.—Title II of the Energy

1 Policy and Conservation Act (42 U.S.C. 6271 et seq.) is
2 amended—

3 (1) by inserting before section 273 (42 U.S.C.
4 6283) the following:

5 “PART C—SUMMER FILL AND FUEL BUDGETING
6 PROGRAMS”;

7 (2) by striking section 273(e) (42 U.S.C.
8 6283(e); relating to the expiration of summer fill
9 and fuel budgeting programs); and

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

12 (c) TECHNICAL AMENDMENTS.—The table of con-
13 tents for the Energy Policy and Conservation Act is
14 amended—

15 (1) by inserting after the items relating to part
16 C of title I the following:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.

“Sec. 182. Authority.

“Sec. 183. Conditions for release; plan.

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

“Sec. 185. Exemptions.”;

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

“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

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

19 (3) by striking the items relating to part D of
20 title II.

1 (d) AMENDMENT TO THE ENERGY POLICY AND CON-
2 SERVATION ACT.—Section 183(b)(1) of the Energy Policy
3 and Conservation Act (42 U.S.C. 6250(b)(1)) is amended
4 by striking all after “increases” through to “mid-October
5 through March” and inserting “by more than 60 percent
6 over its 5-year rolling average for the months of mid-Octo-
7 ber through March (considered as a heating season aver-
8 age)”.

9 (e) FILL STRATEGIC PETROLEUM RESERVE TO CA-
10 PACITY.—The Secretary of Energy shall, as expeditiously
11 as practicable, acquire petroleum in amounts sufficient to
12 fill the Strategic Petroleum Reserve to the 1,000,000,000
13 barrel capacity authorized under section 154(a) of the En-
14 ergy Policy and Conservation Act (42 U.S.C. 6234(a)),
15 consistent with the provisions of sections 159 and 160 of
16 such Act (42 U.S.C. 6239, 6240).

17 **SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.**

18 Section 713 of the Energy Act of 2000 (42 U.S.C.
19 6201 note) is amended by striking “4” and inserting “9”.

20 **Subtitle B—Production Incentives**

21 **SEC. 311. DEFINITION OF SECRETARY.**

22 In this subtitle, the term “Secretary” means the Sec-
23 retary of the Interior.

1 **SEC. 312. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.**

2 (a) **APPLICABILITY OF SECTION.**—Notwithstanding
3 any other provision of law, this section applies to all roy-
4 alty in-kind accepted by the Secretary on or after the date
5 of enactment of this Act under any Federal oil or gas lease
6 or permit under section 36 of the Mineral Leasing Act
7 (30 U.S.C. 192), section 27 of the Outer Continental Shelf
8 Lands Act (43 U.S.C. 1353), or any other Federal law
9 governing leasing of Federal land for oil and gas develop-
10 ment.

11 (b) **TERMS AND CONDITIONS.**—All royalty accruing
12 to the United States shall, on the demand of the Sec-
13 retary, be paid in oil or gas. If the Secretary makes such
14 a demand, the following provisions apply to such payment:

15 (1) **SATISFACTION OF ROYALTY OBLIGATION.**—
16 Delivery by, or on behalf of, the lessee of the royalty
17 amount and quality due under the lease satisfies the
18 lessee's royalty obligation for the amount delivered,
19 except that transportation and processing reimburse-
20 ments paid to, or deductions claimed by, the lessee
21 shall be subject to review and audit.

22 (2) **MARKETABLE CONDITION.**—

23 (A) **IN GENERAL.**—Royalty production
24 shall be placed in marketable condition by the
25 lessee at no cost to the United States.

1 (B) DEFINITION OF MARKETABLE CONDI-
2 TION.—In this paragraph, the term “in market-
3 able condition” means sufficiently free from im-
4 purities and otherwise in a condition that the
5 royalty production will be accepted by a pur-
6 chaser under a sales contract typical of the field
7 or area in which the royalty production was
8 produced.

9 (3) DISPOSITION BY THE SECRETARY.—The
10 Secretary may—

11 (A) sell or otherwise dispose of any royalty
12 production taken in-kind (other than oil or gas
13 transferred under section 27(a)(3) of the Outer
14 Continental Shelf Lands Act (43 U.S.C.
15 1353(a)(3)) for not less than the market price;
16 and

17 (B) transport or process (or both) any roy-
18 alty production taken in-kind.

19 (4) RETENTION BY THE SECRETARY.—The Sec-
20 retary may, notwithstanding section 3302 of title 31,
21 United States Code, retain and use a portion of the
22 revenues from the sale of oil and gas taken in-kind
23 that otherwise would be deposited to miscellaneous
24 receipts, without regard to fiscal year limitation, or
25 may use oil or gas received as royalty taken in-kind

1 (in this paragraph referred to as “royalty produc-
2 tion”) to pay the cost of—

3 (A) transporting the royalty production;

4 (B) processing the royalty production;

5 (C) disposing of the royalty production; or

6 (D) any combination of transporting, proc-
7 essing, and disposing of the royalty production.

8 (5) LIMITATION.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (B), the Secretary may not use
11 revenues from the sale of oil and gas taken in-
12 kind to pay for personnel, travel, or other ad-
13 ministrative costs of the Federal Government.

14 (B) EXCEPTION.—Notwithstanding sub-
15 paragraph (A), the Secretary may use a portion
16 of the revenues from the sale of oil taken in-
17 kind, without fiscal year limitation, to pay
18 transportation costs, salaries, and other admin-
19 istrative costs directly related to filling the
20 Strategic Petroleum Reserve.

21 (c) REIMBURSEMENT OF COST.—If the lessee, pursu-
22 ant to an agreement with the United States or as provided
23 in the lease, processes the royalty gas or delivers the roy-
24 alty oil or gas at a point not on or adjacent to the lease
25 area, the Secretary shall—

1 (1) reimburse the lessee for the reasonable costs
2 of transportation (not including gathering) from the
3 lease to the point of delivery or for processing costs;
4 or

5 (2) allow the lessee to deduct the transportation
6 or processing costs in reporting and paying royalties
7 in-value for other Federal oil and gas leases.

8 (d) BENEFIT TO THE UNITED STATES REQUIRED.—

9 The Secretary may receive oil or gas royalties in-kind only
10 if the Secretary determines that receiving royalties in-kind
11 provides benefits to the United States that are greater
12 than or equal to the benefits that are likely to have been
13 received had royalties been taken in-value.

14 (e) REPORTS.—

15 (1) IN GENERAL.—Not later than September
16 30, 2005, the Secretary shall submit to Congress a
17 report that addresses—

18 (A) actions taken to develop businesses
19 processes and automated systems to fully sup-
20 port the royalty-in-kind capability to be used in
21 tandem with the royalty-in-value approach in
22 managing Federal oil and gas revenue; and

23 (B) future royalty-in-kind businesses oper-
24 ation plans and objectives.

1 (2) REPORTS ON OIL OR GAS ROYALTIES TAKEN
2 IN-KIND.—For each of fiscal years 2004 through
3 2013 in which the United States takes oil or gas
4 royalties in-kind from production in any State or
5 from the outer Continental Shelf, excluding royalties
6 taken in-kind and sold to refineries under subsection
7 (h), the Secretary shall submit to Congress a report
8 that describes—

9 (A) the methodology or methodologies used
10 by the Secretary to determine compliance with
11 subsection (d), including the performance
12 standard for comparing amounts received by
13 the United States derived from royalties in-kind
14 to amounts likely to have been received had roy-
15 alties been taken in-value;

16 (B) an explanation of the evaluation that
17 led the Secretary to take royalties in-kind from
18 a lease or group of leases, including the ex-
19 pected revenue effect of taking royalties in-kind;

20 (C) actual amounts received by the United
21 States derived from taking royalties in-kind and
22 costs and savings incurred by the United States
23 associated with taking royalties in-kind, includ-
24 ing, but not limited to, administrative savings

1 and any new or increased administrative costs;
2 and

3 (D) an evaluation of other relevant public
4 benefits or detriments associated with taking
5 royalties in-kind.

6 (f) DEDUCTION OF EXPENSES.—

7 (1) IN GENERAL.—Before making payments
8 under section 35 of the Mineral Leasing Act (30
9 U.S.C. 191) or section 8(g) of the Outer Continental
10 Shelf Lands Act (43 U.S.C. 1337(g)) of revenues
11 derived from the sale of royalty production taken in-
12 kind from a lease, the Secretary shall deduct
13 amounts paid or deducted under subsections (b)(4)
14 and (c) and deposit the amount of the deductions in
15 the miscellaneous receipts of the United States
16 Treasury.

17 (2) ACCOUNTING FOR DEDUCTIONS.—When the
18 Secretary allows the lessee to deduct transportation
19 or processing costs under subsection (c), the Sec-
20 retary may not reduce any payments to recipients of
21 revenues derived from any other Federal oil and gas
22 lease as a consequence of that deduction.

23 (g) CONSULTATION WITH STATES.—The Secretary—

24 (1) shall consult with a State before conducting
25 a royalty in-kind program under this subtitle within

1 the State, and may delegate management of any
2 portion of the Federal royalty in-kind program to
3 the State except as otherwise prohibited by Federal
4 law; and

5 (2) shall consult annually with any State from
6 which Federal oil or gas royalty is being taken in-
7 kind to ensure, to the maximum extent practicable,
8 that the royalty in-kind program provides revenues
9 to the State greater than or equal to those likely to
10 have been received had royalties been taken in-value.

11 (h) SMALL REFINERIES.—

12 (1) PREFERENCE.—If the Secretary finds that
13 sufficient supplies of crude oil are not available in
14 the open market to refineries that do not have their
15 own source of supply for crude oil, the Secretary
16 may grant preference to such refineries in the sale
17 of any royalty oil accruing or reserved to the United
18 States under Federal oil and gas leases issued under
19 any mineral leasing law, for processing or use in
20 such refineries at private sale at not less than the
21 market price.

22 (2) PRORATION AMONG REFINERIES IN PRO-
23 Duction AREA.—In disposing of oil under this sub-
24 section, the Secretary of Energy may, at the discre-
25 tion of the Secretary, prorate the oil among refin-

1 eries described in paragraph (1) in the area in which
2 the oil is produced.

3 (i) DISPOSITION TO FEDERAL AGENCIES.—

4 (1) ONSHORE ROYALTY.—Any royalty oil or gas
5 taken by the Secretary in-kind from onshore oil and
6 gas leases may be sold at not less than the market
7 price to any Federal agency.

8 (2) OFFSHORE ROYALTY.—Any royalty oil or
9 gas taken in-kind from a Federal oil or gas lease on
10 the outer Continental Shelf may be disposed of only
11 under section 27 of the Outer Continental Shelf
12 Lands Act (43 U.S.C. 1353).

13 (j) FEDERAL LOW-INCOME ENERGY ASSISTANCE
14 PROGRAMS.—

15 (1) PREFERENCE.—In disposing of royalty oil
16 or gas taken in-kind under this section, the Sec-
17 retary may grant a preference to any person, includ-
18 ing any Federal or State agency, for the purpose of
19 providing additional resources to any Federal low-in-
20 come energy assistance program.

21 (2) REPORT.—Not later than 3 years after the
22 date of enactment of this Act, the Secretary shall
23 transmit a report to Congress, assessing the effec-
24 tiveness of granting preferences specified in para-
25 graph (1) and providing a specific recommendation

1 on the continuation of authority to grant pref-
2 erences.

3 **SEC. 313. MARGINAL PROPERTY PRODUCTION INCENTIVES.**

4 (a) DEFINITION OF MARGINAL PROPERTY.—Until
5 such time as the Secretary issues regulations under sub-
6 section (e) that prescribe a different definition, in this sec-
7 tion the term “marginal property” means an onshore unit,
8 communitization agreement, or lease not within a unit or
9 communitization agreement, that produces on average the
10 combined equivalent of less than 15 barrels of oil per well
11 per day or 90 million British thermal units of gas per well
12 per day calculated based on the average over the 3 most
13 recent production months, including only wells that
14 produce on more than half of the days during those 3 pro-
15 duction months.

16 (b) CONDITIONS FOR REDUCTION OF ROYALTY
17 RATE.—Until such time as the Secretary issues regula-
18 tions under subsection (e) that prescribe different thresh-
19 olds or standards, the Secretary shall reduce the royalty
20 rate on—

21 (1) oil production from marginal properties as
22 prescribed in subsection (e) when the spot price of
23 West Texas Intermediate crude oil at Cushing, Okla-
24 homa, is, on average, less than \$15 per barrel for 90
25 consecutive trading days; and

1 (2) gas production from marginal properties as
2 prescribed in subsection (c) when the spot price of
3 natural gas delivered at Henry Hub, Louisiana, is,
4 on average, less than \$2.00 per million British ther-
5 mal units for 90 consecutive trading days.

6 (c) REDUCED ROYALTY RATE.—

7 (1) IN GENERAL.—When a marginal property
8 meets the conditions specified in subsection (b), the
9 royalty rate shall be the lesser of—

10 (A) 5 percent; or

11 (B) the applicable rate under any other
12 statutory or regulatory royalty relief provision
13 that applies to the affected production.

14 (2) PERIOD OF EFFECTIVENESS.—The reduced
15 royalty rate under this subsection shall be effective
16 beginning on the first day of the production month
17 following the date on which the applicable condition
18 specified in subsection (b) is met.

19 (d) TERMINATION OF REDUCED ROYALTY RATE.—

20 A royalty rate prescribed in subsection (d)(1)(A) shall
21 terminate—

22 (1) with respect to oil production from a mar-
23 ginal property, on the first day of the production
24 month following the date on which—

1 (A) the spot price of West Texas Inter-
2 mediate crude oil at Cushing, Oklahoma, on av-
3 erage, exceeds \$15 per barrel for 90 consecutive
4 trading days; or

5 (B) the property no longer qualifies as a
6 marginal property; and

7 (2) with respect to gas production from a mar-
8 ginal property, on the first day of the production
9 month following the date on which—

10 (A) the spot price of natural gas delivered
11 at Henry Hub, Louisiana, on average, exceeds
12 \$2.00 per million British thermal units for 90
13 consecutive trading days; or

14 (B) the property no longer qualifies as a
15 marginal property.

16 (e) REGULATIONS PRESCRIBING DIFFERENT RE-
17 LIEF.—

18 (1) DISCRETIONARY REGULATIONS.—The Sec-
19 retary may by regulation prescribe different param-
20 eters, standards, and requirements for, and a dif-
21 ferent degree or extent of, royalty relief for marginal
22 properties in lieu of those prescribed in subsections
23 (a) through (d).

1 (2) MANDATORY REGULATIONS.—Not later
2 than 18 months after the date of enactment of this
3 Act, the Secretary shall by regulation—

4 (A) prescribe standards and requirements
5 for, and the extent of royalty relief for, mar-
6 ginal properties for oil and gas leases on the
7 outer Continental Shelf; and

8 (B) define what constitutes a marginal
9 property on the outer Continental Shelf for pur-
10 poses of this section.

11 (3) CONSIDERATIONS.—In promulgating regu-
12 lations under this subsection, the Secretary may
13 consider—

14 (A) oil and gas prices and market trends;

15 (B) production costs;

16 (C) abandonment costs;

17 (D) Federal and State tax provisions and
18 the effects of those provisions on production ec-
19 onomics;

20 (E) other royalty relief programs;

21 (F) regional differences in average well-
22 head prices;

23 (G) national energy security issues; and

24 (H) other relevant matters.

1 (f) SAVINGS PROVISION.—Nothing in this section
2 prevents a lessee from receiving royalty relief or a royalty
3 reduction pursuant to any other law (including a regula-
4 tion) that provides more relief than the amounts provided
5 by this section.

6 **SEC. 314. INCENTIVES FOR NATURAL GAS PRODUCTION**
7 **FROM DEEP WELLS IN THE SHALLOW WA-**
8 **TERS OF THE GULF OF MEXICO.**

9 (a) ROYALTY INCENTIVE REGULATIONS.—The Sec-
10 retary shall publish a final regulation to complete the rule-
11 making begun by the Notice of Proposed Rulemaking enti-
12 tled “Relief or Reduction in Royalty Rates—Deep Gas
13 Provisions”, published in the Federal Register on March
14 26, 2003 (Federal Register, volume 68, number 58,
15 14868-14886).

16 (b) ROYALTY INCENTIVE REGULATIONS FOR ULTRA
17 DEEP GAS WELLS.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, in addition
20 to any other regulations that may provide royalty in-
21 centives for natural gas produced from deep wells on
22 oil and gas leases issued pursuant to the Outer Con-
23 tinental Shelf Lands Act (43 U.S.C. 1331 et seq.),
24 the Secretary shall issue regulations, in accordance
25 with the regulations published pursuant to sub-

1 section (a), granting royalty relief suspension vol-
2 umes of not less than 35,000,000,000 cubic feet
3 with respect to the production of natural gas from
4 ultra deep wells on leases issued before January 1,
5 2001, in shallow waters less than 200 meters deep
6 located in the Gulf of Mexico wholly west of 87 de-
7 grees, 30 minutes West longitude. Regulations
8 issued under this subsection shall be retroactive to
9 the date that the Notice of Proposed Rulemaking is
10 published in the Federal Register.

11 (2) DEFINITION OF ULTRA DEEP WELL.—In
12 this subsection, the term “ultra deep well” means a
13 well drilled with a perforated interval, the top of
14 which is at least 20,000 feet true vertical depth
15 below the datum at mean sea level.

16 **SEC. 315. ROYALTY RELIEF FOR DEEP WATER PRODUC-**
17 **TION.**

18 (a) IN GENERAL.—For all tracts located in water
19 depths of greater than 400 meters in the Western and
20 Central Planning Area of the Gulf of Mexico, including
21 the portion of the Eastern Planning Area of the Gulf of
22 Mexico encompassing whole lease blocks lying west of 87
23 degrees, 30 minutes West longitude, any oil or gas lease
24 sale under the Outer Continental Shelf Lands Act (43
25 U.S.C. 1331 et seq.) occurring within 5 years after the

1 date of enactment of this Act shall use the bidding system
2 authorized in section 8(a)(1)(H) of the Outer Continental
3 Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that
4 the suspension of royalties shall be set at a volume of not
5 less than—

6 (1) 5,000,000 barrels of oil equivalent for each
7 lease in water depths of 400 to 800 meters;

8 (2) 9,000,000 barrels of oil equivalent for each
9 lease in water depths of 800 to 1,600 meters; and

10 (3) 12,000,000 barrels of oil equivalent for each
11 lease in water depths greater than 1,600 meters.

12 (b) LIMITATION.—The Secretary may place limita-
13 tions on the suspension of royalty relief granted based on
14 market price.

15 **SEC. 316. ALASKA OFFSHORE ROYALTY SUSPENSION.**

16 Section 8(a)(3)(B) of the Outer Continental Shelf
17 Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by in-
18 serting “and in the Planning Areas offshore Alaska” after
19 “West longitude”.

20 **SEC. 317. OIL AND GAS LEASING IN THE NATIONAL PETRO-**
21 **LEUM RESERVE IN ALASKA.**

22 (a) TRANSFER OF AUTHORITY.—

23 (1) REDESIGNATION.—The Naval Petroleum
24 Reserves Production Act of 1976 (42 U.S.C. 6501

1 et seq.) is amended by redesignating section 107 (42
2 U.S.C. 6507) as section 108.

3 (2) TRANSFER.—The matter under the heading
4 “EXPLORATION OF NATIONAL PETROLEUM RESERVE
5 IN ALASKA” under the heading “ENERGY AND
6 MINERALS” of title I of Public Law 96-514 (42
7 U.S.C. 6508) is—

8 (A) transferred to the Naval Petroleum
9 Reserves Production Act of 1976 (42 U.S.C.
10 6501 et seq.);

11 (B) redesignated as section 107 of that
12 Act; and

13 (C) moved so as to appear after section
14 106 of that Act (42 U.S.C. 6506).

15 (b) COMPETITIVE LEASING.—Section 107 of the
16 Naval Petroleum Reserves Production Act of 1976 (as
17 amended by subsection (a) of this section) is amended—

18 (1) by striking the heading and all that follows
19 through “*Provided*, That (1) activities” and insert-
20 ing the following:

21 **“SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.**

22 “(a) IN GENERAL.—Notwithstanding any other pro-
23 vision of law and pursuant to regulations issued by the
24 Secretary, the Secretary shall conduct an expeditious pro-
25 gram of competitive leasing of oil and gas in the National

1 Petroleum Reserve in Alaska (referred to in this section
2 as the ‘Reserve’).

3 “(b) MITIGATION OF ADVERSE EFFECTS.—Activi-
4 ties”;

5 (2) by striking “Alaska (the Reserve); (2) the”
6 and inserting “Alaska.

7 “(c) LAND USE PLANNING; BLM WILDERNESS
8 STUDY.—The”;

9 (3) by striking “Reserve; (3) the” and inserting
10 “Reserve.

11 “(d) FIRST LEASE SALE.—The”;

12 (4) by striking “4332); (4) the” and inserting
13 “4321 et seq.).

14 “(e) WITHDRAWALS.—The”;

15 (5) by striking “herein; (5) bidding” and insert-
16 ing “under this section.

17 “(f) BIDDING SYSTEMS.—Bidding”;

18 (6) by striking “629); (6) lease” and inserting
19 “629).

20 “(g) GEOLOGICAL STRUCTURES.—Lease”;

21 (7) by striking “structures; (7) the” and insert-
22 ing “structures.

23 “(h) SIZE OF LEASE TRACTS.—The”;

1 (8) by striking “Secretary; (8)” and all that fol-
2 lows through “Drilling, production,” and inserting
3 “Secretary.

4 “(i) TERMS.—

5 “(1) IN GENERAL.—Each lease shall be—

6 “(A) issued for an initial period of not
7 more than 10 years; and

8 “(B) renewed for successive 10-year terms
9 if—

10 “(i) oil or gas is produced from the
11 lease in paying quantities;

12 “(ii) oil or gas is capable of being pro-
13 duced in paying quantities; or

14 “(iii) drilling or reworking operations,
15 as approved by the Secretary, are con-
16 ducted on the leased land.

17 “(2) RENEWAL OF NONPRODUCING LEASES.—

18 The Secretary shall renew for an additional 10-year
19 term a lease that does not meet the requirements of
20 paragraph (1)(B) if the lessee submits to the Sec-
21 retary an application for renewal not later than 60
22 days before the expiration of the primary lease
23 and—

24 “(A) the lessee certifies, and the Secretary
25 agrees, that hydrocarbon resources were discov-

1 ered on 1 or more wells drilled on the leased
2 land in such quantities that a prudent operator
3 would hold the lease for potential future devel-
4 opment;

5 “(B) the lessee—

6 “(i) pays the Secretary a renewal fee
7 of \$100 per acre of leased land; and

8 “(ii) provides evidence, and the Sec-
9 retary agrees that, the lessee has diligently
10 pursued exploration that warrants continu-
11 ation with the intent of continued explo-
12 ration or future development of the leased
13 land; or

14 “(C) all or part of the lease—

15 “(i) is part of a unit agreement cov-
16 ering a lease described in subparagraph
17 (A) or (B); and

18 “(ii) has not been previously con-
19 tracted out of the unit.

20 “(3) APPLICABILITY.—This subsection applies
21 to a lease that—

22 “(A) is entered into before, on, or after the
23 date of enactment of the Energy Policy Act of
24 2003; and

1 “(B) is effective on or after the date of en-
2 actment of that Act.

3 “(j) UNIT AGREEMENTS.—

4 “(1) IN GENERAL.—For the purpose of con-
5 servation of the natural resources of all or part of
6 any oil or gas pool, field, reservoir, or like area, les-
7 sees (including representatives) of the pool, field,
8 reservoir, or like area may unite with each other, or
9 jointly or separately with others, in collectively
10 adopting and operating under a unit agreement for
11 all or part of the pool, field, reservoir, or like area
12 (whether or not any other part of the oil or gas pool,
13 field, reservoir, or like area is already subject to any
14 cooperative or unit plan of development or oper-
15 ation), if the Secretary determines the action to be
16 necessary or advisable in the public interest.

17 “(2) PARTICIPATION BY STATE OF ALASKA.—

18 The Secretary shall ensure that the State of Alaska
19 is provided the opportunity for active participation
20 concerning creation and management of units
21 formed or expanded under this subsection that in-
22 clude acreage in which the State of Alaska has an
23 interest in the mineral estate.

24 “(3) PARTICIPATION BY REGIONAL CORPORA-

25 TIONS.—The Secretary shall ensure that any Re-

1 regional Corporation (as defined in section 3 of the
2 Alaska Native Claims Settlement Act (43 U.S.C.
3 1602)) is provided the opportunity for active partici-
4 pation concerning creation and management of units
5 that include acreage in which the Regional Corpora-
6 tion has an interest in the mineral estate.

7 “(4) PRODUCTION ALLOCATION METHODOLOGY.—The Secretary may use a production alloca-
8 tion methodology for each participating area within
9 a unit created for land in the Reserve, State of Alas-
10 ka land, or Regional Corporation land shall, when
11 appropriate, be based on the characteristics of each
12 specific oil or gas pool, field, reservoir, or like area
13 to take into account reservoir heterogeneity and a
14 real variation in reservoir producibility across diverse
15 leasehold interests.

17 “(5) BENEFIT OF OPERATIONS.—Drilling, pro-
18 duction,”;

19 (9) by striking “When separate” and inserting
20 the following:

21 “(6) POOLING.—If separate”;

22 (10) by inserting “(in consultation with the
23 owners of the other land)” after “determined by the
24 Secretary of the Interior”;

1 (11) by striking “thereto; (10) to” and all that
2 follows through “the terms provided therein” and in-
3 sserting “to the agreement.

4 “(k) EXPLORATION INCENTIVES.—

5 “(1) IN GENERAL.—

6 “(A) WAIVER, SUSPENSION, OR REDUC-
7 TION.—To encourage the greatest ultimate re-
8 covery of oil or gas or in the interest of con-
9 servation, the Secretary may waive, suspend, or
10 reduce the rental fees or minimum royalty, or
11 reduce the royalty on an entire leasehold (in-
12 cluding on any lease operated pursuant to a
13 unit agreement), if (after consultation with the
14 State of Alaska and the North Slope Borough
15 of Alaska and the concurrence of any Regional
16 Corporation for leases that include lands avail-
17 able for acquisition by the Regional Corporation
18 under the provisions of section 1431(o) of the
19 Alaska National Interest Lands Conservation
20 Act (16 U.S.C. 3101 et seq.)) the Secretary de-
21 termines that the waiver, suspension, or reduc-
22 tion is in the public interest.

23 “(B) APPLICABILITY.—This paragraph ap-
24 plies to a lease that—

1 “(i) is entered into before, on, or after
2 the date of enactment of the Energy Policy
3 Act of 2003; and

4 “(ii) is effective on or after the date
5 of enactment of that Act.”;

6 (12) by striking “The Secretary is authorized
7 to” and inserting the following:

8 “(2) SUSPENSION OF OPERATIONS AND PRO-
9 DUCTION.—The Secretary may”;

10 (13) by striking “In the event” and inserting
11 the following:

12 “(3) SUSPENSION OF PAYMENTS.—If”;

13 (14) by striking “thereto; and (11) all” and in-
14 serting “to the lease.

15 “(l) RECEIPTS.—All”;

16 (15) by redesignating clauses (A), (B), and (C)
17 as clauses (1), (2), and (3), respectively;

18 (16) by striking “Any agency” and inserting
19 the following:

20 “(m) EXPLORATIONS.—Any agency”;

21 (17) by striking “Any action” and inserting the
22 following:

23 “(n) ENVIRONMENTAL IMPACT STATEMENTS.—

24 “(1) JUDICIAL REVIEW.—Any action”;

1 (18) by striking “The detailed” and inserting
2 the following:

3 “(2) INITIAL LEASE SALES.—The detailed”;

4 (19) by striking “of the Naval Petroleum Re-
5 serves Production Act of 1976 (90 Stat. 304; 42
6 U.S.C. 6504)”;

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

8 “(o) WAIVER OF ADMINISTRATION FOR CONVEYED
9 LANDS.—Notwithstanding section 14(g) of the Alaska
10 Native Claims Settlement Act (43 U.S.C. 1613(g)) or any
11 other provision of law—

12 “(1) the Secretary of the Interior shall waive
13 administration of any oil and gas lease insofar as
14 such lease covers any land in the National Petro-
15 leum Reserve in Alaska in which the subsurface es-
16 tate is conveyed to the Arctic Slope Regional Cor-
17 poration; and

18 “(2) if any such conveyance of such subsurface
19 estate does not cover all the land embraced within
20 any such oil and gas lease—

21 “(A) the person who owns the subsurface
22 estate in any particular portion of the land cov-
23 ered by such lease shall be entitled to all of the
24 revenues reserved under such lease as to such
25 portion, including, without limitation, all the

1 royalty payable with respect to oil or gas pro-
2 duced from or allocated to such particular por-
3 tion of the land covered by such lease; and

4 “(B) the Secretary of the Interior shall
5 segregate such lease into 2 leases, 1 of which
6 shall cover only the subsurface estate conveyed
7 to the Arctic Slope Regional Corporation, and
8 operations, production, or other circumstances
9 (other than payment of rentals or royalties)
10 that satisfy obligations of the lessee under, or
11 maintain, either of the segregated leases shall
12 likewise satisfy obligations of the lessee under,
13 or maintain, the other segregated lease to the
14 same extent as if such segregated leases re-
15 mained a part of the original unsegregated
16 lease.”.

17 **SEC. 318. ORPHANED, ABANDONED, OR IDLED WELLS ON**
18 **FEDERAL LAND.**

19 (a) IN GENERAL.—The Secretary, in cooperation
20 with the Secretary of Agriculture, shall establish a pro-
21 gram not later than 1 year after the date of enactment
22 of this Act to remediate, reclaim, and close orphaned,
23 abandoned, or idled oil and gas wells located on land ad-
24 ministered by the land management agencies within the

1 Department of the Interior and the Department of Agri-
2 culture.

3 (b) ACTIVITIES.—The program under subsection (a)
4 shall—

5 (1) include a means of ranking orphaned, aban-
6 doned, or idled wells sites for priority in remedi-
7 ation, reclamation, and closure, based on public
8 health and safety, potential environmental harm,
9 and other land use priorities;

10 (2) provide for identification and recovery of
11 the costs of remediation, reclamation, and closure
12 from persons or other entities currently providing a
13 bond or other financial assurance required under
14 State or Federal law for an oil or gas well that is
15 orphaned, abandoned, or idled; and

16 (3) provide for recovery from the persons or en-
17 tities identified under paragraph (2), or their sure-
18 ties or guarantors, of the costs of remediation, rec-
19 lamation, and closure of such wells.

20 (c) COOPERATION AND CONSULTATIONS.—In car-
21 rying out the program under subsection (a), the Secretary
22 shall—

23 (1) work cooperatively with the Secretary of Ag-
24 riculture and the States within which Federal land
25 is located; and

1 (2) consult with the Secretary of Energy and
2 the Interstate Oil and Gas Compact Commission.

3 (d) PLAN.—Not later than 1 year after the date of
4 enactment of this Act, the Secretary, in cooperation with
5 the Secretary of Agriculture, shall submit to Congress a
6 plan for carrying out the program under subsection (a).

7 (e) IDLED WELL.—For the purposes of this section,
8 a well is idled if—

9 (1) the well has been nonoperational for at least
10 7 years; and

11 (2) there is no anticipated beneficial use for the
12 well.

13 (f) TECHNICAL ASSISTANCE PROGRAM FOR NON-
14 FEDERAL LAND.—

15 (1) IN GENERAL.—The Secretary of Energy
16 shall establish a program to provide technical and fi-
17 nancial assistance to oil and gas producing States to
18 facilitate State efforts over a 10-year period to en-
19 sure a practical and economical remedy for environ-
20 mental problems caused by orphaned or abandoned
21 oil and gas exploration or production well sites on
22 State or private land.

23 (2) ASSISTANCE.—The Secretary of Energy
24 shall work with the States, through the Interstate
25 Oil and Gas Compact Commission, to assist the

1 States in quantifying and mitigating environmental
2 risks of onshore orphaned or abandoned oil or gas
3 wells on State and private land.

4 (3) ACTIVITIES.—The program under para-
5 graph (1) shall include—

6 (A) mechanisms to facilitate identification,
7 if feasible, of the persons currently providing a
8 bond or other form of financial assurance re-
9 quired under State or Federal law for an oil or
10 gas well that is orphaned or abandoned;

11 (B) criteria for ranking orphaned or aban-
12 doned well sites based on factors such as public
13 health and safety, potential environmental
14 harm, and other land use priorities;

15 (C) information and training programs on
16 best practices for remediation of different types
17 of sites; and

18 (D) funding of State mitigation efforts on
19 a cost-shared basis.

20 (g) FEDERAL REIMBURSEMENT FOR ORPHANED
21 WELL RECLAMATION PILOT PROGRAM.—

22 (1) REIMBURSEMENT FOR REMEDIATING, RE-
23 CLAIMING, AND CLOSING WELLS ON LAND SUBJECT
24 TO A NEW LEASE.—The Secretary shall carry out a
25 pilot program under which, in issuing a new oil and

1 gas lease on federally owned land on which 1 or
2 more orphaned wells are located, the Secretary—

3 (A) may require, but not as a condition of
4 the lease, that the lessee remediate, reclaim,
5 and close in accordance with standards estab-
6 lished by the Secretary, all orphaned wells on
7 the land leased; and

8 (B) shall develop a program to reimburse
9 a lessee, through a royalty credit against the
10 Federal share of royalties owed or other means,
11 for the reasonable actual costs of remediating,
12 reclaiming, and closing the orphaned well pur-
13 suant to that requirement.

14 (2) REIMBURSEMENT FOR RECLAIMING OR-
15 PHANED WELLS ON OTHER LAND.—In carrying out
16 this subsection, the Secretary—

17 (A) may authorize any lessee under an oil
18 and gas lease on federally owned land to re-
19 claim in accordance with the Secretary's
20 standards—

21 (i) an orphaned well on unleased fed-
22 erally owned land; or

23 (ii) an orphaned well located on an ex-
24 isting lease on federally owned land for the

1 reclamation of which the lessee is not le-
2 gally responsible; and

3 (B) shall develop a program to provide re-
4 imbursement of 115 percent of the reasonable
5 actual costs of remediating, reclaiming, and
6 closing the orphaned well, through credits
7 against the Federal share of royalties or other
8 means.

9 (3) EFFECT OF REMEDIATION, RECLAMATION,
10 OR CLOSURE OF WELL PURSUANT TO AN APPROVED
11 REMEDICATION PLAN.—

12 (A) DEFINITION OF REMEDIATING
13 PARTY.—In this paragraph the term “remedi-
14 ating party” means a person who remediates,
15 reclaims, or closes an abandoned, orphaned, or
16 idled well pursuant to this subsection.

17 (B) GENERAL RULE.—A remediating party
18 who remediates, reclaims, or closes an aban-
19 doned, orphaned, or idled well in accordance
20 with a detailed written remediation plan ap-
21 proved by the Secretary under this subsection,
22 shall be immune from civil liability under Fed-
23 eral environmental laws, for—

24 (i) pre-existing environmental condi-
25 tions at or associated with the well, unless

1 the remediating party owns or operates, in
2 the past owned or operated, or is related to
3 a person that owns or operates or in the
4 past owned or operated, the well or the
5 land on which the well is located; or

6 (ii) any remaining releases of pollut-
7 ants from the well during or after comple-
8 tion of the remediation, reclamation, or
9 closure of the well, unless the remediating
10 party causes increased pollution as a result
11 of activities that are not in accordance
12 with the approved remediation plan.

13 (C) LIMITATIONS.—Nothing in this section
14 shall limit in any way the liability of a remedi-
15 ating party for injury, damage, or pollution re-
16 sulting from the remediating party's acts or
17 omissions that are not in accordance with the
18 approved remediation plan, are reckless or will-
19 ful, constitute gross negligence or wanton mis-
20 conduct, or are unlawful.

21 (4) REGULATIONS.—The Secretary may issue
22 such regulations as are appropriate to carry out this
23 subsection.

24 (h) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this section \$25,000,000
3 for each of fiscal years 2005 through 2009.

4 (2) USE.—Of the amounts authorized under
5 paragraph (1), \$5,000,000 are authorized for each
6 fiscal year for activities under subsection (f).

7 **SEC. 319. COMBINED HYDROCARBON LEASING.**

8 (a) SPECIAL PROVISIONS REGARDING LEASING.—
9 Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C.
10 226(b)(2)) is amended—

11 (1) by inserting “(A)” after “(2)”; and

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

13 “(B) For any area that contains any combination of
14 tar sand and oil or gas (or both), the Secretary may issue
15 under this Act, separately—

16 “(i) a lease for exploration for and extraction of
17 tar sand; and

18 “(ii) a lease for exploration for and development
19 of oil and gas.

20 “(C) A lease issued for tar sand shall be issued using
21 the same bidding process, annual rental, and posting pe-
22 riod as a lease issued for oil and gas, except that the min-
23 imum acceptable bid required for a lease issued for tar
24 sand shall be \$2 per acre.

1 “(D) The Secretary may waive, suspend, or alter any
2 requirement under section 26 that a permittee under a
3 permit authorizing prospecting for tar sand must exercise
4 due diligence, to promote any resource covered by a com-
5 bined hydrocarbon lease.”.

6 (b) CONFORMING AMENDMENT.—Section
7 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C.
8 226(b)(1)(B)) is amended in the second sentence by in-
9 serting “, subject to paragraph (2)(B),” after “Sec-
10 retary”.

11 (c) REGULATIONS.—Not later than 45 days after the
12 date of enactment of this Act, the Secretary shall issue
13 final regulations to implement this section.

14 **SEC. 320. LIQUIFIED NATURAL GAS.**

15 Section 3 of the Natural Gas Act (15 U.S.C. 717b)
16 is amended by adding at the end the following:

17 “(d) LIMITATION ON COMMISSION AUTHORITY.—If
18 an applicant under this section proposes to construct or
19 expand a liquified natural gas terminal either onshore or
20 in State waters for the purpose of importing liquified nat-
21 ural gas into the United States, the Commission shall not
22 deny or condition the application solely on the basis that
23 the applicant proposes to utilize the terminal exclusively
24 or partially for gas that the applicant or any affiliate

1 thereof will supply thereto. In all other respects, sub-
2 section (a) shall remain applicable to any such proposal.”.

3 **SEC. 321. ALTERNATE ENERGY-RELATED USES ON THE**
4 **OUTER CONTINENTAL SHELF.**

5 (a) AMENDMENT TO OUTER CONTINENTAL SHELF
6 LANDS ACT.—Section 8 of the Outer Continental Shelf
7 Lands Act (43 U.S.C. 1337) is amended by adding at the
8 end the following:

9 “(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR
10 ENERGY AND RELATED PURPOSES.—

11 “(1) IN GENERAL.—The Secretary, in consulta-
12 tion with the Secretary of the Department in which
13 the Coast Guard is operating and other relevant de-
14 partments and agencies of the Federal Government,
15 may grant a lease, easement, or right-of-way on the
16 outer Continental Shelf for activities not otherwise
17 authorized in this Act, the Deepwater Port Act of
18 1974 (33 U.S.C. 1501 et seq.), or the Ocean Ther-
19 mal Energy Conversion Act of 1980 (42 U.S.C.
20 9101 et seq.), or other applicable law, if those
21 activities—

22 “(A) support exploration, development,
23 production, transportation, or storage of oil,
24 natural gas, or other minerals;

1 “(B) produce or support production, trans-
2 portation, or transmission of energy from
3 sources other than oil and gas; or

4 “(C) use, for energy-related or marine-re-
5 lated purposes, facilities currently or previously
6 used for activities authorized under this Act.

7 “(2) PAYMENTS.—The Secretary shall establish
8 reasonable forms of payments for any easement or
9 right-of-way granted under this subsection. Such
10 payments shall not be assessed on the basis of
11 throughput or production. The Secretary may estab-
12 lish fees, rentals, bonus, or other payments by rule
13 or by agreement with the party to which the lease,
14 easement, or right-of-way is granted.

15 “(3) CONSULTATION.—Before exercising au-
16 thority under this subsection, the Secretary shall
17 consult with the Secretary of Defense and other ap-
18 propriate agencies concerning issues related to na-
19 tional security and navigational obstruction.

20 “(4) COMPETITIVE OR NONCOMPETITIVE
21 BASIS.—

22 “(A) IN GENERAL.—The Secretary may
23 issue a lease, easement, or right-of-way for en-
24 ergy and related purposes as described in para-

1 graph (1) on a competitive or noncompetitive
2 basis.

3 “(B) CONSIDERATIONS.—In determining
4 whether a lease, easement, or right-of-way shall
5 be granted competitively or noncompetitively,
6 the Secretary shall consider such factors as—

7 “(i) prevention of waste and conserva-
8 tion of natural resources;

9 “(ii) the economic viability of an en-
10 ergy project;

11 “(iii) protection of the environment;

12 “(iv) the national interest and na-
13 tional security;

14 “(v) human safety;

15 “(vi) protection of correlative rights;

16 and

17 “(vii) potential return for the lease,
18 easement, or right-of-way.

19 “(5) REGULATIONS.—Not later than 270 days
20 after the date of enactment of the Energy Policy Act
21 of 2003, the Secretary, in consultation with the Sec-
22 retary of the Department in which the Coast Guard
23 is operating and other relevant agencies of the Fed-
24 eral Government and affected States, shall issue any
25 necessary regulations to ensure safety, protection of

1 the environment, prevention of waste, and conserva-
2 tion of the natural resources of the outer Conti-
3 nental Shelf, protection of national security inter-
4 ests, and protection of correlative rights in the outer
5 Continental Shelf.

6 “(6) SECURITY.—The Secretary shall require
7 the holder of a lease, easement, or right-of-way
8 granted under this subsection to furnish a surety
9 bond or other form of security, as prescribed by the
10 Secretary, and to comply with such other require-
11 ments as the Secretary considers necessary to pro-
12 tect the interests of the United States.

13 “(7) EFFECT OF SUBSECTION.—Nothing in this
14 subsection displaces, supersedes, limits, or modifies
15 the jurisdiction, responsibility, or authority of any
16 Federal or State agency under any other Federal
17 law.

18 “(8) APPLICABILITY.—This subsection does not
19 apply to any area on the outer Continental Shelf
20 designated as a National Marine Sanctuary.”.

21 (b) CONFORMING AMENDMENT.—Section 8 of the
22 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is
23 amended by striking the section heading and inserting the
24 following: “LEASES, EASEMENTS, AND RIGHTS-OF-WAY
25 ON THE OUTER CONTINENTAL SHELF.—”.

1 (c) SAVINGS PROVISION.—Nothing in the amendment
2 made by subsection (a) requires, with respect to any
3 project—

4 (1) for which offshore test facilities have been
5 constructed before the date of enactment of this Act;
6 or

7 (2) for which a request for proposals has been
8 issued by a public authority,
9 any resubmittal of documents previously submitted or any
10 reauthorization of actions previously authorized.

11 **SEC. 322. PRESERVATION OF GEOLOGICAL AND GEO-**
12 **PHYSICAL DATA.**

13 (a) SHORT TITLE.—This section may be cited as the
14 “National Geological and Geophysical Data Preservation
15 Program Act of 2003”.

16 (b) PROGRAM.—The Secretary shall carry out a Na-
17 tional Geological and Geophysical Data Preservation Pro-
18 gram in accordance with this section—

19 (1) to archive geologic, geophysical, and engi-
20 neering data, maps, well logs, and samples;

21 (2) to provide a national catalog of such archi-
22 val material; and

23 (3) to provide technical and financial assistance
24 related to the archival material.

1 (c) PLAN.—Not later than 1 year after the date of
2 enactment of this Act, the Secretary shall submit to Con-
3 gress a plan for the implementation of the Program.

4 (d) DATA ARCHIVE SYSTEM.—

5 (1) ESTABLISHMENT.—The Secretary shall es-
6 tablish, as a component of the Program, a data ar-
7 chive system to provide for the storage, preservation,
8 and archiving of subsurface, surface, geological, geo-
9 physical, and engineering data and samples. The
10 Secretary, in consultation with the Advisory Com-
11 mittee, shall develop guidelines relating to the data
12 archive system, including the types of data and sam-
13 ples to be preserved.

14 (2) SYSTEM COMPONENTS.—The system shall
15 be comprised of State agencies that elect to be part
16 of the system and agencies within the Department
17 of the Interior that maintain geological and geo-
18 physical data and samples that are designated by
19 the Secretary in accordance with this subsection.
20 The Program shall provide for the storage of data
21 and samples through data repositories operated by
22 such agencies.

23 (3) LIMITATION OF DESIGNATION.—The Sec-
24 retary may not designate a State agency as a com-
25 ponent of the data archive system unless that agency

1 is the agency that acts as the geological survey in
2 the State.

3 (4) DATA FROM FEDERAL LAND.—The data ar-
4 chive system shall provide for the archiving of rel-
5 evant subsurface data and samples obtained from
6 Federal land—

7 (A) in the most appropriate repository des-
8 igned under paragraph (2), with preference
9 being given to archiving data in the State in
10 which the data were collected; and

11 (B) consistent with all applicable law and
12 requirements relating to confidentiality and pro-
13 prietary data.

14 (e) NATIONAL CATALOG.—

15 (1) IN GENERAL.—As soon as practicable after
16 the date of enactment of this Act, the Secretary
17 shall develop and maintain, as a component of the
18 Program, a national catalog that identifies—

19 (A) data and samples available in the data
20 archive system established under subsection (d);

21 (B) the repository for particular material
22 in the system; and

23 (C) the means of accessing the material.

24 (2) AVAILABILITY.—The Secretary shall make
25 the national catalog accessible to the public on the

1 site of the Survey on the Internet, consistent with all
2 applicable requirements related to confidentiality
3 and proprietary data.

4 (f) ADVISORY COMMITTEE.—

5 (1) IN GENERAL.—The Advisory Committee
6 shall advise the Secretary on planning and imple-
7 mentation of the Program.

8 (2) NEW DUTIES.—In addition to its duties
9 under the National Geologic Mapping Act of 1992
10 (43 U.S.C. 31a et seq.), the Advisory Committee
11 shall perform the following duties:

12 (A) Advise the Secretary on developing
13 guidelines and procedures for providing assist-
14 ance for facilities under subsection (g)(1).

15 (B) Review and critique the draft imple-
16 mentation plan prepared by the Secretary under
17 subsection (c).

18 (C) Identify useful studies of data archived
19 under the Program that will advance under-
20 standing of the Nation's energy and mineral re-
21 sources, geologic hazards, and engineering geol-
22 ogy.

23 (D) Review the progress of the Program in
24 archiving significant data and preventing the

1 loss of such data, and the scientific progress of
2 the studies funded under the Program.

3 (E) Include in the annual report to the
4 Secretary required under section 5(b)(3) of the
5 National Geologic Mapping Act of 1992 (43
6 U.S.C. 31d(b)(3)) an evaluation of the progress
7 of the Program toward fulfilling the purposes of
8 the Program under subsection (b).

9 (g) FINANCIAL ASSISTANCE.—

10 (1) ARCHIVE FACILITIES.—Subject to the avail-
11 ability of appropriations, the Secretary shall provide
12 financial assistance to a State agency that is des-
13 ignated under subsection (d)(2) for providing facili-
14 ties to archive energy material.

15 (2) STUDIES.—Subject to the availability of ap-
16 propriations, the Secretary shall provide financial as-
17 sistance to any State agency designated under sub-
18 section (d)(2) for studies and technical assistance
19 activities that enhance understanding, interpreta-
20 tion, and use of materials archived in the data ar-
21 chive system established under subsection (d).

22 (3) FEDERAL SHARE.—The Federal share of
23 the cost of an activity carried out with assistance
24 under this subsection shall be not more than 50 per-
25 cent of the total cost of the activity.

1 (4) PRIVATE CONTRIBUTIONS.—The Secretary
2 shall apply to the non-Federal share of the cost of
3 an activity carried out with assistance under this
4 subsection the value of private contributions of prop-
5 erty and services used for that activity.

6 (h) REPORT.—The Secretary shall include in each re-
7 port under section 8 of the National Geologic Mapping Act
8 of 1992 (43 U.S.C. 31g)—

9 (1) a description of the status of the Program;

10 (2) an evaluation of the progress achieved in
11 developing the Program during the period covered by
12 the report; and

13 (3) any recommendations for legislative or other
14 action the Secretary considers necessary and appro-
15 priate to fulfill the purposes of the Program under
16 subsection (b).

17 (i) MAINTENANCE OF STATE EFFORT.—It is the in-
18 tent of Congress that the States not use this section as
19 an opportunity to reduce State resources applied to the
20 activities that are the subject of the Program.

21 (j) DEFINITIONS.—In this section:

22 (1) ADVISORY COMMITTEE.—The term “Advi-
23 sory Committee” means the advisory committee es-
24 tablished under section 5 of the National Geologic
25 Mapping Act of 1992 (43 U.S.C. 31d).

1 (2) PROGRAM.—The term “Program” means
2 the National Geological and Geophysical Data Pres-
3 ervation Program carried out under this section.

4 (3) SECRETARY.—The term “Secretary” means
5 the Secretary of the Interior, acting through the Di-
6 irector of the United States Geological Survey.

7 (4) SURVEY.—The term “Survey” means the
8 United States Geological Survey.

9 (k) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to carry out this section
11 \$30,000,000 for each of fiscal years 2004 through 2008.

12 **SEC. 323. OIL AND GAS LEASE ACREAGE LIMITATIONS.**

13 Section 27(d)(1) of the Mineral Leasing Act (30
14 U.S.C. 184(d)(1)) is amended by inserting after “acreage
15 held in special tar sand areas” the following: “, and acre-
16 age under any lease any portion of which has been com-
17 mitted to a federally approved unit or cooperative plan or
18 communitization agreement or for which royalty (includ-
19 ing compensatory royalty or royalty in-kind) was paid in
20 the preceding calendar year,”.

21 **SEC. 324. ASSESSMENT OF DEPENDENCE OF STATE OF HA-**

22 **WAII ON OIL.**

23 (a) ASSESSMENT.—The Secretary of Energy shall as-
24 sess the economic implication of the dependence of the

1 State of Hawaii on oil as the principal source of energy
2 for the State, including—

3 (1) the short- and long-term prospects for crude
4 oil supply disruption and price volatility and poten-
5 tial impacts on the economy of Hawaii;

6 (2) the economic relationship between oil-fired
7 generation of electricity from residual fuel and re-
8 fined petroleum products consumed for ground, ma-
9 rine, and air transportation;

10 (3) the technical and economic feasibility of in-
11 creasing the contribution of renewable energy re-
12 sources for generation of electricity, on an island-by-
13 island basis, including—

14 (A) siting and facility configuration;

15 (B) environmental, operational, and safety
16 considerations;

17 (C) the availability of technology;

18 (D) effects on the utility system including
19 reliability;

20 (E) infrastructure and transport require-
21 ments;

22 (F) community support; and

23 (G) other factors affecting the economic
24 impact of such an increase and any effect on

1 the economic relationship described in para-
2 graph (2);

3 (4) the technical and economic feasibility of
4 using liquified natural gas to displace residual fuel
5 oil for electric generation, including neighbor island
6 opportunities, and the effect of the displacement on
7 the economic relationship described in paragraph
8 (2), including—

9 (A) the availability of supply;

10 (B) siting and facility configuration for on-
11 shore and offshore liquified natural gas receiv-
12 ing terminals;

13 (C) the factors described in subparagraphs
14 (B) through (F) of paragraph (3); and

15 (D) other economic factors;

16 (5) the technical and economic feasibility of
17 using renewable energy sources (including hydrogen)
18 for ground, marine, and air transportation energy
19 applications to displace the use of refined petroleum
20 products, on an island-by-island basis, and the eco-
21 nomic impact of the displacement on the relationship
22 described in (2); and

23 (6) an island-by-island approach to—

24 (A) the development of hydrogen from re-
25 newable resources; and

1 (B) the application of hydrogen to the en-
2 ergy needs of Hawaii

3 (b) CONTRACTING AUTHORITY.—The Secretary of
4 Energy may carry out the assessment under subsection
5 (a) directly or, in whole or in part, through 1 or more
6 contracts with qualified public or private entities.

7 (c) REPORT.—Not later than 300 days after the date
8 of enactment of this Act, the Secretary of Energy shall
9 prepare, in consultation with agencies of the State of Ha-
10 waii and other stakeholders, as appropriate, and submit
11 to Congress, a report detailing the findings, conclusions,
12 and recommendations resulting from the assessment.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated such sums as are nec-
15 essary to carry out this section.

16 **SEC. 325. DEADLINE FOR DECISION ON APPEALS OF CON-**
17 **SISTENCY DETERMINATION UNDER THE**
18 **COASTAL ZONE MANAGEMENT ACT OF 1972.**

19 (a) IN GENERAL.—Section 319 of the Coastal Zone
20 Management Act of 1972 (16 U.S.C. 1465) is amended
21 to read as follows:

22 “APPEALS TO THE SECRETARY

23 “SEC. 319. (a) NOTICE.—The Secretary shall publish
24 an initial notice in the Federal Register not later than 30
25 days after the date of the filing of any appeal to the Sec-
26 retary of a consistency determination under section 307.

1 “(b) CLOSURE OF RECORD.—

2 “(1) IN GENERAL.—Not later than the end of
3 the 120-day period beginning on the date of publica-
4 tion of an initial notice under subsection (a), the
5 Secretary shall receive no more filings on the appeal
6 and the administrative record regarding the appeal
7 shall be closed.

8 “(2) NOTICE.—Upon the closure of the admin-
9 istrative record, the Secretary shall immediately
10 publish a notice that the administrative record has
11 been closed.

12 “(c) DEADLINE FOR DECISION.—The Secretary shall
13 issue a decision in any appeal filed under section 307 not
14 later than 120 days after the closure of the administrative
15 record.

16 “(d) APPLICATION.—This section applies to appeals
17 initiated by the Secretary and appeals filed by an appli-
18 cant.”.

19 (b) APPLICATION.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the amendment made by subsection (a)
22 shall apply with respect to any appeal initiated or
23 filed before, on, or after the date of enactment of
24 this Act.

1 (2) LIMITATION.—Subsection (a) of section 319
2 of the Coastal Zone Management Act of 1972 (as
3 amended by subsection (a)) shall not apply with re-
4 spect to an appeal initiated or filed before the date
5 of enactment of this Act.

6 (c) CLOSURE OF RECORD FOR APPEAL FILED BE-
7 FORE DATE OF ENACTMENT.—Notwithstanding section
8 319(b)(1) of the Coastal Zone Management Act of 1972
9 (as amended by this section), in the case of an appeal of
10 a consistency determination under section 307 of that Act
11 initiated or filed before the date of enactment of this Act,
12 the Secretary of Commerce shall receive no more filings
13 on the appeal and the administrative record regarding the
14 appeal shall be closed not later than 120 days after the
15 date of enactment of this Act.

16 **SEC. 326. REIMBURSEMENT FOR COSTS OF NEPA ANAL-**
17 **YSES, DOCUMENTATION, AND STUDIES.**

18 (a) IN GENERAL.—The Mineral Leasing Act is
19 amended by inserting after section 37 (30 U.S.C. 193)
20 the following:

21 “REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES,
22 DOCUMENTATION, AND STUDIES

23 “SEC. 38. (a) IN GENERAL.—The Secretary of the
24 Interior may reimburse a person that is a lessee, operator,
25 operating rights owner, or applicant for any lease under
26 this Act for reasonable amounts paid by the person for

1 preparation for the Secretary by a contractor or other per-
2 son selected by the Secretary of any project-level analysis,
3 documentation, or related study required pursuant to the
4 National Environmental Policy Act of 1969 (42 U.S.C.
5 4321 et seq.) with respect to the lease.

6 “(b) CONDITIONS.—The Secretary may provide reim-
7 bursement under subsection (a) only if—

8 “(1) adequate funding to enable the Secretary
9 to timely prepare the analysis, documentation, or re-
10 lated study is not appropriated;

11 “(2) the person paid the costs voluntarily;

12 “(3) the person maintains records of its costs
13 in accordance with regulations issued by the Sec-
14 retary;

15 “(4) the reimbursement is in the form of a re-
16 duction in the Federal share of the royalty required
17 to be paid for the lease for which the analysis, docu-
18 mentation, or related study is conducted, and is
19 agreed to by the Secretary and the person reim-
20 bursed prior to commencing the analysis, docu-
21 mentation, or related study; and

22 “(5) the agreement required under paragraph
23 (4) contains provisions—

24 “(A) reducing royalties owed on lease pro-
25 duction based on market prices;

1 “(B) stipulating an automatic termination
2 of the royalty reduction upon recovery of docu-
3 mented costs; and

4 “(C) providing a process by which the les-
5 see may seek reimbursement for circumstances
6 in which production from the specified lease is
7 not possible.”.

8 (b) APPLICATION.—The amendment made by this
9 section shall apply with respect to an analysis, documenta-
10 tion, or a related study conducted on or after the date
11 of enactment of this Act for any lease entered into before,
12 on, or after the date of enactment of this Act.

13 (c) DEADLINE FOR REGULATIONS.—The Secretary
14 shall issue regulations implementing the amendment made
15 by this section by not later than 1 year after the date
16 of enactment of this Act.

17 **SEC. 327. HYDRAULIC FRACTURING.**

18 Paragraph (1) of section 1421(d) of the Safe Drink-
19 ing Water Act (42 U.S.C. 300h(d)) is amended to read
20 as follows:

21 “(1) UNDERGROUND INJECTION.—The term
22 ‘underground injection’—

23 “(A) means the subsurface emplacement of
24 fluids by well injection; and

25 “(B) excludes—

1 “(i) the underground injection of nat-
2 ural gas for purposes of storage; and

3 “(ii) the underground injection of
4 fluids or propping agents pursuant to hy-
5 draulic fracturing operations related to oil
6 or gas production activities.”.

7 **SEC. 328. OIL AND GAS EXPLORATION AND PRODUCTION**
8 **DEFINED.**

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

12 “(24) OIL AND GAS EXPLORATION AND PRO-
13 DUCTION.—The term ‘oil and gas exploration, pro-
14 duction, processing, or treatment operations or
15 transmission facilities’ means all field activities or
16 operations associated with exploration, production,
17 processing, or treatment operations, or transmission
18 facilities, including activities necessary to prepare a
19 site for drilling and for the movement and placement
20 of drilling equipment, whether or not such field ac-
21 tivities or operations may be considered to be con-
22 struction activities.”.

23 **SEC. 329. OUTER CONTINENTAL SHELF PROVISIONS.**

24 (a) STORAGE ON THE OUTER CONTINENTAL
25 SHELF.—Section 5(a)(5) of the Outer Continental Shelf

1 Lands Act (43 U.S.C. 1334(a)(5)) is amended by insert-
2 ing “from any source” after “oil and gas”.

3 (b) DEEPWATER PROJECTS.—Section 6 of the Deep-
4 water Port Act of 1974 (33 U.S.C. 1505) is amended by
5 adding at the end the following:

6 “(d) RELIANCE ON ACTIVITIES OF OTHER AGEN-
7 CIES.—In fulfilling the requirements of section 5(f)—

8 “(1) to the extent that other Federal agencies
9 have prepared environmental impact statements, are
10 conducting studies, or are monitoring the affected
11 human, marine, or coastal environment, the Sec-
12 retary may use the information derived from those
13 activities in lieu of directly conducting such activi-
14 ties; and

15 “(2) the Secretary may use information ob-
16 tained from any State or local government or from
17 any person.”.

18 (c) NATURAL GAS DEFINED.—Section 3(13) of the
19 Deepwater Port Act of 1974 (33 U.S.C. 1502(13)) is
20 amended to read as follows:

21 “(13) natural gas means—

22 “(A) natural gas unmixed; or

23 “(B) any mixture of natural or artificial
24 gas, including compressed or liquefied natural
25 gas, natural gas liquids, liquefied petroleum

1 gas, and condensate recovered from natural
2 gas;”.

3 **SEC. 330. APPEALS RELATING TO PIPELINE CONSTRUC-**
4 **TION OR OFFSHORE MINERAL DEVELOP-**
5 **MENT PROJECTS.**

6 (a) AGENCY OF RECORD, PIPELINE CONSTRUCTION
7 PROJECTS.—Any Federal administrative agency pro-
8 ceeding that is an appeal or review under section 319 of
9 the Coastal Zone Management Act of 1972 (16 U.S.C.
10 1465), as amended by this Act, related to Federal author-
11 ity for an interstate natural gas pipeline construction
12 project, including construction of natural gas storage and
13 liquefied natural gas facilities, shall use as its exclusive
14 record for all purposes the record compiled by the Federal
15 Energy Regulatory Commission pursuant to the Commis-
16 sion’s proceeding under sections 3 and 7 of the Natural
17 Gas Act (15 U.S.C. 717b, 717f).

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that all Federal and State agencies with jurisdiction
20 over interstate natural gas pipeline construction activities
21 should coordinate their proceedings within the timeframes
22 established by the Federal Energy Regulatory Commission
23 when the Commission is acting under sections 3 and 7
24 of the Natural Gas Act (15 U.S.C. 717b, 717f) to deter-
25 mine whether a certificate of public convenience and neces-

1 sity should be issued for a proposed interstate natural gas
2 pipeline.

3 (c) AGENCY OF RECORD, OFFSHORE MINERAL DE-
4 VELOPMENT PROJECTS.—Any Federal administrative
5 agency proceeding that is an appeal or review under sec-
6 tion 319 of the Coastal Zone Management Act of 1972
7 (16 U.S.C. 1465), as amended by this Act, related to Fed-
8 eral authority for the permitting, approval, or other au-
9 thorization of energy projects, including projects to ex-
10 plore, develop, or produce mineral resources in or under-
11 lying the outer Continental Shelf shall use as its exclusive
12 record for all purposes (except for the filing of pleadings)
13 the record compiled by the relevant Federal permitting
14 agency.

15 **SEC. 331. BILATERAL INTERNATIONAL OIL SUPPLY AGREE-**
16 **MENTS.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of law, the President may export oil to, or secure oil
19 for, any country pursuant to a bilateral international oil
20 supply agreement entered into by the United States with
21 the country before June 25, 1979, or to any country pur-
22 suant to the International Emergency Oil Sharing Plan
23 of the International Energy Agency.

1 (b) MEMORANDUM OF AGREEMENT.—The following
2 agreements are deemed to have entered into force by oper-
3 ation of law and are deemed to have no termination date:

4 (1) The agreement entitled “Agreement amend-
5 ing and extending the memorandum of agreement of
6 June 22, 1979”, entered into force November 13,
7 1994 (TIAS 12580).

8 (2) The agreement entitled “Agreement amend-
9 ing the contingency implementing arrangements of
10 October 17, 1980”, entered into force June 27,
11 1995 (TIAS 12670).

12 **SEC. 332. NATURAL GAS MARKET REFORM.**

13 (a) CLARIFICATION OF EXISTING CFTC AUTHOR-
14 ITY.—

15 (1) FALSE REPORTING.—Section 9(a)(2) of the
16 Commodity Exchange Act (7 U.S.C. 13(a)(2)) is
17 amended by striking “false or misleading or know-
18 ingly inaccurate reports” and inserting “knowingly
19 false or knowingly misleading or knowingly inac-
20 curate reports”.

21 (2) COMMISSION ADMINISTRATIVE AND CIVIL
22 AUTHORITY.—Section 9 of the Commodity Ex-
23 change Act (7 U.S.C. 13) is amended by redesign-
24 nating subsection (f) as subsection (e), and adding:

1 “(f) COMMISSION ADMINISTRATIVE AND CIVIL AU-
2 THORITY.—The Commission may bring administrative or
3 civil actions as provided in this Act against any person
4 for a violation of any provision of this section including,
5 but not limited to, false reporting under subsection
6 (a)(2).”.

7 (3) EFFECT OF AMENDMENTS.—The amend-
8 ments made by paragraphs (1) and (2) restate, with-
9 out substantive change, existing burden of proof pro-
10 visions and existing Commission civil enforcement
11 authority, respectively. These clarifying changes do
12 not alter any existing burden of proof or grant any
13 new statutory authority. The provisions of this sec-
14 tion, as restated herein, continue to apply to any ac-
15 tion pending on or commenced after the date of en-
16 actment of this Act for any act, omission, or viola-
17 tion occurring before, on, or after, such date of en-
18 actment.

19 (b) FRAUD AUTHORITY.—Section 4b of the Com-
20 modity Exchange Act (7 U.S.C. 6b) is amended—

21 (1) by redesignating subsections (b) and (c) as
22 subsections (c) and (d), respectively; and

23 (2) by striking subsection (a) and inserting the
24 following:

25 “(a) It shall be unlawful—

1 “(1) for any person, in or in connection with
2 any order to make, or the making of, any contract
3 of sale of any commodity for future delivery or in
4 interstate commerce, that is made, or to be made, on
5 or subject to the rules of a designated contract mar-
6 ket, for or on behalf of any other person; or

7 “(2) for any person, in or in connection with
8 any order to make, or the making of, any contract
9 of sale of any commodity for future delivery, or
10 other agreement, contract, or transaction subject to
11 section 5a(g) (1) and (2) of this Act, that is made,
12 or to be made, for or on behalf of, or with, any other
13 person, other than on or subject to the rules of a
14 designated contract market—

15 “(A) to cheat or defraud or attempt to
16 cheat or defraud such other person;

17 “(B) willfully to make or cause to be made
18 to such other person any false report or state-
19 ment or willfully to enter or cause to be entered
20 for such other person any false record;

21 “(C) willfully to deceive or attempt to de-
22 ceive such other person by any means whatso-
23 ever in regard to any order or contract or the
24 disposition or execution of any order or con-
25 tract, or in regard to any act of agency per-

1 formed, with respect to any order or contract
2 for or, in the case of subsection (a)(2), with
3 such other person; or

4 “(D)(i) to bucket an order if such order is
5 either represented by such person as an order
6 to be executed, or required to be executed, on
7 or subject to the rules of a designated contract
8 market; or

9 “(ii) to fill an order by offset against the
10 order or orders of any other person, or willfully
11 and knowingly and without the prior consent of
12 such other person to become the buyer in re-
13 spect to any selling order of such other person,
14 or become the seller in respect to any buying
15 order of such other person, if such order is ei-
16 ther represented by such person as an order to
17 be executed, or required to be executed, on or
18 subject to the rules of a designated contract
19 market.

20 “(b) Subsection (a)(2) shall not obligate any person,
21 in connection with a transaction in a contract of sale of
22 a commodity for future delivery, or other agreement, con-
23 tract or transaction subject to section 5a(g) (1) and (2)
24 of this Act, with another person, to disclose to such other
25 person nonpublic information that may be material to the

1 market price of such commodity or transaction, except as
2 necessary to make any statement made to such other per-
3 son in connection with such transaction, not misleading
4 in any material respect.”.

5 (c) JURISDICTION OF THE CFTC.—The Natural Gas
6 Act (15 U.S.C. 717 et seq.) is amended by adding at the
7 end:

8 **“SEC. 26. JURISDICTION.**

9 “This Act shall not affect the exclusive jurisdiction
10 of the Commodity Futures Trading Commission with re-
11 spect to accounts, agreements, contracts, or transactions
12 in commodities under the Commodity Exchange Act (7
13 U.S.C. 1 et seq.). Any request for information by the Com-
14 mission to a designated contract market, registered deriva-
15 tives transaction execution facility, board of trade, ex-
16 change, or market involving accounts, agreements, con-
17 tracts, or transactions in commodities (including natural
18 gas, electricity, and other energy commodities) within the
19 exclusive jurisdiction of the Commodity Futures Trading
20 Commission shall be directed to the Commodity Futures
21 Trading Commission, which shall cooperate in responding
22 to any information request by the Commission.”.

23 (d) INCREASED PENALTIES.—Section 21 of the Nat-
24 ural Gas Act (15 U.S.C. 717t) is amended—

25 (1) in subsection (a)—

1 (A) by striking “\$5,000” and inserting
2 “\$1,000,000”; and

3 (B) by striking “two years” and inserting
4 “5 years”; and

5 (2) in subsection (b), by striking “\$500” and
6 inserting “\$50,000”.

7 **SEC. 333. NATURAL GAS MARKET TRANSPARENCY.**

8 The Natural Gas Act (15 U.S.C 717 et seq.) is
9 amended—

10 (1) by redesignating section 24 as section 25;

11 and

12 (2) by inserting after section 23 the following:

13 **“SEC. 24. NATURAL GAS MARKET TRANSPARENCY.**

14 “(a) AUTHORIZATION.—(1) Not later than 180 days
15 after the date of enactment of the Energy Policy Act of
16 2003, the Federal Energy Regulatory Commission shall
17 issue rules directing all entities subject to the Commis-
18 sion’s jurisdiction as provided under this Act to timely re-
19 port information about the availability and prices of nat-
20 ural gas sold at wholesale in interstate commerce to the
21 Commission and price publishers.

22 “(2) The Commission shall evaluate the data for ade-
23 quate price transparency and accuracy.

24 “(3) Rules issued under this subsection requiring the
25 reporting of information to the Commission that may be-

1 come publicly available shall be limited to aggregate data
2 and transaction-specific data that are otherwise required
3 by the Commission to be made public.

4 “(4) In exercising its authority under this section, the
5 Commission shall not—

6 “(A) compete with, or displace from the market
7 place, any price publisher; or

8 “(B) regulate price publishers or impose any re-
9 quirements on the publication of information.

10 “(b) **TIMELY ENFORCEMENT.**—No person shall be
11 subject to any penalty under this section with respect to
12 a violation occurring more than 3 years before the date
13 on which the Federal Energy Regulatory Commission
14 seeks to assess a penalty.

15 “(c) **LIMITATION ON COMMISSION AUTHORITY.**—(1)
16 The Commission shall not condition access to interstate
17 pipeline transportation upon the reporting requirements
18 authorized under this section.

19 “(2) Natural gas sales by a producer that are attrib-
20 utable to volumes of natural gas produced by such pro-
21 ducer shall not be subject to the rules issued pursuant to
22 this section.

23 “(3) The Commission shall not require natural gas
24 producers, processors, or users who have a de minimis

1 market presence to participate in the reporting require-
2 ments provided in this section.”.

3 **Subtitle C—Access to Federal Land**

4 **SEC. 341. OFFICE OF FEDERAL ENERGY PROJECT COORDI-** 5 **NATION.**

6 (a) ESTABLISHMENT.—The President shall establish
7 the Office of Federal Energy Project Coordination (re-
8 ferred to in this section as the “Office”) within the Execu-
9 tive Office of the President in the same manner and with
10 the same mission as the White House Energy Projects
11 Task Force established by Executive Order No. 13212 (42
12 U.S.C. 13201 note).

13 (b) STAFFING.—The Office shall be staffed by func-
14 tional experts from relevant Federal agencies on a non-
15 reimbursable basis to carry out the mission of the Office.

16 (c) REPORT.—The Office shall transmit an annual
17 report to Congress that describes the activities put in place
18 to coordinate and expedite Federal decisions on energy
19 projects. The report shall list accomplishments in improv-
20 ing the Federal decisionmaking process and shall include
21 any additional recommendations or systemic changes
22 needed to establish a more effective and efficient Federal
23 permitting process.

1 **SEC. 342. FEDERAL ONSHORE OIL AND GAS LEASING AND**
2 **PERMITTING PRACTICES.**

3 (a) REVIEW OF ONSHORE OIL AND GAS LEASING
4 PRACTICES.—

5 (1) IN GENERAL.—The Secretary of the Inte-
6 rior, in consultation with the Secretary of Agri-
7 culture with respect to National Forest System lands
8 under the jurisdiction of the Department of Agri-
9 culture, shall perform an internal review of current
10 Federal onshore oil and gas leasing and permitting
11 practices.

12 (2) INCLUSIONS.—The review shall include the
13 process for—

14 (A) accepting or rejecting offers to lease;

15 (B) administrative appeals of decisions or
16 orders of officers or employees of the Bureau of
17 Land Management with respect to a Federal oil
18 or gas lease;

19 (C) considering surface use plans of oper-
20 ation, including the timeframes in which the
21 plans are considered, and any recommendations
22 for improving and expediting the process; and

23 (D) identifying stipulations to address site-
24 specific concerns and conditions, including those
25 stipulations relating to the environment and re-
26 source use conflicts.

1 (b) REPORT.—Not later than 180 days after the date
2 of enactment of this Act, the Secretary of the Interior and
3 the Secretary of Agriculture shall transmit a report to
4 Congress that describes—

5 (1) actions taken under section 3 of Executive
6 Order No. 13212 (42 U.S.C. 13201 note); and

7 (2) actions taken or any plans to improve the
8 Federal onshore oil and gas leasing program.

9 **SEC. 343. MANAGEMENT OF FEDERAL OIL AND GAS LEAS-**
10 **ING PROGRAMS.**

11 (a) TIMELY ACTION ON LEASES AND PERMITS.—To
12 ensure timely action on oil and gas leases and applications
13 for permits to drill on land otherwise available for leasing,
14 the Secretary of the Interior (in this section referred to
15 as the “Secretary”) shall—

16 (1) ensure expeditious compliance with section
17 102(2)(C) of the National Environmental Policy Act
18 of 1969 (42 U.S.C. 4332(2)(C));

19 (2) improve consultation and coordination with
20 the States and the public; and

21 (3) improve the collection, storage, and retrieval
22 of information relating to the leasing activities.

23 (b) BEST MANAGEMENT PRACTICES.—

24 (1) IN GENERAL.—Not later than 18 months
25 after the date of enactment of this Act, the Sec-

1 retary shall develop and implement best manage-
2 ment practices to—

3 (A) improve the administration of the on-
4 shore oil and gas leasing program under the
5 Mineral Leasing Act (30 U.S.C. 181 et seq.);
6 and

7 (B) ensure timely action on oil and gas
8 leases and applications for permits to drill on
9 lands otherwise available for leasing.

10 (2) CONSIDERATIONS.—In developing the best
11 management practices under paragraph (1), the Sec-
12 retary shall consider any recommendations from the
13 review under section 342.

14 (3) REGULATIONS.—Not later than 180 days
15 after the development of best management practices
16 under paragraph (1), the Secretary shall publish, for
17 public comment, proposed regulations that set forth
18 specific timeframes for processing leases and appli-
19 cations in accordance with the practices, including
20 deadlines for—

21 (A) approving or disapproving resource
22 management plans and related documents, lease
23 applications, and surface use plans; and

24 (B) related administrative appeals.

1 (c) IMPROVED ENFORCEMENT.—The Secretary shall
2 improve inspection and enforcement of oil and gas activi-
3 ties, including enforcement of terms and conditions in per-
4 mits to drill.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
6 tion to amounts authorized to be appropriated to carry
7 out section 17 of the Mineral Leasing Act (30 U.S.C.
8 226), there are authorized to be appropriated to the Sec-
9 retary for each of fiscal years 2004 through 2007—

10 (1) \$40,000,000 to carry out subsections (a)
11 and (b); and

12 (2) \$20,000,000 to carry out subsection (c).

13 **SEC. 344. CONSULTATION REGARDING OIL AND GAS LEAS-**
14 **ING ON PUBLIC LAND.**

15 (a) IN GENERAL.—Not later than 180 days after the
16 date of enactment of this Act, the Secretary of the Interior
17 and the Secretary of Agriculture shall enter into a memo-
18 randum of understanding regarding oil and gas leasing
19 on—

20 (1) public lands under the jurisdiction of the
21 Secretary of the Interior; and

22 (2) National Forest System lands under the ju-
23 risdiction of the Secretary of Agriculture.

24 (b) CONTENTS.—The memorandum of understanding
25 shall include provisions that—

1 (1) establish administrative procedures and
2 lines of authority that ensure timely processing of oil
3 and gas lease applications, surface use plans of oper-
4 ation, and applications for permits to drill, including
5 steps for processing surface use plans and applica-
6 tions for permits to drill consistent with the
7 timelines established by the amendment made by
8 section 348;

9 (2) eliminate duplication of effort by providing
10 for coordination of planning and environmental com-
11 pliance efforts; and

12 (3) ensure that lease stipulations are—

13 (A) applied consistently;

14 (B) coordinated between agencies; and

15 (C) only as restrictive as necessary to pro-
16 tect the resource for which the stipulations are
17 applied.

18 (c) DATA RETRIEVAL SYSTEM.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this Act, the Secretary of
21 the Interior and the Secretary of Agriculture shall
22 establish a joint data retrieval system that is capable
23 of—

24 (A) tracking applications and formal re-
25 quests made in accordance with procedures of

1 the Federal onshore oil and gas leasing pro-
2 gram; and

3 (B) providing information regarding the
4 status of the applications and requests within
5 the Department of the Interior and the Depart-
6 ment of Agriculture.

7 (2) RESOURCE MAPPING.—Not later than 2
8 years after the date of enactment of this Act, the
9 Secretary of the Interior and the Secretary of Agri-
10 culture shall establish a joint Geographic Informa-
11 tion System mapping system for use in—

12 (A) tracking surface resource values to aid
13 in resource management; and

14 (B) processing surface use plans of oper-
15 ation and applications for permits to drill.

16 **SEC. 345. ESTIMATES OF OIL AND GAS RESOURCES UNDER-**
17 **LYING ONSHORE FEDERAL LAND.**

18 (a) ASSESSMENT.—Section 604 of the Energy Act of
19 2000 (42 U.S.C. 6217) is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (1)—

22 (i) by striking “reserve”; and

23 (ii) by striking “and” after the semi-
24 colon; and

1 (B) by striking paragraph (2) and insert-
2 ing the following:

3 “(2) the extent and nature of any restrictions
4 or impediments to the development of the resources,
5 including—

6 “(A) impediments to the timely granting of
7 leases;

8 “(B) post-lease restrictions, impediments,
9 or delays on development for conditions of ap-
10 proval, applications for permits to drill, or proc-
11 essing of environmental permits; and

12 “(C) permits or restrictions associated with
13 transporting the resources for entry into com-
14 merce; and

15 “(3) the quantity of resources not produced or
16 introduced into commerce because of the restric-
17 tions.”;

18 (2) in subsection (b)—

19 (A) by striking “reserve” and inserting
20 “resource”; and

21 (B) by striking “publically” and inserting
22 “publicly”; and

23 (3) by striking subsection (d) and inserting the
24 following:

1 “(d) ASSESSMENTS.—Using the inventory, the Sec-
2 retary of Energy shall make periodic assessments of eco-
3 nomically recoverable resources accounting for a range of
4 parameters such as current costs, commodity prices, tech-
5 nology, and regulations.”.

6 (b) METHODOLOGY.—The Secretary of the Interior
7 shall use the same assessment methodology across all geo-
8 logical provinces, areas, and regions in preparing and
9 issuing national geological assessments to ensure accurate
10 comparisons of geological resources.

11 **SEC. 346. COMPLIANCE WITH EXECUTIVE ORDER 13211; AC-**
12 **TIONS CONCERNING REGULATIONS THAT**
13 **SIGNIFICANTLY AFFECT ENERGY SUPPLY,**
14 **DISTRIBUTION, OR USE.**

15 (a) REQUIREMENT.—The head of each Federal agen-
16 cy shall require that before the Federal agency takes any
17 action that could have a significant adverse effect on the
18 supply of domestic energy resources from Federal public
19 land, the Federal agency taking the action shall comply
20 with Executive Order No. 13211 (42 U.S.C. 13201 note).

21 (b) GUIDANCE.—Not later than 180 days after the
22 date of enactment of this Act, the Secretary of Energy
23 shall publish guidance for purposes of this section describ-
24 ing what constitutes a significant adverse effect on the

1 supply of domestic energy resources under Executive
2 Order No. 13211 (42 U.S.C. 13201 note).

3 (c) MEMORANDUM OF UNDERSTANDING.—The Sec-
4 retary of the Interior and the Secretary of Agriculture
5 shall include in the memorandum of understanding under
6 section 344 provisions for implementing subsection (a) of
7 this section.

8 **SEC. 347. PILOT PROJECT TO IMPROVE FEDERAL PERMIT**
9 **COORDINATION.**

10 (a) ESTABLISHMENT.—The Secretary of the Interior
11 (in this section referred to as the “Secretary”) shall estab-
12 lish a Federal Permit Streamlining Pilot Project (in this
13 section referred to as the “Pilot Project”).

14 (b) MEMORANDUM OF UNDERSTANDING.—

15 (1) IN GENERAL.—Not later than 90 days after
16 the date of enactment of this Act, the Secretary
17 shall enter into a memorandum of understanding
18 with the Secretary of Agriculture, the Administrator
19 of the Environmental Protection Agency, and the
20 Chief of Engineers of the Army Corps of Engineers
21 for purposes of this section.

22 (2) STATE PARTICIPATION.—The Secretary
23 may request that the Governors of Wyoming, Mon-
24 tana, Colorado, Utah, and New Mexico be signato-
25 ries to the memorandum of understanding.

1 (c) DESIGNATION OF QUALIFIED STAFF.—

2 (1) IN GENERAL.—Not later than 30 days after
3 the date of the signing of the memorandum of un-
4 derstanding under subsection (b), all Federal signa-
5 tory parties shall assign to each of the field offices
6 identified in subsection (d), on a nonreimbursable
7 basis, an employee who has expertise in the regu-
8 latory issues relating to the office in which the em-
9 ployee is employed, including, as applicable, par-
10 ticular expertise in—

11 (A) the consultations and the preparation
12 of biological opinions under section 7 of the En-
13 dangered Species Act of 1973 (16 U.S.C.
14 1536);

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

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

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

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

1 (2) DUTIES.—Each employee assigned under
2 paragraph (1) shall—

3 (A) not later than 90 days after the date
4 of assignment, report to the Bureau of Land
5 Management Field Managers in the office to
6 which the employee is assigned;

7 (B) be responsible for all issues relating to
8 the jurisdiction of the home office or agency of
9 the employee; and

10 (C) participate as part of the team of per-
11 sonnel working on proposed energy projects,
12 planning, and environmental analyses.

13 (d) FIELD OFFICES.—The following Bureau of Land
14 Management Field Offices shall serve as the Pilot Project
15 offices:

- 16 (1) Rawlins, Wyoming.
- 17 (2) Buffalo, Wyoming.
- 18 (3) Miles City, Montana
- 19 (4) Farmington, New Mexico.
- 20 (5) Carlsbad, New Mexico.
- 21 (6) Glenwood Springs, Colorado.
- 22 (7) Vernal, Utah.

23 (e) REPORTS.—Not later than 3 years after the date
24 of enactment of this Act, the Secretary shall transmit to
25 Congress a report that—

1 (1) outlines the results of the Pilot Project to
2 date; and

3 (2) makes a recommendation to the President
4 regarding whether the Pilot Project should be imple-
5 mented throughout the United States.

6 (f) **ADDITIONAL PERSONNEL.**—The Secretary shall
7 assign to each field office identified in subsection (d) any
8 additional personnel that are necessary to ensure the ef-
9 fective implementation of—

10 (1) the Pilot Project; and

11 (2) other programs administered by the field of-
12 fices, including inspection and enforcement relating
13 to energy development on Federal land, in accord-
14 ance with the multiple use mandate of the Federal
15 Land Policy and Management Act of 1976 (43
16 U.S.C. 1701 et seq).

17 (g) **SAVINGS PROVISION.**—Nothing in this section
18 affects—

19 (1) the operation of any Federal or State law;
20 or

21 (2) any delegation of authority made by the
22 head of a Federal agency whose employees are par-
23 ticipating in the Pilot Project.

1 **SEC. 348. DEADLINE FOR CONSIDERATION OF APPLICA-**
2 **TIONS FOR PERMITS.**

3 Section 17 of the Mineral Leasing Act (30 U.S.C.
4 226) is amended by adding at the end the following:

5 “(p) DEADLINES FOR CONSIDERATION OF APPLICA-
6 TIONS FOR PERMITS.—

7 “(1) IN GENERAL.—Not later than 10 days
8 after the date on which the Secretary receives an ap-
9 plication for any permit to drill, the Secretary
10 shall—

11 “(A) notify the applicant that the applica-
12 tion is complete; or

13 “(B) notify the applicant that information
14 is missing and specify any information that is
15 required to be submitted for the application to
16 be complete.

17 “(2) ISSUANCE OR DEFERRAL.—Not later than
18 30 days after the applicant for a permit has sub-
19 mitted a complete application, the Secretary shall—

20 “(A) issue the permit; or

21 “(B)(i) defer decision on the permit; and

22 “(ii) provide to the applicant a notice that
23 specifies any steps that the applicant could take
24 for the permit to be issued.

25 “(3) REQUIREMENTS FOR DEFERRED APPLICA-
26 TIONS.—

1 “(A) IN GENERAL.—If the Secretary pro-
2 vides notice under paragraph (2)(B)(ii), the ap-
3 plicant shall have a period of 2 years from the
4 date of receipt of the notice in which to com-
5 plete all requirements specified by the Sec-
6 retary, including providing information needed
7 for compliance with the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

9 “(B) ISSUANCE OF DECISION ON PER-
10 MIT.—If the applicant completes the require-
11 ments within the period specified in subpara-
12 graph (A), the Secretary shall issue a decision
13 on the permit not later than 10 days after the
14 date of completion of the requirements de-
15 scribed in subparagraph (A).

16 “(C) DENIAL OF PERMIT.—If the appli-
17 cant does not complete the requirements within
18 the period specified in subparagraph (A), the
19 Secretary shall deny the permit.

20 “(q) REPORT.—On a quarterly basis, each field office
21 of the Bureau of Land Management and the Forest Serv-
22 ice shall transmit to the Secretary of the Interior or the
23 Secretary of Agriculture, respectively, a report that—

1 “(1) specifies the number of applications for
2 permits to drill received by the field office in the pe-
3 riod covered by the report; and

4 “(2) describes how each of the applications was
5 disposed of by the field office.”.

6 **SEC. 349. CLARIFICATION OF FAIR MARKET RENTAL VALUE**
7 **DETERMINATIONS FOR PUBLIC LAND AND**
8 **FOREST SERVICE RIGHTS-OF-WAY.**

9 (a) LINEAR RIGHTS-OF-WAY UNDER FEDERAL
10 LAND POLICY AND MANAGEMENT ACT OF 1976.—Section
11 504 of the Federal Land Policy and Management Act of
12 1976 (43 U.S.C. 1764) is amended by adding at the end
13 the following:

14 “(k) DETERMINATION OF FAIR MARKET VALUE OF
15 LINEAR RIGHTS-OF-WAY.—

16 “(1) IN GENERAL.—Effective beginning on the
17 date of the issuance of the rules required by para-
18 graph (2), for purposes of subsection (g), the Sec-
19 retary concerned shall determine the fair market
20 value for the use of land encumbered by a linear
21 right-of-way granted, issued, or renewed under this
22 title using the valuation method described in para-
23 graphs (2), (3), and (4).

24 “(2) REVISIONS.—Not later than 1 year after
25 the date of enactment of this subsection—

1 “(A) the Secretary of the Interior shall
2 amend section 2803.1–2 of title 43, Code of
3 Federal Regulations, as in effect on the date of
4 enactment of this subsection, to revise the per
5 acre rental fee zone value schedule by State,
6 county, and type of linear right-of-way use to
7 reflect current values of land in each zone; and

8 “(B) the Secretary of Agriculture shall
9 make the same revision for linear rights-of-way
10 granted, issued, or renewed under this title on
11 National Forest System land.

12 “(3) UPDATES.—The Secretary concerned shall
13 annually update the schedule revised under para-
14 graph (2) by multiplying the current year’s rental
15 per acre by the annual change, second quarter to
16 second quarter (June 30 to June 30) in the Gross
17 National Product Implicit Price Deflator Index pub-
18 lished in the Survey of Current Business of the De-
19 partment of Commerce, Bureau of Economic Anal-
20 ysis.

21 “(4) REVIEW.—If the cumulative change in the
22 index referred to in paragraph (3) exceeds 30 per-
23 cent, or the change in the 3-year average of the 1-
24 year Treasury interest rate used to determine per
25 acre rental fee zone values exceeds plus or minus 50

1 Agriculture and the Secretary of the Interior, in con-
2 sultation with the Secretary of Commerce, the Sec-
3 retary of Defense, the Secretary of Energy, and the
4 Federal Energy Regulatory Commission, shall sub-
5 mit to Congress a joint report—

6 (A) that addresses—

7 (i) the location of existing rights-of-
8 way and designated and de facto corridors
9 for oil and gas pipelines and electric trans-
10 mission and distribution facilities on Fed-
11 eral land; and

12 (ii) opportunities for additional oil
13 and gas pipeline and electric transmission
14 capacity within those rights-of-way and
15 corridors; and

16 (B) that includes a plan for making avail-
17 able, on request, to the appropriate Federal,
18 State, and local agencies, tribal governments,
19 and other persons involved in the siting of oil
20 and gas pipelines and electricity transmission
21 facilities Geographic Information System-based
22 information regarding the location of the exist-
23 ing rights-of-way and corridors and any planned
24 rights-of-way and corridors.

1 (2) CONSULTATIONS AND CONSIDERATIONS.—

2 In preparing the report, the Secretary of the Interior
3 and the Secretary of Agriculture shall consult
4 with—

5 (A) other agencies of Federal, State, tribal,
6 or local units of government, as appropriate;

7 (B) persons involved in the siting of oil
8 and gas pipelines and electric transmission fa-
9 cilities; and

10 (C) other interested members of the public.

11 (3) LIMITATION.—The Secretary of the Interior
12 and the Secretary of Agriculture shall limit the dis-
13 tribution of the report and Geographic Information
14 System-based information referred to in paragraph
15 (1) as necessary for national and infrastructure se-
16 curity reasons, if either Secretary determines that
17 the information may be withheld from public disclo-
18 sure under a national security or other exception
19 under section 552(b) of title 5, United States Code.

20 (b) CORRIDOR DESIGNATIONS.—

21 (1) 11 CONTIGUOUS WESTERN STATES.—Not
22 later than 2 years after the date of enactment of
23 this Act, the Secretary of Agriculture, the Secretary
24 of Commerce, the Secretary of Defense, the Sec-
25 retary of Energy, and the Secretary of the Interior,

1 in consultation with the Federal Energy Regulatory
2 Commission and the affected utility industries, shall
3 jointly—

4 (A) designate, under title V of the Federal
5 Land Policy and Management Act of 1976 (43
6 U.S.C. 1761 et seq.) and other applicable Fed-
7 eral laws, corridors for oil and gas pipelines and
8 electricity transmission and facilities on Federal
9 land in the eleven contiguous Western States
10 (as defined in section 103 of the Federal Land
11 Policy and Management Act of 1976 (43 U.S.C.
12 1702));

13 (B) perform any environmental reviews
14 that may be required to complete the designa-
15 tions of corridors for the facilities on Federal
16 land in the eleven contiguous Western States;
17 and

18 (C) incorporate the designated corridors
19 into—

20 (i) the relevant departmental and
21 agency land use and resource management
22 plans; or

23 (ii) equivalent plans.

24 (2) OTHER STATES.—Not later than 4 years
25 after the date of enactment of this Act, the Sec-

1 retary of Agriculture, the Secretary of Commerce,
2 the Secretary of Defense, the Secretary of Energy,
3 and the Secretary of the Interior, in consultation
4 with the Federal Energy Regulatory Commission
5 and the affected utility industries, shall jointly—

6 (A) identify corridors for oil and gas pipe-
7 lines and electricity transmission and distribu-
8 tion facilities on Federal land in the States
9 other than those described in paragraph (1);
10 and

11 (B) schedule prompt action to identify,
12 designate, and incorporate the corridors into
13 the land use plan.

14 (3) ONGOING RESPONSIBILITIES.—After com-
15 pleting the requirements under paragraphs (1) and
16 (2), the Secretary of Agriculture, the Secretary of
17 Commerce, the Secretary of Defense, the Secretary
18 of Energy, and the Secretary of the Interior, with
19 respect to lands under their respective jurisdictions,
20 in consultation with the Federal Energy Regulatory
21 Commission and the affected utility industries, shall
22 establish procedures that—

23 (A) ensure that additional corridors for oil
24 and gas pipelines and electricity transmission

1 and distribution facilities on Federal land are
2 promptly identified and designated; and

3 (B) expedite applications to construct or
4 modify oil and gas pipelines and electricity
5 transmission and distribution facilities within
6 the corridors, taking into account prior analyses
7 and environmental reviews undertaken during
8 the designation of corridors.

9 (c) CONSIDERATIONS.—In carrying out this section,
10 the Secretaries shall take into account the need for up-
11 graded and new electricity transmission and distribution
12 facilities to—

- 13 (1) improve reliability;
14 (2) relieve congestion; and
15 (3) enhance the capability of the national grid
16 to deliver electricity.

17 (d) DEFINITION OF CORRIDOR.—

18 (1) IN GENERAL.—In this section and title V of
19 the Federal Land Policy and Management Act of
20 1976 (43 U.S.C. 1761 et seq.), the term “corridor”
21 means—

- 22 (A) a linear strip of land—
23 (i) with a width determined with con-
24 sideration given to technological, environ-
25 mental, and topographical factors; and

1 (ii) that contains, or may in the fu-
2 ture contain, 1 or more utility, communica-
3 tion, or transportation facilities;

4 (B) a land use designation that is
5 established—

6 (i) by law;

7 (ii) by Secretarial Order;

8 (iii) through the land use planning
9 process; or

10 (iv) by other management decision;

11 and

12 (C) a designation made for the purpose of
13 establishing the preferred location of compatible
14 linear facilities and land uses.

15 (2) SPECIFICATIONS OF CORRIDOR.—On des-
16 ignation of a corridor under this section, the center-
17 line, width, and compatible uses of a corridor shall
18 be specified.

19 **SEC. 351. CONSULTATION REGARDING ENERGY RIGHTS-OF-**
20 **WAY ON PUBLIC LAND.**

21 (a) MEMORANDUM OF UNDERSTANDING.—

22 (1) IN GENERAL.—Not later than 6 months
23 after the date of enactment of this Act, the Sec-
24 retary of Energy, in consultation with the Secretary
25 of the Interior, the Secretary of Agriculture, and the

1 Secretary of Defense with respect to lands under
2 their respective jurisdictions, shall enter into a
3 memorandum of understanding to coordinate all ap-
4 plicable Federal authorizations and environmental
5 reviews relating to a proposed or existing utility fa-
6 cility. To the maximum extent practicable under ap-
7 plicable law, the Secretary of Energy shall, to ensure
8 timely review and permit decisions, coordinate such
9 authorizations and reviews with any Indian tribes,
10 multi-State entities, and State agencies that are re-
11 sponsible for conducting any separate permitting
12 and environmental reviews of the affected utility fa-
13 cility.

14 (2) CONTENTS.—The memorandum of under-
15 standing shall include provisions that—

16 (A) establish—

17 (i) a unified right-of-way application
18 form; and

19 (ii) an administrative procedure for
20 processing right-of-way applications, in-
21 cluding lines of authority, steps in applica-
22 tion processing, and timeframes for applica-
23 tion processing;

24 (B) provide for coordination of planning
25 relating to the granting of the rights-of-way;

1 (C) provide for an agreement among the
2 affected Federal agencies to prepare a single
3 environmental review document to be used as
4 the basis for all Federal authorization decisions;
5 and

6 (D) provide for coordination of use of
7 right-of-way stipulations to achieve consistency.

8 (b) NATURAL GAS PIPELINES.—

9 (1) IN GENERAL.—With respect to permitting
10 activities for interstate natural gas pipelines, the
11 May 2002 document entitled “Interagency Agree-
12 ment On Early Coordination Of Required Environ-
13 mental And Historic Preservation Reviews Con-
14 ducted In Conjunction With The Issuance Of Au-
15 thorizations To Construct And Operate Interstate
16 Natural Gas Pipelines Certificated By The Federal
17 Energy Regulatory Commission” shall constitute
18 compliance with subsection (a).

19 (2) REPORT.—

20 (A) IN GENERAL.—Not later than 1 year
21 after the date of enactment of this Act, and
22 every 2 years thereafter, agencies that are sig-
23 natories to the document referred to in para-
24 graph (1) shall transmit to Congress a report
25 on how the agencies under the jurisdiction of

1 the Secretaries are incorporating and imple-
2 menting the provisions of the document referred
3 to in paragraph (1).

4 (B) CONTENTS.—The report shall
5 address—

6 (i) efforts to implement the provisions
7 of the document referred to in paragraph
8 (1);

9 (ii) whether the efforts have had a
10 streamlining effect;

11 (iii) further improvements to the per-
12 mitting process of the agency; and

13 (iv) recommendations for inclusion of
14 State and tribal governments in a coordi-
15 nated permitting process.

16 (c) DEFINITION OF UTILITY FACILITY.—In this sec-
17 tion, the term “utility facility” means any privately, pub-
18 licly, or cooperatively owned line, facility, or system—

19 (1) for the transportation of—

20 (A) oil, natural gas, synthetic liquid fuel,
21 or gaseous fuel;

22 (B) any refined product produced from oil,
23 natural gas, synthetic liquid fuel, or gaseous
24 fuel; or

1 (C) products in support of the production
2 of material referred to in subparagraph (A) or
3 (B);

4 (2) for storage and terminal facilities in connec-
5 tion with the production of material referred to in
6 paragraph (1); or

7 (3) for the generation, transmission, and dis-
8 tribution of electric energy.

9 **SEC. 352. RENEWABLE ENERGY ON FEDERAL LAND.**

10 (a) REPORT.—

11 (1) IN GENERAL.—Not later than 24 months
12 after the date of enactment of this Act, the Sec-
13 retary of the Interior, in cooperation with the Sec-
14 retary of Agriculture, shall develop and transmit to
15 Congress a report that includes recommendations on
16 opportunities to develop renewable energy on—

17 (A) public lands under the jurisdiction of
18 the Secretary of the Interior; and

19 (B) National Forest System lands under
20 the jurisdiction of the Secretary of Agriculture.

21 (2) CONTENTS.—The report shall include—

22 (A) 5-year plans developed by the Sec-
23 retary of the Interior and the Secretary of Agri-
24 culture, respectively, for encouraging the devel-

1 opment of renewable energy consistent with ap-
2 plicable law and management plans;

3 (B) an analysis of—

4 (i) the use of rights-of-way, leases, or
5 other methods to develop renewable energy
6 on such lands;

7 (ii) the anticipated benefits of grants,
8 loans, tax credits, or other provisions to
9 promote renewable energy development on
10 such lands; and

11 (iii) any issues that the Secretary of
12 the Interior or the Secretary of Agriculture
13 have encountered in managing renewable
14 energy projects on such lands, believe are
15 likely to arise in relation to the develop-
16 ment of renewable energy on such lands;

17 (C) a list, developed in consultation with
18 the Secretary of Energy and the Secretary of
19 Defense, of lands under the jurisdiction of the
20 Department of Energy or the Department of
21 Defense that would be suitable for development
22 for renewable energy, and any recommended
23 statutory and regulatory mechanisms for such
24 development; and

1 (D) any recommendations relating to the
2 issues addressed in the report.

3 (b) NATIONAL ACADEMY OF SCIENCES STUDY.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of enactment of this Act, the Secretary of
6 the Interior shall contract with the National Acad-
7 emy of Sciences to—

8 (A) study the potential for the development
9 of wind, solar, and ocean energy (including
10 tidal, wave, and thermal energy) on the outer
11 Continental Shelf;

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

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

16 (2) TRANSMITTAL.—The results of the study
17 shall be transmitted to Congress not later than 2
18 years after the date of enactment of this Act.

19 (c) GENERATION CAPACITY OF ELECTRICITY FROM
20 RENEWABLE ENERGY RESOURCES ON PUBLIC LAND.—

21 The Secretary of the Interior shall, not later than 10 years
22 after the date of enactment of this Act, seek to approve
23 renewable energy projects located (or to be located) on
24 public lands with a generation capacity of at least 10,000
25 megawatts of electricity.

1 **SEC. 353. ELECTRICITY TRANSMISSION LINE RIGHT-OF-**
2 **WAY, CLEVELAND NATIONAL FOREST AND**
3 **ADJACENT PUBLIC LAND, CALIFORNIA.**

4 (a) ISSUANCE.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the completion of the environmental reviews under
7 subsection (c), the Secretary of the Interior and the
8 Secretary of Agriculture shall issue all necessary
9 grants, easements, permits, plan amendments, and
10 other approvals to allow for the siting and construc-
11 tion of a high-voltage electricity transmission line
12 right-of-way running approximately north to south
13 through the Trabuco Ranger District of the Cleve-
14 land National Forest in the State of California and
15 adjacent lands under the jurisdiction of the Bureau
16 of Land Management and the Forest Service.

17 (2) INCLUSIONS.—The right-of-way approvals
18 under paragraph (1) shall provide all necessary Fed-
19 eral authorization from the Secretary of the Interior
20 and the Secretary of Agriculture for the routing,
21 construction, operation, and maintenance of a 500-
22 kilovolt transmission line capable of meeting the
23 long-term electricity transmission needs of the region
24 between the existing Valley-Serrano transmission
25 line to the north and the Telega-Escondido trans-
26 mission line to the south, and for connecting to fu-

1 ture generating capacity that may be developed in
2 the region.

3 (b) PROTECTION OF WILDERNESS AREAS.—The Sec-
4 retary of the Interior and the Secretary of Agriculture
5 shall not allow any portion of a transmission line right-
6 of-way corridor identified in subsection (a) to enter any
7 identified wilderness area in existence as of the date of
8 enactment of this Act.

9 (c) ENVIRONMENTAL AND ADMINISTRATIVE RE-
10 VIEWS.—

11 (1) DEPARTMENT OF INTERIOR OR LOCAL
12 AGENCY.—The Secretary of the Interior, acting
13 through the Director of the Bureau of Land Man-
14 agement, shall be the lead Federal agency with over-
15 all responsibility to ensure completion of required
16 environmental and other reviews of the approvals to
17 be issued under subsection (a).

18 (2) NATIONAL FOREST SYSTEM LAND.—For the
19 portions of the corridor on National Forest System
20 lands, the Secretary of Agriculture shall complete all
21 required environmental reviews and administrative
22 actions in coordination with the Secretary of the In-
23 terior.

24 (3) EXPEDITIOUS COMPLETION.—The reviews
25 required for issuance of the approvals under sub-

1 section (a) shall be completed not later than 1 year
2 after the date of the enactment of this Act.

3 (d) OTHER TERMS AND CONDITIONS.—The trans-
4 mission line right-of-way shall be subject to such terms
5 and conditions as the Secretary of the Interior and the
6 Secretary of Agriculture consider necessary, based on the
7 environmental reviews under subsection (c), to protect the
8 value of historic, cultural, and natural resources under the
9 jurisdiction of the Secretary of the Interior or the Sec-
10 retary of Agriculture.

11 (e) PREFERENCE AMONG PROPOSALS.—The Sec-
12 retary of the Interior and the Secretary of Agriculture
13 shall give a preference to any application or preapplication
14 proposal for a transmission line right-of-way referred to
15 in subsection (a) that was submitted before December 31,
16 2002, over all other applications and proposals for the
17 same or a similar right-of-way submitted on or after that
18 date.

19 **SEC. 354. SENSE OF CONGRESS REGARDING DEVELOPMENT**
20 **OF MINERALS UNDER PADRE ISLAND NA-**
21 **TIONAL SEASHORE.**

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

23 (1) Pursuant to Public Law 87–712 (16 U.S.C.
24 459d et seq.; popularly known as the “Federal Ena-
25 bling Act”) and various deeds and actions under

1 that Act, the United States is the owner of only the
2 surface estate of certain lands constituting the
3 Padre Island National Seashore.

4 (2) Ownership of the oil, gas, and other min-
5 erals in the subsurface estate of the lands consti-
6 tuting the Padre Island National Seashore was never
7 acquired by the United States, and ownership of
8 those interests is held by the State of Texas and pri-
9 vate parties.

10 (3) Public Law 87-712 (16 U.S.C. 459d et
11 seq.)—

12 (A) expressly contemplated that the United
13 States would recognize the ownership and fu-
14 ture development of the oil, gas, and other min-
15 erals in the subsurface estate of the lands con-
16 stituting the Padre Island National Seashore by
17 the owners and their mineral lessees; and

18 (B) recognized that approval of the State
19 of Texas was required to create Padre Island
20 National Seashore.

21 (4) Approval was given for the creation of
22 Padre Island National Seashore by the State of
23 Texas through Tex. Rev. Civ. Stat. Ann. Art.
24 6077(t) (Vernon 1970), which expressly recognized
25 that development of the oil, gas, and other minerals

1 in the subsurface of the lands constituting Padre Is-
2 land National Seashore would be conducted with full
3 rights of ingress and egress under the laws of the
4 State of Texas.

5 (b) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that with regard to Federal law, any regulation of
7 the development of oil, gas, or other minerals in the sub-
8 surface of the lands constituting Padre Island National
9 Seashore should be made as if those lands retained the
10 status that the lands had on September 27, 1962.

11 **SEC. 355. ENCOURAGING PROHIBITION OF OFF-SHORE**
12 **DRILLING IN THE GREAT LAKES.**

13 Congress encourages—

14 (1) the States of Illinois, Michigan, New York,
15 Pennsylvania, and Wisconsin to continue to prohibit
16 offshore drilling in the Great Lakes for oil and gas;
17 and

18 (2) the States of Indiana, Minnesota, and Ohio
19 to enact a prohibition of such drilling.

20 **SEC. 356. FINGER LAKES NATIONAL FOREST WITHDRAWAL.**

21 All Federal land within the boundary of Finger Lakes
22 National Forest in the State of New York is withdrawn
23 from—

24 (1) all forms of entry, appropriation, or disposal
25 under the public land laws; and

1 (2) disposition under all laws relating to oil and
2 gas leasing.

3 **SEC. 357. STUDY ON LEASE EXCHANGES IN THE ROCKY**
4 **MOUNTAIN FRONT.**

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

6 (1) BADGER-TWO MEDICINE AREA.—The term
7 “Badger-Two Medicine Area” means the Forest
8 Service land located in—

9 (A) T. 31 N., R. 12–13 W.;

10 (B) T. 30 N., R. 11–13 W.;

11 (C) T. 29 N., R. 10–16 W.; and

12 (D) T. 28 N., R. 10–14 W.

13 (2) BLACKLEAF AREA.—The term “Blackleaf
14 Area” means the Federal land owned by the Forest
15 Service and Bureau of Land Management that is lo-
16 cated in—

17 (A) T. 27 N., R. 9 W.;

18 (B) T. 26 N., R. 9–10 W.;

19 (C) T. 25 N., R. 8–10 W.; and

20 (D) T. 24 N., R. 8–9 W.

21 (3) ELIGIBLE LESSEE.—The term “eligible les-
22 see” means a lessee under a nonproducing lease.

23 (4) NONPRODUCING LEASE.—The term “non-
24 producing lease” means a Federal oil or gas lease—

1 (A) that is in existence and in good stand-
2 ing on the date of enactment of this Act; and

3 (B) that is located in the Badger-Two
4 Medicine Area or the Blackleaf Area.

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

7 (6) STATE.—The term “State” means the State
8 of Montana.

9 (b) EVALUATION.—

10 (1) IN GENERAL.—The Secretary, in consulta-
11 tion with the Governor of the State, and the eligible
12 lessees, shall evaluate opportunities for domestic oil
13 and gas production through the exchange of the
14 nonproducing leases.

15 (2) REQUIREMENTS.—In carrying out the eval-
16 uation under subsection (a), the Secretary shall—

17 (A) consider opportunities for domestic
18 production of oil and gas through—

19 (i) the exchange of the nonproducing
20 leases for oil and gas lease tracts of com-
21 parable value in the State; and

22 (ii) the issuance of bidding, royalty, or
23 rental credits for Federal oil and gas leases
24 in the State in exchange for the cancella-
25 tion of the nonproducing leases;

1 (B) consider any other appropriate means
2 to exchange, or provide compensation for the
3 cancellation of, nonproducing leases, subject to
4 the consent of the eligible lessees;

5 (C) consider the views of any interested
6 persons, including the State;

7 (D) determine the level of interest of the
8 eligible lessees in exchanging the nonproducing
9 leases;

10 (E) assess the economic impact on the les-
11 sees and the State of lease exchange, lease can-
12 cellation, and final judicial or administrative de-
13 cisions related to the nonproducing leases; and

14 (F) provide recommendations on—

15 (i) whether to pursue an exchange of
16 the nonproducing leases;

17 (ii) any changes in laws (including
18 regulations) that are necessary for the Sec-
19 retary to carry out the exchange; and

20 (iii) any other appropriate means to
21 exchange or provide compensation for the
22 cancellation of a nonproducing lease, sub-
23 ject to the consent of the eligible lessee.

24 (c) VALUATION OF NONPRODUCING LEASES.—For
25 the purpose of the evaluation under subsection (a), the

1 value of a nonproducing lease shall be an amount equal
2 to the difference between—

3 (1) the sum of—

4 (A) the amount paid by the eligible lessee
5 for the nonproducing lease;

6 (B) any direct expenditures made by the
7 eligible lessee before the transmittal of the re-
8 port in subsection (c) associated with the explo-
9 ration and development of the nonproducing
10 lease; and

11 (C) interest on any amounts under sub-
12 paragraphs (A) and (B) during the period be-
13 ginning on the date on which the amount was
14 paid and ending on the date on which credits
15 are issued under subsection (b)(2)(A)(ii); and

16 (2) the sum of the revenues from the nonpro-
17 ducing lease.

18 (d) REPORT TO CONGRESS.—Not later than 2 years
19 after the date of the enactment of this Act, the Secretary
20 shall initiate the evaluation in subsection (b) and transmit
21 to Congress a report on the evaluation.

22 **SEC. 358. FEDERAL COALBED METHANE REGULATION.**

23 Any State currently on the list of Affected States es-
24 tablished under section 1339(b) of the Energy Policy Act
25 of 1992 (42 U.S.C. 13368(b)) shall be removed from the

1 list if, not later than 3 years after the date of enactment
2 of this Act, the State takes, or prior to the date of enact-
3 ment has taken, any of the actions required for removal
4 from the list under such section 1339(b).

5 **SEC. 359. LIVINGSTON PARISH MINERAL RIGHTS TRANS-**
6 **FER.**

7 (a) AMENDMENTS.—Section 102 of Public Law 102–
8 562 (106 Stat. 4234) is amended—

9 (1) by striking “(a) IN GENERAL.—

10 (2) by striking “and subject to the reservation
11 in subsection (b),”; and

12 (3) by striking subsection (b).

13 (b) IMPLEMENTATION OF AMENDMENT.—The Sec-
14 retary of the Interior shall execute the legal instruments
15 necessary to effectuate the amendment made by sub-
16 section (a)(3).

17 **Subtitle D—Alaska Natural Gas**
18 **Pipeline**

19 **SEC. 371. SHORT TITLE.**

20 This subtitle may be cited as the “Alaska Natural
21 Gas Pipeline Act”.

22 **SEC. 372. DEFINITIONS.**

23 In this subtitle:

24 (1) ALASKA NATURAL GAS.—The term “Alaska
25 natural gas” means natural gas derived from the

1 area of the State of Alaska lying north of 64 degrees
2 north latitude.

3 (2) ALASKA NATURAL GAS TRANSPORTATION
4 PROJECT.—The term “Alaska natural gas transpor-
5 tation project” means any natural gas pipeline sys-
6 tem that carries Alaska natural gas to the border
7 between Alaska and Canada (including related facili-
8 ties subject to the jurisdiction of the Commission)
9 that is authorized under—

10 (A) the Alaska Natural Gas Transpor-
11 tation Act of 1976 (15 U.S.C. 719 et seq.); or

12 (B) section 373.

13 (3) ALASKA NATURAL GAS TRANSPORTATION
14 SYSTEM.—The term “Alaska natural gas transpor-
15 tation system” means the Alaska natural gas trans-
16 portation project authorized under the Alaska Nat-
17 ural Gas Transportation Act of 1976 (15 U.S.C.
18 719 et seq.) and designated and described in section
19 2 of the President’s decision.

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

22 (5) FEDERAL COORDINATOR.—The term “Fed-
23 eral Coordinator” means the head of the Office of
24 the Federal Coordinator for Alaska Natural Gas

1 Transportation Projects established by section
2 376(a).

3 (6) PRESIDENT'S DECISION.—The term “Presi-
4 dent's decision” means the decision and report to
5 Congress on the Alaska natural gas transportation
6 system—

7 (A) issued by the President on September
8 22, 1977, in accordance with section 7 of the
9 Alaska Natural Gas Transportation Act of
10 1976 (15 U.S.C. 719e); and

11 (B) approved by Public Law 95–158 (15
12 U.S.C. 719f note; 91 Stat. 1268).

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

15 (8) STATE.—The term “State” means the State
16 of Alaska.

17 **SEC. 373. ISSUANCE OF CERTIFICATE OF PUBLIC CONVEN-**
18 **IENCE AND NECESSITY.**

19 (a) AUTHORITY OF THE COMMISSION.—Notwith-
20 standing the Alaska Natural Gas Transportation Act of
21 1976 (15 U.S.C. 719 et seq.), the Commission may, in
22 accordance with section 7(c) of the Natural Gas Act (15
23 U.S.C. 717f(c)), consider and act on an application for
24 the issuance of a certificate of public convenience and ne-
25 cessity authorizing the construction and operation of an

1 Alaska natural gas transportation project other than the
2 Alaska natural gas transportation system.

3 (b) ISSUANCE OF CERTIFICATE.—

4 (1) IN GENERAL.—The Commission shall issue
5 a certificate of public convenience and necessity au-
6 thorizing the construction and operation of an Alas-
7 ka natural gas transportation project under this sec-
8 tion if the applicant has satisfied the requirements
9 of section 7(e) of the Natural Gas Act (15 U.S.C.
10 717f(e)).

11 (2) CONSIDERATIONS.—In considering an appli-
12 cation under this section, the Commission shall pre-
13 sume that—

14 (A) a public need exists to construct and
15 operate the proposed Alaska natural gas trans-
16 portation project; and

17 (B) sufficient downstream capacity will
18 exist to transport the Alaska natural gas mov-
19 ing through the project to markets in the con-
20 tiguous United States.

21 (c) EXPEDITED APPROVAL PROCESS.—Not later
22 than 60 days after the date of issuance of the final envi-
23 ronmental impact statement under section 374 for an
24 Alaska natural gas transportation project, the Commission
25 shall issue a final order granting or denying applica-

1 tion for a certificate of public convenience and necessity
2 for the project under section 7(c) of the Natural Gas Act
3 (15 U.S.C. 717f(c)) and this section.

4 (d) PROHIBITION OF CERTAIN PIPELINE ROUTE.—
5 No license, permit, lease, right-of-way, authorization, or
6 other approval required under Federal law for the con-
7 struction of any pipeline to transport natural gas from
8 land within the Prudhoe Bay oil and gas lease area may
9 be granted for any pipeline that follows a route that—

10 (1) traverses land beneath navigable waters (as
11 defined in section 2 of the Submerged Lands Act
12 (43 U.S.C. 1301)) beneath, or the adjacent shoreline
13 of, the Beaufort Sea; and

14 (2) enters Canada at any point north of 68 de-
15 grees north latitude.

16 (e) OPEN SEASON.—

17 (1) IN GENERAL.—Not later than 120 days
18 after the date of enactment of this Act, the Commis-
19 sion shall issue regulations governing the conduct of
20 open seasons for Alaska natural gas transportation
21 projects (including procedures for the allocation of
22 capacity).

23 (2) REGULATIONS.—The regulations referred to
24 in paragraph (1) shall—

1 (A) include the criteria for and timing of
2 any open seasons;

3 (B) promote competition in the explo-
4 ration, development, and production of Alaska
5 natural gas; and

6 (C) for any open season for capacity ex-
7 ceeding the initial capacity, provide the oppor-
8 tunity for the transportation of natural gas
9 other than from the Prudhoe Bay and Point
10 Thomson units.

11 (3) APPLICABILITY.—Except in a case in which
12 an expansion is ordered in accordance with section
13 375, initial or expansion capacity on any Alaska nat-
14 ural gas transportation project shall be allocated in
15 accordance with procedures to be established by the
16 Commission in regulations issued under paragraph
17 (1).

18 (f) PROJECTS IN THE CONTIGUOUS UNITED
19 STATES.—

20 (1) IN GENERAL.—An application for additional
21 or expanded pipeline facilities that may be required
22 to transport Alaska natural gas from Canada to
23 markets in the contiguous United States may be
24 made in accordance with the Natural Gas Act (15
25 U.S.C. 717a et seq.).

1 (2) EXPANSION.—To the extent that a pipeline
2 facility described in paragraph (1) includes the ex-
3 pansion of any facility constructed in accordance
4 with the Alaska Natural Gas Transportation Act of
5 1976 (15 U.S.C. 719 et seq.), that Act shall con-
6 tinue to apply.

7 (g) STUDY OF IN-STATE NEEDS.—The holder of the
8 certificate of public convenience and necessity issued,
9 modified, or amended by the Commission for an Alaska
10 natural gas transportation project shall demonstrate that
11 the holder has conducted a study of Alaska in-State needs,
12 including tie-in points along the Alaska natural gas trans-
13 portation project for in-State access.

14 (h) ALASKA ROYALTY GAS.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the Commission, on a request by the
17 State and after a hearing, may provide for reason-
18 able access to the Alaska natural gas transportation
19 project by the State (or State designee) for the
20 transportation of royalty gas of the State for the
21 purpose of meeting local consumption needs within
22 the State.

23 (2) EXCEPTION.—The rates of shippers of sub-
24 scribed capacity on an Alaska natural gas transpor-
25 tation project described in paragraph (1), as in ef-

1 fect as of the date on which access under that para-
2 graph is granted, shall not be increased as a result
3 of such access.

4 (i) REGULATIONS.—The Commission may issue such
5 regulations as are necessary to carry out this section.

6 **SEC. 374. ENVIRONMENTAL REVIEWS.**

7 (a) COMPLIANCE WITH NEPA.—The issuance of a
8 certificate of public convenience and necessity authorizing
9 the construction and operation of any Alaska natural gas
10 transportation project under section 373 shall be treated
11 as a major Federal action significantly affecting the qual-
12 ity of the human environment within the meaning of sec-
13 tion 102(2)(C) of the National Environmental Policy Act
14 of 1969 (42 U.S.C. 4332(2)(C)).

15 (b) DESIGNATION OF LEAD AGENCY.—

16 (1) IN GENERAL.—The Commission—

17 (A) shall be the lead agency for purposes
18 of complying with the National Environmental
19 Policy Act of 1969 (42 U.S.C. 4321 et seq.);
20 and

21 (B) shall be responsible for preparing the
22 environmental impact statement required by
23 section 102(2)(c) of that Act (42 U.S.C.
24 4332(2)(c)) with respect to an Alaska natural
25 gas transportation project under section 373.

1 (2) CONSOLIDATION OF STATEMENTS.—In car-
2 rying out paragraph (1), the Commission shall pre-
3 pare a single environmental impact statement, which
4 shall consolidate the environmental reviews of all
5 Federal agencies considering any aspect of the Alas-
6 ka natural gas transportation project covered by the
7 environmental impact statement.

8 (c) OTHER AGENCIES.—

9 (1) IN GENERAL.—Each Federal agency consid-
10 ering an aspect of the construction and operation of
11 an Alaska natural gas transportation project under
12 section 373 shall—

13 (A) cooperate with the Commission; and

14 (B) comply with deadlines established by
15 the Commission in the preparation of the envi-
16 ronmental impact statement under this section.

17 (2) SATISFACTION OF NEPA REQUIREMENTS.—

18 The environmental impact statement prepared under
19 this section shall be adopted by each Federal agency
20 described in paragraph (1) in satisfaction of the re-
21 sponsibilities of the Federal agency under section
22 102(2)(C) of the National Environmental Policy Act
23 of 1969 (42 U.S.C. 4332(2)(C)) with respect to the
24 Alaska natural gas transportation project covered by
25 the environmental impact statement.

1 (d) EXPEDITED PROCESS.—The Commission shall—

2 (1) not later than 1 year after the Commission
3 determines that the application under section 373
4 with respect to an Alaska natural gas transportation
5 project is complete, issue a draft environmental im-
6 pact statement under this section; and

7 (2) not later than 180 days after the date of
8 issuance of the draft environmental impact state-
9 ment, issue a final environmental impact statement,
10 unless the Commission for good cause determines
11 that additional time is needed.

12 **SEC. 375. PIPELINE EXPANSION.**

13 (a) AUTHORITY.—With respect to any Alaska natural
14 gas transportation project, on a request by 1 or more per-
15 sons and after giving notice and an opportunity for a hear-
16 ing, the Commission may order the expansion of the Alas-
17 ka natural gas project if the Commission determines that
18 such an expansion is required by the present and future
19 public convenience and necessity.

20 (b) RESPONSIBILITIES OF COMMISSION.—Before or-
21 dering an expansion under subsection (a), the Commission
22 shall—

23 (1) approve or establish rates for the expansion
24 service that are designed to ensure the recovery, on
25 an incremental or rolled-in basis, of the cost associ-

1 ated with the expansion (including a reasonable rate
2 of return on investment);

3 (2) ensure that the rates do not require existing
4 shippers on the Alaska natural gas transportation
5 project to subsidize expansion shippers;

6 (3) find that a proposed shipper will comply
7 with, and the proposed expansion and the expansion
8 of service will be undertaken and implemented based
9 on, terms and conditions consistent with the tariff of
10 the Alaska natural gas transportation project in ef-
11 fect as of the date of the expansion;

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

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

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

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

23 (8) find that adequate downstream facilities
24 exist or are expected to exist to deliver incremental
25 Alaska natural gas to market.

1 (c) REQUIREMENT FOR A FIRM TRANSPORTATION
2 AGREEMENT.—Any order of the Commission issued in ac-
3 cordance with this section shall be void unless the person
4 requesting the order executes a firm transportation agree-
5 ment with the Alaska natural gas transportation project
6 within such reasonable period of time as the order may
7 specify.

8 (d) LIMITATION.—Nothing in this section expands or
9 otherwise affects any authority of the Commission with
10 respect to any natural gas pipeline located outside the
11 State.

12 (e) REGULATIONS.—The Commission may issue such
13 regulations as are necessary to carry out this section.

14 **SEC. 376. FEDERAL COORDINATOR.**

15 (a) ESTABLISHMENT.—There is established, as an
16 independent office in the executive branch, the Office of
17 the Federal Coordinator for Alaska Natural Gas Trans-
18 portation Projects.

19 (b) FEDERAL COORDINATOR.—

20 (1) APPOINTMENT.—The Office shall be headed
21 by a Federal Coordinator for Alaska Natural Gas
22 Transportation Projects, who shall be appointed by
23 the President, by and with the advice and consent
24 of the Senate, to serve a term to last until 1 year

1 following the completion of the project referred to in
2 section 373.

3 (2) COMPENSATION.—The Federal Coordinator
4 shall be compensated at the rate prescribed for level
5 III of the Executive Schedule (5 U.S.C. 5314).

6 (c) DUTIES.—The Federal Coordinator shall be re-
7 sponsible for—

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

11 (2) ensuring the compliance of Federal agencies
12 with the provisions of this subtitle.

13 (d) REVIEWS AND ACTIONS OF OTHER FEDERAL
14 AGENCIES.—

15 (1) EXPEDITED REVIEWS AND ACTIONS.—All
16 reviews conducted and actions taken by any Federal
17 agency relating to an Alaska natural gas transpor-
18 tation project authorized under this section shall be
19 expedited, in a manner consistent with completion of
20 the necessary reviews and approvals by the deadlines
21 under this subtitle.

22 (2) PROHIBITION OF CERTAIN TERMS AND CON-
23 DITIONS.—No Federal agency may include in any
24 certificate, right-of-way, permit, lease, or other au-
25 thorization issued to an Alaska natural gas trans-

1 portation project any term or condition that may be
2 permitted, but is not required, by any applicable law
3 if the Federal Coordinator determines that the term
4 or condition would prevent or impair in any signifi-
5 cant respect the expeditious construction and oper-
6 ation, or an expansion, of the Alaska natural gas
7 transportation project.

8 (3) PROHIBITION OF CERTAIN ACTIONS.—Un-
9 less required by law, no Federal agency shall add to,
10 amend, or abrogate any certificate, right-of-way, per-
11 mit, lease, or other authorization issued to an Alas-
12 ka natural gas transportation project if the Federal
13 Coordinator determines that the action would pre-
14 vent or impair in any significant respect the expedi-
15 tious construction and operation, or an expansion, of
16 the Alaska natural gas transportation project.

17 (4) LIMITATION.—The Federal Coordinator
18 shall not have authority to—

19 (A) override—

20 (i) the implementation or enforcement
21 of regulations issued by the Commission
22 under section 373; or

23 (ii) an order by the Commission to ex-
24 pand the project under section 375; or

1 (B) impose any terms, conditions, or re-
2 quirements in addition to those imposed by the
3 Commission or any agency with respect to con-
4 struction and operation, or an expansion of, the
5 project.

6 (e) STATE COORDINATION.—

7 (1) IN GENERAL.—The Federal Coordinator
8 and the State shall enter into a joint surveillance
9 and monitoring agreement similar to the agreement
10 in effect during construction of the Trans-Alaska
11 Pipeline, to be approved by the President and the
12 Governor of the State, for the purpose of monitoring
13 the construction of the Alaska natural gas transpor-
14 tation project.

15 (2) PRIMARY RESPONSIBILITY.—With respect
16 to an Alaska natural gas transportation project—

17 (A) the Federal Government shall have pri-
18 mary surveillance and monitoring responsibility
19 in areas where the Alaska natural gas transpor-
20 tation project crosses Federal land or private
21 land; and

22 (B) the State government shall have pri-
23 mary surveillance and monitoring responsibility
24 in areas where the Alaska natural gas transpor-
25 tation project crosses State land.

1 (f) **TRANSFER OF FEDERAL INSPECTOR FUNCTIONS**
2 **AND AUTHORITY.**—On appointment of the Federal Coor-
3 dinator by the President, all of the functions and authority
4 of the Office of Federal Inspector of Construction for the
5 Alaska Natural Gas Transportation System vested in the
6 Secretary under section 3012(b) of the Energy Policy Act
7 of 1992 (15 U.S.C. 719e note; Public Law 102–486), in-
8 cluding all functions and authority described and enumer-
9 ated in the Reorganization Plan No. 1 of 1979 (44 Fed.
10 Reg. 33663), Executive Order No. 12142 of June 21,
11 1979 (44 Fed. Reg. 36927), and section 5 of the Presi-
12 dent’s decision, shall be transferred to the Federal Coordi-
13 nator.

14 (g) **TEMPORARY AUTHORITY.**—The functions, au-
15 thorities, duties, and responsibilities of the Federal Coor-
16 dinator shall be vested in the Secretary until the later of
17 the appointment of the Federal Coordinator by the Presi-
18 dent, or 18 months after the date of enactment of this
19 Act.

20 **SEC. 377. JUDICIAL REVIEW.**

21 (a) **EXCLUSIVE JURISDICTION.**—Except for review by
22 the Supreme Court on writ of certiorari, the United States
23 Court of Appeals for the District of Columbia Circuit shall
24 have original and exclusive jurisdiction to determine—

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

4 (2) the constitutionality of any provision of this
5 subtitle, or any decision made or action taken under
6 this subtitle; or

7 (3) the adequacy of any environmental impact
8 statement prepared under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
10 with respect to any action under this subtitle.

11 (b) DEADLINE FOR FILING CLAIM.—A claim arising
12 under this subtitle may be brought not later than 60 days
13 after the date of the decision or action giving rise to the
14 claim.

15 (c) EXPEDITED CONSIDERATION.—The United
16 States Court of Appeals for the District of Columbia Cir-
17 cuit shall set any action brought under subsection (a) for
18 expedited consideration, taking into account the national
19 interest of enhancing national energy security by providing
20 access to the significant gas reserves in Alaska needed to
21 meet the anticipated demand for natural gas.

22 (d) AMENDMENT OF THE ALASKA NATURAL GAS
23 TRANSPORTATION ACT OF 1976.—Section 10(c) of the
24 Alaska Natural Gas Transportation Act of 1976 (15
25 U.S.C. 719h) is amended—

1 (1) by striking “(c)(1) A claim” and inserting
2 the following:

3 “(c) JURISDICTION.—

4 “(1) SPECIAL COURTS.—

5 “(A) IN GENERAL.—A claim”;

6 (2) by striking “Such court shall have” and in-
7 serting the following:

8 “(B) EXCLUSIVE JURISDICTION.—The
9 Special Court shall have”;

10 (3) by inserting after paragraph (1) the fol-
11 lowing:

12 “(2) EXPEDITED CONSIDERATION.—The Spe-
13 cial Court shall set any action brought under this
14 section for expedited consideration, taking into ac-
15 count the national interest described in section 2.”;

16 and

17 (4) in paragraph (3), by striking “(3) The en-
18 actment” and inserting the following:

19 “(3) ENVIRONMENTAL IMPACT STATEMENTS.—
20 The enactment”.

21 **SEC. 378. STATE JURISDICTION OVER IN-STATE DELIVERY**
22 **OF NATURAL GAS.**

23 (a) LOCAL DISTRIBUTION.—Any facility receiving
24 natural gas from an Alaska natural gas transportation
25 project for delivery to consumers within the State—

1 (1) shall be deemed to be a local distribution fa-
2 cility within the meaning of section 1(b) of the Nat-
3 ural Gas Act (15 U.S.C. 717(b)); and

4 (2) shall not be subject to the jurisdiction of the
5 Commission.

6 (b) ADDITIONAL PIPELINES.—Except as provided in
7 section 373(d), nothing in this subtitle shall preclude or
8 otherwise affect a future natural gas pipeline that may
9 be constructed to deliver natural gas to Fairbanks, An-
10 chorage, Matanuska-Susitna Valley, or the Kenai penin-
11 sula or Valdez or any other site in the State for consump-
12 tion within or distribution outside the State.

13 (c) RATE COORDINATION.—

14 (1) IN GENERAL.—In accordance with the Nat-
15 ural Gas Act (15 U.S.C. 717a et seq.), the Commis-
16 sion shall establish rates for the transportation of
17 natural gas on any Alaska natural gas transpor-
18 tation project.

19 (2) CONSULTATION.—In carrying out para-
20 graph (1), the Commission, in accordance with sec-
21 tion 17(b) of the Natural Gas Act (15 U.S.C.
22 717p(b)), shall consult with the State regarding
23 rates (including rate settlements) applicable to nat-
24 ural gas transported on and delivered from the Alas-

1 ka natural gas transportation project for use within
2 the State.

3 **SEC. 379. STUDY OF ALTERNATIVE MEANS OF CONSTRUC-**
4 **TION.**

5 (a) REQUIREMENT OF STUDY.—If no application for
6 the issuance of a certificate or amended certificate of pub-
7 lic convenience and necessity authorizing the construction
8 and operation of an Alaska natural gas transportation
9 project has been filed with the Commission by the date
10 that is 18 months after the date of enactment of this Act,
11 the Secretary shall conduct a study of alternative ap-
12 proaches to the construction and operation of such an
13 Alaska natural gas transportation project.

14 (b) SCOPE OF STUDY.—The study under subsection
15 (a) shall take into consideration the feasibility of—

16 (1) establishing a Federal Government corpora-
17 tion to construct an Alaska natural gas transpor-
18 tation project; and

19 (2) securing alternative means of providing
20 Federal financing and ownership (including alter-
21 native combinations of Government and private cor-
22 porate ownership) of the Alaska natural gas trans-
23 portation project.

24 (c) CONSULTATION.—In conducting the study under
25 subsection (a), the Secretary shall consult with the Sec-

1 retary of the Treasury and the Secretary of the Army (act-
2 ing through the Chief of Engineers).

3 (d) REPORT.—On completion of any study under sub-
4 section (a), the Secretary shall submit to Congress a re-
5 port that describes—

6 (1) the results of the study; and

7 (2) any recommendations of the Secretary (in-
8 cluding proposals for legislation to implement the
9 recommendations).

10 **SEC. 380. CLARIFICATION OF ANGTA STATUS AND AU-**
11 **THORITIES.**

12 (a) SAVINGS CLAUSE.—Nothing in this subtitle
13 affects—

14 (1) any decision, certificate, permit, right-of-
15 way, lease, or other authorization issued under sec-
16 tion 9 of the Alaska Natural Gas Transportation Act
17 of 1976 (15 U.S.C. 719g); or

18 (2) any Presidential finding or waiver issued in
19 accordance with that Act.

20 (b) CLARIFICATION OF AUTHORITY TO AMEND
21 TERMS AND CONDITIONS TO MEET CURRENT PROJECT
22 REQUIREMENTS.—Any Federal agency responsible for
23 granting or issuing any certificate, permit, right-of-way,
24 lease, or other authorization under section 9 of the Alaska
25 Natural Gas Transportation Act of 1976 (15 U.S.C.

1 719g) may add to, amend, or rescind any term or condi-
2 tion included in the certificate, permit, right-of-way, lease,
3 or other authorization to meet current project require-
4 ments (including the physical design, facilities, and tariff
5 specifications), if the addition, amendment, or rescission—

6 (1) would not compel any change in the basic
7 nature and general route of the Alaska natural gas
8 transportation system as designated and described in
9 section 2 of the President's decision; or

10 (2) would not otherwise prevent or impair in
11 any significant respect the expeditious construction
12 and initial operation of the Alaska natural gas
13 transportation system.

14 (c) UPDATED ENVIRONMENTAL REVIEWS.—The Sec-
15 retary shall require the sponsor of the Alaska natural gas
16 transportation system to submit such updated environ-
17 mental data, reports, permits, and impact analyses as the
18 Secretary determines are necessary to develop detailed
19 terms, conditions, and compliance plans required by sec-
20 tion 5 of the President's decision.

21 **SEC. 381. SENSE OF CONGRESS CONCERNING USE OF**
22 **STEEL MANUFACTURED IN NORTH AMERICA**
23 **NEGOTIATION OF A PROJECT LABOR AGREE-**
24 **MENT.**

25 It is the sense of Congress that—

1 (1) an Alaska natural gas transportation
2 project would provide significant economic benefits
3 to the United States and Canada; and

4 (2) to maximize those benefits, the sponsors of
5 the Alaska natural gas transportation project should
6 make every effort to—

7 (A) use steel that is manufactured in
8 North America; and

9 (B) negotiate a project labor agreement to
10 expedite construction of the pipeline.

11 **SEC. 382. SENSE OF CONGRESS AND STUDY CONCERNING**
12 **PARTICIPATION BY SMALL BUSINESS CON-**
13 **CERNS.**

14 (a) DEFINITION OF SMALL BUSINESS CONCERN.—
15 In this section, the term “small business concern” has the
16 meaning given the term in section 3(a) of the Small Busi-
17 ness Act (15 U.S.C. 632(a)).

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that—

20 (1) an Alaska natural gas transportation
21 project would provide significant economic benefits
22 to the United States and Canada; and

23 (2) to maximize those benefits, the sponsors of
24 the Alaska natural gas transportation project should
25 maximize the participation of small business con-

1 cerns in contracts and subcontracts awarded in car-
2 rying out the project.

3 (c) STUDY.—

4 (1) IN GENERAL.—The Comptroller General of
5 the United States shall conduct a study to determine
6 the extent to which small business concerns partici-
7 pate in the construction of oil and gas pipelines in
8 the United States.

9 (2) REPORT.—Not later than 1 year after the
10 date of enactment of this Act, the Comptroller Gen-
11 eral shall submit to Congress a report that describes
12 results of the study under paragraph (1).

13 (3) UPDATES.—The Comptroller General
14 shall—

15 (A) update the study at least once every 5
16 years until construction of an Alaska natural
17 gas transportation project is completed; and

18 (B) on completion of each update, submit
19 to Congress a report containing the results of
20 the update.

21 **SEC. 383. ALASKA PIPELINE CONSTRUCTION TRAINING**
22 **PROGRAM.**

23 (a) PROGRAM.—

24 (1) ESTABLISHMENT.—The Secretary of Labor
25 (in this section referred to as the “Secretary”) shall

1 make grants to the Alaska Workforce Investment
2 Board—

3 (A) to recruit and train adult and dis-
4 located workers in Alaska, including Alaska Na-
5 tives, in the skills required to construct and op-
6 erate an Alaska gas pipeline system; and

7 (B) for the design and construction of a
8 training facility to be located in Fairbanks,
9 Alaska, to support an Alaska gas pipeline train-
10 ing program.

11 (2) COORDINATION WITH EXISTING PRO-
12 GRAMS.—The training program established with the
13 grants authorized under paragraph (1) shall be con-
14 sistent with the vision and goals set forth in the
15 State of Alaska Unified Plan, as developed pursuant
16 to the Workforce Investment Act of 1998 (29 U.S.C.
17 2801 et seq.).

18 (b) REQUIREMENTS FOR GRANTS.—The Secretary
19 shall make a grant under subsection (a) only if—

20 (1) the Governor of the State of Alaska re-
21 quests the grant funds and certifies in writing to the
22 Secretary that there is a reasonable expectation that
23 the construction of the Alaska natural gas pipeline
24 system will commence by the date that is 2 years
25 after the date of the certification; and

1 projects can move forward in a mutually beneficial
2 fashion;

3 (4) Federal and State officials should acknowl-
4 edge that the smaller scope, fewer permitting re-
5 quirements, and lower cost of the McKenzie Delta
6 project means it will most likely be completed before
7 the Alaska Natural Gas Pipeline;

8 (5) natural gas production in the 48 contiguous
9 States and Canada will not be able to meet all do-
10 mestic demand in the coming decades; and

11 (6) as a result, natural gas delivered from Alas-
12 kan North Slope will not displace or reduce the com-
13 mercial viability of Canadian natural gas produced
14 from the McKenzie Delta or production from the 48
15 contiguous States.

16 **SEC. 385. SENSE OF CONGRESS CONCERNING ALASKAN**
17 **OWNERSHIP.**

18 It is the sense of Congress that—

19 (1) Alaska Native Regional Corporations, com-
20 panies owned and operated by Alaskans, and indi-
21 vidual Alaskans should have the opportunity to own
22 shares of the Alaska natural gas pipeline in a way
23 that promotes economic development for the State;
24 and

1 (2) to facilitate economic development in the
2 State, all project sponsors should negotiate in good
3 faith with any willing Alaskan person that desires to
4 be involved in the project.

5 **SEC. 386. LOAN GUARANTEES.**

6 (a) **AUTHORITY.**—(1) The Secretary may enter into
7 agreements with 1 or more holders of a certificate of pub-
8 lic convenience and necessity issued under section 373(b)
9 of this Act or section 9 of the Alaska Natural Gas Trans-
10 portation Act of 1976 (15 U.S.C. 719g) to issue Federal
11 guarantee instruments with respect to loans and other
12 debt obligations for a qualified infrastructure project.

13 (2) Subject to the requirements of this section, the
14 Secretary may also enter into agreements with 1 or more
15 owners of the Canadian portion of a qualified infrastruc-
16 ture project to issue Federal guarantee instruments with
17 respect to loans and other debt obligations for a qualified
18 infrastructure project as though such owner were a holder
19 described in paragraph (1).

20 (3) The authority of the Secretary to issue Federal
21 guarantee instruments under this section for a qualified
22 infrastructure project shall expire on the date that is 2
23 years after the date on which the final certificate of public
24 convenience and necessity (including any Canadian certifi-
25 cates of public convenience and necessity) is issued for the

1 project. A final certificate shall be considered to have been
2 issued when all certificates of public convenience and ne-
3 cessity have been issued that are required for the initial
4 transportation of commercially economic quantities of nat-
5 ural gas from Alaska to the continental United States.

6 (b) CONDITIONS.—(1) The Secretary may issue a
7 Federal guarantee instrument for a qualified infrastruc-
8 ture project only after a certificate of public convenience
9 and necessity under section 373(b) of this Act or an
10 amended certificate under section 9 of the Alaska Natural
11 Gas Transportation Act of 1976 (15 U.S.C. 719g) has
12 been issued for the project.

13 (2) The Secretary may issue a Federal guarantee in-
14 strument under this section for a qualified infrastructure
15 project only if the loan or other debt obligation guaranteed
16 by the instrument has been issued by an eligible lender.

17 (3) The Secretary shall not require as a condition of
18 issuing a Federal guarantee instrument under this section
19 any contractual commitment or other form of credit sup-
20 port of the sponsors (other than equity contribution com-
21 mitments and completion guarantees), or any throughput
22 or other guarantee from prospective shippers greater than
23 such guarantees as shall be required by the project own-
24 ers.

1 (c) LIMITATIONS ON AMOUNTS.—(1) The amount of
2 loans and other debt obligations guaranteed under this
3 section for a qualified infrastructure project shall not ex-
4 ceed 80 percent of the total capital costs of the project,
5 including interest during construction.

6 (2) The principal amount of loans and other debt ob-
7 ligations guaranteed under this section shall not exceed,
8 in the aggregate, \$18,000,000,000, which amount shall be
9 indexed for United States dollar inflation from the date
10 of enactment of this Act, as measured by the Consumer
11 Price Index.

12 (d) LOAN TERMS AND FEES.—(1) The Secretary
13 may issue Federal guarantee instruments under this sec-
14 tion that take into account repayment profiles and grace
15 periods justified by project cash flows and project-specific
16 considerations. The term of any loan guaranteed under
17 this section shall not exceed 30 years.

18 (2) An eligible lender may assess and collect from the
19 borrower such other fees and costs associated with the ap-
20 plication and origination of the loan or other debt obliga-
21 tion as are reasonable and customary for a project finance
22 transaction in the oil and gas sector.

23 (e) REGULATIONS.—The Secretary may issue regula-
24 tions to carry out this section.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to cover the cost of loan guarantees under this
4 section, as defined by section 502(5) of the Federal Credit
5 Reform Act of 1990 (2 U.S.C. 661a(5)). Such sums shall
6 remain available until expended.

7 (g) DEFINITIONS.—In this section, the following defi-
8 nitions apply:

9 (1) The term “Consumer Price Index” means
10 the Consumer Price Index for all-urban consumers,
11 United States city average, as published by the Bu-
12 reau of Labor Statistics, or if such index shall cease
13 to be published, any successor index or reasonable
14 substitute thereof.

15 (2) The term “eligible lender” means any non-
16 Federal qualified institutional buyer (as defined by
17 section 230.144A(a) of title 17, Code of Federal
18 Regulations (or any successor regulation), known as
19 Rule 144A(a) of the Securities and Exchange Com-
20 mission and issued under the Securities Act of
21 1933), including—

22 (A) a qualified retirement plan (as defined
23 in section 4974(c) of the Internal Revenue Code
24 of 1986 (26 U.S.C. 4974(c)) that is a qualified
25 institutional buyer; and

1 (B) a governmental plan (as defined in
2 section 414(d) of the Internal Revenue Code of
3 1986 (26 U.S.C. 414(d)) that is a qualified in-
4 stitutional buyer.

5 (3) The term “Federal guarantee instrument”
6 means any guarantee or other pledge by the Sec-
7 retary to pledge the full faith and credit of the
8 United States to pay all of the principal and interest
9 on any loan or other debt obligation entered into by
10 a holder of a certificate of public convenience and
11 necessity.

12 (4) The term “qualified infrastructure project”
13 means an Alaskan natural gas transportation project
14 consisting of the design, engineering, finance, con-
15 struction, and completion of pipelines and related
16 transportation and production systems (including
17 gas treatment plants), and appurtenances thereto,
18 that are used to transport natural gas from the
19 Alaska North Slope to the continental United
20 States.