

114TH CONGRESS
1ST SESSION

H. R. 8

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2015

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To modernize energy infrastructure, build a 21st century energy and manufacturing workforce, bolster America's energy security and diplomacy, and promote energy efficiency and government accountability, and for other purposes.

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “North American Energy Security and Infrastructure Act
 4 of 2015”.

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

Sec. 1. Short title; table of contents.

TITLE I—MODERNIZING AND PROTECTING INFRASTRUCTURE

Subtitle A—Energy Delivery, Reliability, and Security

- Sec. 1101. FERC process coordination.
- Sec. 1102. Resolving environmental and grid reliability conflicts.
- Sec. 1103. Emergency preparedness for energy supply disruptions.
- Sec. 1104. Critical electric infrastructure security.
- Sec. 1105. Strategic Transformer Reserve.
- Sec. 1106. Cyber Sense.
- Sec. 1107. State coverage and consideration of PURPA standards for electric utilities.
- Sec. 1108. Reliability analysis for certain rules that affect electric generating facilities.
- Sec. 1109. Increased accountability with respect to carbon capture, utilization, and sequestration projects.
- Sec. 1110. Reliability and performance assurance in Regional Transmission Organizations.
- Sec. 1111. Ethane storage study.
- Sec. 1112. Statement of policy on grid modernization.
- Sec. 1113. Grid resilience report.
- Sec. 1114. GAO report on improving National Response Center.
- Sec. 1115. Designation of National Energy Security Corridors on Federal lands.
- Sec. 1116. Vegetation management, facility inspection, and operation and maintenance on Federal lands containing electric transmission and distribution facilities.

Subtitle B—Hydropower Regulatory Modernization

- Sec. 1201. Protection of private property rights in hydropower licensing.
- Sec. 1202. Extension of time for FERC project involving W. Kerr Scott Dam.
- Sec. 1203. Hydropower licensing and process improvements.
- Sec. 1204. Judicial review of delayed Federal authorizations.
- Sec. 1205. Licensing study improvements.
- Sec. 1206. Closed-loop pumped storage projects.
- Sec. 1207. License amendment improvements.
- Sec. 1208. Promoting hydropower development at existing nonpowered dams.

TITLE II—ENERGY SECURITY AND DIPLOMACY

- Sec. 2001. Sense of Congress.

- Sec. 2002. Energy security valuation.
- Sec. 2003. North American energy security plan.
- Sec. 2004. Collective energy security.
- Sec. 2005. Authorization to export natural gas.
- Sec. 2006. Environmental review for energy export facilities.
- Sec. 2007. Authorization of cross-border infrastructure projects.
- Sec. 2008. Report on smart meter security concerns.

TITLE III—ENERGY EFFICIENCY AND ACCOUNTABILITY

Subtitle A—Energy Efficiency

CHAPTER 1—FEDERAL AGENCY ENERGY EFFICIENCY

- Sec. 3111. Energy-efficient and energy-saving information technologies.
- Sec. 3112. Energy efficient data centers.
- Sec. 3113. Report on energy and water savings potential from thermal insulation.
- Sec. 3114. Battery storage report.
- Sec. 3115. Federal purchase requirement.
- Sec. 3116. Energy performance requirement for Federal buildings.
- Sec. 3117. Federal building energy efficiency performance standards; certification system and level for Federal buildings.
- Sec. 3118. Operation of battery recharging stations in parking areas used by Federal employees.
- Sec. 3119. Report on Energy Savings and Greenhouse Gas Emissions Reduction from Conversion of Captured Methane to Energy.

CHAPTER 2—ENERGY EFFICIENT TECHNOLOGY AND MANUFACTURING

- Sec. 3121. Inclusion of Smart Grid capability on Energy Guide labels.
- Sec. 3122. Voluntary verification programs for air conditioning, furnace, boiler, heat pump, and water heater products.
- Sec. 3123. Facilitating consensus furnace standards.
- Sec. 3124. No warranty for certain certified Energy Star products.
- Sec. 3125. Clarification to effective date for regional standards.
- Sec. 3126. Internet of Things report.
- Sec. 3127. Energy savings from lubricating oil.
- Sec. 3128. Definition of external power supply.
- Sec. 3129. Standards for power supply circuits connected to LEDS or OLEDS.

CHAPTER 3—SCHOOL BUILDINGS

- Sec. 3131. Coordination of energy retrofitting assistance for schools.

CHAPTER 4—BUILDING ENERGY CODES

- Sec. 3141. Greater energy efficiency in building codes.
- Sec. 3142. Voluntary nature of building asset rating program.

CHAPTER 5—EPCA TECHNICAL CORRECTIONS AND CLARIFICATIONS

- Sec. 3151. Modifying product definitions.
- Sec. 3152. Clarifying rulemaking procedures.

CHAPTER 6—ENERGY AND WATER EFFICIENCY

- Sec. 3161. Smart energy and water efficiency pilot program.

Sec. 3162. WaterSense.

Subtitle B—Accountability

CHAPTER 1—MARKET MANIPULATION, ENFORCEMENT, AND COMPLIANCE

Sec. 3211. FERC Office of Compliance Assistance and Public Participation.

CHAPTER 2—MARKET REFORMS

Sec. 3221. GAO study on wholesale electricity markets.

Sec. 3222. Clarification of facility merger authorization.

CHAPTER 3—CODE MAINTENANCE

Sec. 3231. Repeal of off-highway motor vehicles study.

Sec. 3232. Repeal of methanol study.

Sec. 3233. Repeal of residential energy efficiency standards study.

Sec. 3234. Repeal of weatherization study.

Sec. 3235. Repeal of report to Congress.

Sec. 3236. Repeal of report by General Services Administration.

Sec. 3237. Repeal of intergovernmental energy management planning and coordination workshops.

Sec. 3238. Repeal of Inspector General audit survey and President's Council on Integrity and Efficiency report to Congress.

Sec. 3239. Repeal of procurement and identification of energy efficient products program.

Sec. 3240. Repeal of national action plan for demand response.

Sec. 3241. Repeal of national coal policy study.

Sec. 3242. Repeal of study on compliance problem of small electric utility systems.

Sec. 3243. Repeal of study of socioeconomic impacts of increased coal production and other energy development.

Sec. 3244. Repeal of study of the use of petroleum and natural gas in combustors.

Sec. 3245. Repeal of submission of reports.

Sec. 3246. Repeal of electric utility conservation plan.

Sec. 3247. Technical amendment to Powerplant and Industrial Fuel Use Act of 1978.

Sec. 3248. Emergency energy conservation repeals.

Sec. 3249. Repeal of State utility regulatory assistance.

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Sec. 3251. Repeal of photovoltaic energy program.

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CHAPTER 4—AUTHORIZATION

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TITLE IV—CHANGING CRUDE OIL MARKET CONDITIONS

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Sec. 4004. Studies.

Sec. 4005. Savings clause.

Sec. 4006. Partnerships with minority serving institutions.

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- Sec. 4008. Report to Congress.
 Sec. 4009. Prohibition on exports of crude oil, refined petroleum products, and petrochemical products to the Islamic Republic of Iran.

TITLE V—OTHER MATTERS

- Sec. 5001. Assessment of regulatory requirements.
 Sec. 5002. Definitions.
 Sec. 5003. Exclusive venue for certain civil actions relating to covered energy projects.
 Sec. 5004. Timely filing.
 Sec. 5005. Expedition in hearing and determining the action.
 Sec. 5006. Limitation on injunction and prospective relief.
 Sec. 5007. Legal standing.
 Sec. 5008. Study to identify legal and regulatory barriers that delay, prohibit, or impede the export of natural energy resources.
 Sec. 5009. Study of volatility of crude oil.
 Sec. 5010. Smart meter privacy rights.
 Sec. 5011. Youth energy enterprise competition.
 Sec. 5012. Modernization of terms relating to minorities.
 Sec. 5013. Voluntary vegetation management outside rights-of-way.
 Sec. 5014. Repeal of rule for new residential wood heaters.

TITLE VI—PROMOTING RENEWABLE ENERGY WITH SHARED SOLAR

- Sec. 6001. Short title.
 Sec. 6002. Provision of interconnection service and net billing service for community solar facilities.

TITLE VII—MARINE HYDROKINETIC

- Sec. 7001. Definition of marine and hydrokinetic renewable energy.
 Sec. 7002. Marine and hydrokinetic renewable energy research and development.
 Sec. 7003. National Marine Renewable Energy Research, Development, and Demonstration Centers.
 Sec. 7004. Authorization of appropriations.

1 **TITLE I—MODERNIZING AND**
 2 **PROTECTING INFRASTRUCTURE**
 3 **Subtitle A—Energy Delivery,**
 4 **Reliability, and Security**

5 **SEC. 1101. FERC PROCESS COORDINATION.**

6 Section 15 of the Natural Gas Act (15 U.S.C. 717n)
 7 is amended—

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

3 “(2) OTHER AGENCIES.—

4 “(A) IN GENERAL.—Each Federal and
5 State agency considering an aspect of an appli-
6 cation for Federal authorization shall cooperate
7 with the Commission and comply with the dead-
8 lines established by the Commission.

9 “(B) IDENTIFICATION.—The Commission
10 shall identify, as early as practicable after it is
11 notified by a prospective applicant of a potential
12 project requiring Commission authorization,
13 any Federal or State agency, local government,
14 or Indian tribe that may consider an aspect of
15 an application for that Federal authorization.

16 “(C) NOTIFICATION.—

17 “(i) IN GENERAL.—The Commission
18 shall notify any agency identified under
19 subparagraph (B) of the opportunity to co-
20 operate or participate in the review proc-
21 ess.

22 “(ii) DEADLINE.—A notification
23 issued under clause (i) shall establish a
24 deadline by which a response to the notifi-
25 cation shall be submitted, which may be

1 extended by the Commission for good
2 cause.”;

3 (2) in subsection (c)—

4 (A) in paragraph (1)—

5 (i) by striking “and” at the end of
6 subparagraph (A);

7 (ii) by redesignating subparagraph
8 (B) as subparagraph (C); and

9 (iii) by inserting after subparagraph
10 (A) the following new subparagraph:

11 “(B) set deadlines for all such Federal au-
12 thorizations; and”;

13 (B) by striking paragraph (2); and

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

16 “(2) DEADLINE FOR FEDERAL AUTHORIZA-
17 TIONS.—A final decision on a Federal authorization
18 is due no later than 90 days after the Commission
19 issues its final environmental document, unless a
20 schedule is otherwise established by Federal law.

21 “(3) CONCURRENT REVIEWS.—Each Federal
22 and State agency considering an aspect of an appli-
23 cation for a Federal authorization shall—

24 “(A) carry out the obligations of that
25 agency under applicable law concurrently, and

1 in conjunction, with the review required by the
2 National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.), unless doing so would im-
4 pair the ability of the agency to conduct needed
5 analysis or otherwise carry out those obliga-
6 tions;

7 “(B) formulate and implement administra-
8 tive, policy, and procedural mechanisms to en-
9 able the agency to ensure completion of re-
10 quired Federal authorizations no later than 90
11 days after the Commission issues its final envi-
12 ronmental document; and

13 “(C) transmit to the Commission a state-
14 ment—

15 “(i) acknowledging receipt of the
16 schedule established under paragraph (1);
17 and

18 “(ii) setting forth the plan formulated
19 under subparagraph (B) of this paragraph.

20 “(4) ISSUE IDENTIFICATION AND RESOLU-
21 TION.—

22 “(A) IDENTIFICATION.—Federal and State
23 agencies that may consider an aspect of an ap-
24 plication for Federal authorization shall iden-
25 tify, as early as possible, any issues of concern

1 that may delay or prevent an agency from
2 working with the Commission to resolve such
3 issues and granting such authorization.

4 “(B) ISSUE RESOLUTION.—The Commis-
5 sion may forward any issue of concern identi-
6 fied under subparagraph (A) to the heads of
7 the relevant agencies (including, in the case of
8 a failure by the State agency, the Federal agen-
9 cy overseeing the delegated authority) for reso-
10 lution.

11 “(5) FAILURE TO MEET SCHEDULE.—If a Fed-
12 eral or State agency does not complete a proceeding
13 for an approval that is required for a Federal au-
14 thorization in accordance with the schedule estab-
15 lished by the Commission under paragraph (1)—

16 “(A) the applicant may pursue remedies
17 under section 19(d); and

18 “(B) the head of the relevant Federal
19 agency (including, in the case of a failure by a
20 State agency, the Federal agency overseeing the
21 delegated authority) shall notify Congress and
22 the Commission of such failure and set forth a
23 recommended implementation plan to ensure
24 completion of the proceeding for an approval.”;

1 (3) by redesignating subsections (d) through (f)
2 as subsections (g) through (i), respectively; and

3 (4) by inserting after subsection (c) the fol-
4 lowing new subsections:

5 “(d) REMOTE SURVEYS.—If a Federal or State agen-
6 cy considering an aspect of an application for Federal au-
7 thorization requires the applicant to submit environmental
8 data, the agency shall consider any such data gathered
9 by aerial or other remote means that the applicant sub-
10 mits. The agency may grant a conditional approval for
11 Federal authorization, conditioned on the verification of
12 such data by subsequent onsite inspection.

13 “(e) APPLICATION PROCESSING.—The Commission,
14 and Federal and State agencies, may allow an applicant
15 seeking Federal authorization to fund a third-party con-
16 tractor to assist in reviewing the application.

17 “(f) ACCOUNTABILITY, TRANSPARENCY, EFFI-
18 CIENCY.—For applications requiring multiple Federal au-
19 thorizations, the Commission, with input from any Federal
20 or State agency considering an aspect of an application,
21 shall track and make available to the public on the Com-
22 mission’s website information related to the actions re-
23 quired to complete permitting, reviews, and other actions
24 required. Such information shall include the following:

1 “(1) The schedule established by the Commis-
2 sion under subsection (c)(1).

3 “(2) A list of all the actions required by each
4 applicable agency to complete permitting, reviews,
5 and other actions necessary to obtain a final decision
6 on the Federal authorization.

7 “(3) The expected completion date for each
8 such action.

9 “(4) A point of contact at the agency account-
10 able for each such action.

11 “(5) In the event that an action is still pending
12 as of the expected date of completion, a brief expla-
13 nation of the reasons for the delay.”.

14 **SEC. 1102. RESOLVING ENVIRONMENTAL AND GRID RELI-**
15 **ABILITY CONFLICTS.**

16 (a) COMPLIANCE WITH OR VIOLATION OF ENVIRON-
17 MENTAL LAWS WHILE UNDER EMERGENCY ORDER.—
18 Section 202(c) of the Federal Power Act (16 U.S.C.
19 824a(c)) is amended—

20 (1) by inserting “(1)” after “(c)”; and

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

22 “(2) With respect to an order issued under this sub-
23 section that may result in a conflict with a requirement
24 of any Federal, State, or local environmental law or regu-
25 lation, the Commission shall ensure that such order re-

1 quires generation, delivery, interchange, or transmission
2 of electric energy only during hours necessary to meet the
3 emergency and serve the public interest, and, to the max-
4 imum extent practicable, is consistent with any applicable
5 Federal, State, or local environmental law or regulation
6 and minimizes any adverse environmental impacts.

7 “(3) To the extent any omission or action taken by
8 a party, that is necessary to comply with an order issued
9 under this subsection, including any omission or action
10 taken to voluntarily comply with such order, results in
11 noncompliance with, or causes such party to not comply
12 with, any Federal, State, or local environmental law or
13 regulation, such omission or action shall not be considered
14 a violation of such environmental law or regulation, or
15 subject such party to any requirement, civil or criminal
16 liability, or a citizen suit under such environmental law
17 or regulation.

18 “(4)(A) An order issued under this subsection that
19 may result in a conflict with a requirement of any Federal,
20 State, or local environmental law or regulation shall expire
21 not later than 90 days after it is issued. The Commission
22 may renew or reissue such order pursuant to paragraphs
23 (1) and (2) for subsequent periods, not to exceed 90 days
24 for each period, as the Commission determines necessary
25 to meet the emergency and serve the public interest.

1 “(B) In renewing or reissuing an order under sub-
2 paragraph (A), the Commission shall consult with the pri-
3 mary Federal agency with expertise in the environmental
4 interest protected by such law or regulation, and shall in-
5 clude in any such renewed or reissued order such condi-
6 tions as such Federal agency determines necessary to min-
7 imize any adverse environmental impacts to the extent
8 practicable. The conditions, if any, submitted by such Fed-
9 eral agency shall be made available to the public. The
10 Commission may exclude such a condition from the re-
11 newed or reissued order if it determines that such condi-
12 tion would prevent the order from adequately addressing
13 the emergency necessitating such order and provides in
14 the order, or otherwise makes publicly available, an expla-
15 nation of such determination.

16 “(5) If an order issued under this subsection is subse-
17 quently stayed, modified, or set aside by a court pursuant
18 to section 313 or any other provision of law, any omission
19 or action previously taken by a party that was necessary
20 to comply with the order while the order was in effect,
21 including any omission or action taken to voluntarily com-
22 ply with the order, shall remain subject to paragraph
23 (3).”.

24 (b) TEMPORARY CONNECTION OR CONSTRUCTION BY
25 MUNICIPALITIES.—Section 202(d) of the Federal Power

1 Act (16 U.S.C. 824a(d)) is amended by inserting “or mu-
2 nicipality” before “engaged in the transmission or sale of
3 electric energy”.

4 **SEC. 1103. EMERGENCY PREPAREDNESS FOR ENERGY SUP-**
5 **PLY DISRUPTIONS.**

6 (a) FINDING.—Congress finds that recent natural
7 disasters have underscored the importance of having resil-
8 ient oil and natural gas infrastructure and energy storage
9 and effective ways for industry and government to commu-
10 nicate to address energy supply disruptions.

11 (b) AUTHORIZATION FOR ACTIVITIES TO ENHANCE
12 EMERGENCY PREPAREDNESS FOR NATURAL DISAS-
13 TERS.—The Secretary of Energy shall develop and adopt
14 procedures to—

15 (1) improve communication and coordination
16 between the Department of Energy’s energy re-
17 sponse team, Federal partners, and industry;

18 (2) leverage the Energy Information Adminis-
19 tration’s subject matter expertise within the Depart-
20 ment’s energy response team to improve supply
21 chain situation assessments;

22 (3) establish company liaisons and direct com-
23 munication with the Department’s energy response
24 team to improve situation assessments;

1 (4) streamline and enhance processes for ob-
2 taining temporary regulatory relief to speed up
3 emergency response and recovery;

4 (5) facilitate and increase engagement among
5 States, the oil and natural gas industry, the energy
6 storage industry, and the Department in developing
7 State and local energy assurance plans;

8 (6) establish routine education and training
9 programs for key government emergency response
10 positions with the Department and States; and

11 (7) involve States, the energy storage industry,
12 and the oil and natural gas industry in comprehen-
13 sive drill and exercise programs.

14 (c) COOPERATION.—The activities carried out under
15 subsection (b) shall include collaborative efforts with State
16 and local government officials and the private sector.

17 (d) REPORT.—Not later than 180 days after the date
18 of enactment of this Act, the Secretary of Energy shall
19 submit to Congress a report describing the effectiveness
20 of the activities authorized under this section.

21 **SEC. 1104. CRITICAL ELECTRIC INFRASTRUCTURE SECUR-**
22 **RITY.**

23 (a) CRITICAL ELECTRIC INFRASTRUCTURE SECUR-
24 RITY.—Part II of the Federal Power Act (16 U.S.C. 824

1 et seq.) is amended by adding after section 215 the fol-
2 lowing new section:

3 **“SEC. 215A. CRITICAL ELECTRIC INFRASTRUCTURE SECUR-**
4 **RITY.**

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

6 “(1) BULK-POWER SYSTEM; ELECTRIC RELI-
7 ABILITY ORGANIZATION; REGIONAL ENTITY.—The
8 terms ‘bulk-power system’, ‘Electric Reliability Or-
9 ganization’, and ‘regional entity’ have the meanings
10 given such terms in paragraphs (1), (2), and (7) of
11 section 215(a), respectively.

12 “(2) CRITICAL ELECTRIC INFRASTRUCTURE.—
13 The term ‘critical electric infrastructure’ means a
14 system or asset of the bulk-power system, whether
15 physical or virtual, the incapacity or destruction of
16 which would negatively affect national security, eco-
17 nomic security, public health or safety, or any com-
18 bination of such matters.

19 “(3) CRITICAL ELECTRIC INFRASTRUCTURE IN-
20 FORMATION.—The term ‘critical electric infrastruc-
21 ture information’ means information related to crit-
22 ical electric infrastructure, or proposed critical elec-
23 trical infrastructure, generated by or provided to the
24 Commission or other Federal agency, other than
25 classified national security information, that is des-

1 ignated as critical electric infrastructure information
2 by the Commission under subsection (d)(2). Such
3 term includes information that qualifies as critical
4 energy infrastructure information under the Com-
5 mission’s regulations.

6 “(4) DEFENSE CRITICAL ELECTRIC INFRA-
7 STRUCTURE.—The term ‘defense critical electric in-
8 frastructure’ means any electric infrastructure lo-
9 cated in the United States (including the territories)
10 that serves a facility designated by the Secretary
11 pursuant to subsection (c), but is not owned or oper-
12 ated by the owner or operator of such facility.

13 “(5) ELECTROMAGNETIC PULSE.—The term
14 ‘electromagnetic pulse’ means 1 or more pulses of
15 electromagnetic energy emitted by a device capable
16 of disabling or disrupting operation of, or destroy-
17 ing, electronic devices or communications networks,
18 including hardware, software, and data, by means of
19 such a pulse.

20 “(6) GEOMAGNETIC STORM.—The term ‘geo-
21 magnetic storm’ means a temporary disturbance of
22 the Earth’s magnetic field resulting from solar activ-
23 ity.

1 “(7) GRID SECURITY EMERGENCY.—The term
2 ‘grid security emergency’ means the occurrence or
3 imminent danger of—

4 “(A)(i) a malicious act using electronic
5 communication or an electromagnetic pulse, or
6 a geomagnetic storm event, that could disrupt
7 the operation of those electronic devices or com-
8 munications networks, including hardware, soft-
9 ware, and data, that are essential to the reli-
10 ability of critical electric infrastructure or of de-
11 fense critical electric infrastructure; and

12 “(ii) disruption of the operation of such
13 devices or networks, with significant adverse ef-
14 fects on the reliability of critical electric infra-
15 structure or of defense critical electric infra-
16 structure, as a result of such act or event; or

17 “(B)(i) a direct physical attack on critical
18 electric infrastructure or on defense critical
19 electric infrastructure; and

20 “(ii) significant adverse effects on the reli-
21 ability of critical electric infrastructure or of de-
22 fense critical electric infrastructure as a result
23 of such physical attack.

24 “(8) GRID SECURITY VULNERABILITY.—The
25 term ‘grid security vulnerability’ means a weakness

1 that, in the event of a malicious act using an electro-
2 magnetic pulse, would pose a substantial risk of dis-
3 ruption to the operation of those electrical or elec-
4 tronic devices or communications networks, includ-
5 ing hardware, software, and data, that are essential
6 to the reliability of the bulk-power system.

7 “(9) SECRETARY.—The term ‘Secretary’ means
8 the Secretary of Energy.

9 “(b) AUTHORITY TO ADDRESS GRID SECURITY
10 EMERGENCY.—

11 “(1) AUTHORITY.—Whenever the President
12 issues and provides to the Secretary a written direc-
13 tive or determination identifying a grid security
14 emergency, the Secretary may, with or without no-
15 tice, hearing, or report, issue such orders for emer-
16 gency measures as are necessary in the judgment of
17 the Secretary to protect or restore the reliability of
18 critical electric infrastructure or of defense critical
19 electric infrastructure during such emergency. As
20 soon as practicable but not later than 180 days after
21 the date of enactment of this section, the Secretary
22 shall, after notice and opportunity for comment, es-
23 tablish rules of procedure that ensure that such au-
24 thority can be exercised expeditiously.

1 “(2) NOTIFICATION OF CONGRESS.—Whenever
2 the President issues and provides to the Secretary a
3 written directive or determination under paragraph
4 (1), the President shall promptly notify congress-
5 sional committees of relevant jurisdiction, including
6 the Committee on Energy and Commerce of the
7 House of Representatives and the Committee on En-
8 ergy and Natural Resources of the Senate, of the
9 contents of, and justification for, such directive or
10 determination.

11 “(3) CONSULTATION.—Before issuing an order
12 for emergency measures under paragraph (1), the
13 Secretary shall, to the extent practicable in light of
14 the nature of the grid security emergency and the
15 urgency of the need for action, consult with appro-
16 priate governmental authorities in Canada and Mex-
17 ico, entities described in paragraph (4), the Elec-
18 tricity Sub-sector Coordinating Council, the Commis-
19 sion, and other appropriate Federal agencies regard-
20 ing implementation of such emergency measures.

21 “(4) APPLICATION.—An order for emergency
22 measures under this subsection may apply to—

23 “(A) the Electric Reliability Organization;

24 “(B) a regional entity; or

1 “(C) any owner, user, or operator of crit-
2 ical electric infrastructure or of defense critical
3 electric infrastructure within the United States.

4 “(5) EXPIRATION AND REISSUANCE.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), an order for emergency
7 measures issued under paragraph (1) shall ex-
8 pire no later than 15 days after its issuance.

9 “(B) EXTENSIONS.—The Secretary may
10 reissue an order for emergency measures issued
11 under paragraph (1) for subsequent periods,
12 not to exceed 15 days for each such period, pro-
13 vided that the President, for each such period,
14 issues and provides to the Secretary a written
15 directive or determination that the grid security
16 emergency identified under paragraph (1) con-
17 tinues to exist or that the emergency measure
18 continues to be required.

19 “(6) COST RECOVERY.—

20 “(A) CRITICAL ELECTRIC INFRASTRUC-
21 TURE.—If the Commission determines that
22 owners, operators, or users of critical electric
23 infrastructure have incurred substantial costs to
24 comply with an order for emergency measures
25 issued under this subsection and that such costs

1 were prudently incurred and cannot reasonably
2 be recovered through regulated rates or market
3 prices for the electric energy or services sold by
4 such owners, operators, or users, the Commis-
5 sion shall, consistent with the requirements of
6 section 205, after notice and an opportunity for
7 comment, establish a mechanism that permits
8 such owners, operators, or users to recover such
9 costs.

10 “(B) DEFENSE CRITICAL ELECTRIC INFRA-
11 STRUCTURE.—To the extent the owner or oper-
12 ator of defense critical electric infrastructure is
13 required to take emergency measures pursuant
14 to an order issued under this subsection, the
15 owners or operators of a critical defense facility
16 or facilities designated by the Secretary pursu-
17 ant to subsection (c) that rely upon such infra-
18 structure shall bear the full incremental costs of
19 the measures.

20 “(7) TEMPORARY ACCESS TO CLASSIFIED IN-
21 FORMATION.—The Secretary, and other appropriate
22 Federal agencies, shall, to the extent practicable and
23 consistent with their obligations to protect classified
24 information, provide temporary access to classified
25 information related to a grid security emergency for

1 which emergency measures are issued under para-
2 graph (1) to key personnel of any entity subject to
3 such emergency measures to enable optimum com-
4 munication between the entity and the Secretary and
5 other appropriate Federal agencies regarding the
6 grid security emergency.

7 “(c) DESIGNATION OF CRITICAL DEFENSE FACILI-
8 TIES.—Not later than 180 days after the date of enact-
9 ment of this section, the Secretary, in consultation with
10 other appropriate Federal agencies and appropriate own-
11 ers, users, or operators of infrastructure that may be de-
12 fense critical electric infrastructure, shall identify and des-
13 ignate facilities located in the United States (including the
14 territories) that are—

15 “(1) critical to the defense of the United States;

16 and

17 “(2) vulnerable to a disruption of the supply of
18 electric energy provided to such facility by an exter-
19 nal provider.

20 The Secretary may, in consultation with appropriate Fed-
21 eral agencies and appropriate owners, users, or operators
22 of defense critical electric infrastructure, periodically re-
23 vise the list of designated facilities as necessary.

24 “(d) PROTECTION AND SHARING OF CRITICAL ELEC-
25 TRIC INFRASTRUCTURE INFORMATION.—

1 “(1) PROTECTION OF CRITICAL ELECTRIC IN-
2 FRASTRUCTURE INFORMATION.—Critical electric in-
3 frastructure information—

4 “(A) shall be exempt from disclosure under
5 section 552(b)(3) of title 5, United States Code;
6 and

7 “(B) shall not be made available by any
8 Federal, State, political subdivision or tribal au-
9 thority pursuant to any Federal, State, political
10 subdivision or tribal law requiring public disclo-
11 sure of information or records.

12 “(2) DESIGNATION AND SHARING OF CRITICAL
13 ELECTRIC INFRASTRUCTURE INFORMATION.—Not
14 later than one year after the date of enactment of
15 this section, the Commission, in consultation with
16 the Secretary of Energy, shall promulgate such reg-
17 ulations and issue such orders as necessary to—

18 “(A) designate information as critical elec-
19 tric infrastructure information;

20 “(B) prohibit the unauthorized disclosure
21 of critical electric infrastructure information;

22 “(C) ensure there are appropriate sanc-
23 tions in place for Commissioners, officers, em-
24 ployees, or agents of the Commission who
25 knowingly and willfully disclose critical electric

1 infrastructure information in a manner that is
2 not authorized under this section; and

3 “(D) taking into account standards of the
4 Electric Reliability Organization, facilitate vol-
5 untary sharing of critical electric infrastructure
6 information with, between, and by—

7 “(i) Federal, State, political subdivi-
8 sion, and tribal authorities;

9 “(ii) the Electric Reliability Organiza-
10 tion;

11 “(iii) regional entities;

12 “(iv) information sharing and analysis
13 centers established pursuant to Presi-
14 dential Decision Directive 63;

15 “(v) owners, operators, and users of
16 critical electric infrastructure in the United
17 States; and

18 “(vi) other entities determined appro-
19 priate by the Commission.

20 “(3) CONSIDERATIONS.—In promulgating regu-
21 lations and issuing orders under paragraph (2), the
22 Commission shall take into consideration the role of
23 State commissions in reviewing the prudence and
24 cost of investments, determining the rates and terms
25 of conditions for electric services, and ensuring the

1 safety and reliability of the bulk-power system and
2 distribution facilities within their respective jurisdic-
3 tions.

4 “(4) PROTOCOLS.—The Commission shall, in
5 consultation with Canadian and Mexican authorities,
6 develop protocols for the voluntary sharing of critical
7 electric infrastructure information with Canadian
8 and Mexican authorities and owners, operators, and
9 users of the bulk-power system outside the United
10 States.

11 “(5) NO REQUIRED SHARING OF INFORMA-
12 TION.—Nothing in this section shall require a person
13 or entity in possession of critical electric infrastruc-
14 ture information to share such information with
15 Federal, State, political subdivision, or tribal au-
16 thorities, or any other person or entity.

17 “(6) SUBMISSION OF INFORMATION TO CON-
18 GRESS.—Nothing in this section shall permit or au-
19 thorize the withholding of information from Con-
20 gress, any committee or subcommittee thereof, or
21 the Comptroller General.

22 “(7) DISCLOSURE OF PROTECTED INFORMA-
23 TION.—In implementing this section, the Commis-
24 sion shall segregate critical electric infrastructure in-
25 formation or information that reasonably could be

1 expected to lead to the disclosure of the critical elec-
2 tric infrastructure information within documents and
3 electronic communications, wherever feasible, to fa-
4 cilitate disclosure of information that is not des-
5 ignated as critical electric infrastructure informa-
6 tion.

7 “(8) DURATION OF DESIGNATION.—Informa-
8 tion may not be designated as critical electric infra-
9 structure information for longer than 5 years, unless
10 specifically re-designated by the Commission.

11 “(9) REMOVAL OF DESIGNATION.—The Com-
12 mission shall remove the designation of critical elec-
13 tric infrastructure information, in whole or in part,
14 from a document or electronic communication if the
15 Commission determines that the unauthorized disclo-
16 sure of such information could no longer be used to
17 impair the security or reliability of the bulk-power
18 system or distribution facilities.

19 “(10) JUDICIAL REVIEW OF DESIGNATIONS.—
20 Notwithstanding section 313(b), any determination
21 by the Commission concerning the designation of
22 critical electric infrastructure information under this
23 subsection shall be subject to review under chapter
24 7 of title 5, United States Code, except that such re-
25 view shall be brought in the district court of the

1 United States in the district in which the complain-
2 ant resides, or has his principal place of business, or
3 in the District of Columbia. In such a case the court
4 shall examine in camera the contents of documents
5 or electronic communications that are the subject of
6 the determination under review to determine wheth-
7 er such documents or any part thereof were improper-
8 ly designated or not designated as critical electric
9 infrastructure information.

10 “(e) MEASURES TO ADDRESS GRID SECURITY
11 VULNERABILITIES.—

12 “(1) COMMISSION AUTHORITY.—

13 “(A) RELIABILITY STANDARDS.—If the
14 Commission, in consultation with appropriate
15 Federal agencies, identifies a grid security vul-
16 nerability that the Commission determines has
17 not adequately been addressed through a reli-
18 ability standard developed and approved under
19 section 215, the Commission shall, after notice
20 and opportunity for comment and after con-
21 sultation with the Secretary, other appropriate
22 Federal agencies, and appropriate governmental
23 authorities in Canada and Mexico, issue an
24 order directing the Electric Reliability Organi-
25 zation to submit to the Commission for ap-

1 proval under section 215, not later than 30
2 days after the issuance of such order, a reli-
3 ability standard requiring implementation, by
4 any owner, operator, or user of the bulk-power
5 system in the United States, of measures to
6 protect the bulk-power system against such vul-
7 nerability. Any such standard shall include a
8 protection plan, including automated hardware-
9 based solutions. The Commission shall approve
10 a reliability standard submitted pursuant to
11 this subparagraph, unless the Commission de-
12 termines that such reliability standard does not
13 adequately protect against such vulnerability or
14 otherwise does not satisfy the requirements of
15 section 215.

16 “(B) MEASURES TO ADDRESS GRID SECUR-
17 ITY VULNERABILITIES.—If the Commission,
18 after notice and opportunity for comment and
19 after consultation with the Secretary, other ap-
20 propriate Federal agencies, and appropriate
21 governmental authorities in Canada and Mex-
22 ico, determines that the reliability standard
23 submitted by the Electric Reliability Organiza-
24 tion to address a grid security vulnerability
25 identified under subparagraph (A) does not

1 adequately protect the bulk-power system
2 against such vulnerability, the Commission shall
3 promulgate a rule or issue an order requiring
4 implementation, by any owner, operator, or user
5 of the bulk-power system in the United States,
6 of measures to protect the bulk-power system
7 against such vulnerability. Any such rule or
8 order shall include a protection plan, including
9 automated hardware-based solutions. Before
10 promulgating a rule or issuing an order under
11 this subparagraph, the Commission shall, to the
12 extent practicable in light of the urgency of the
13 need for action to address the grid security vul-
14 nerability, request and consider recommenda-
15 tions from the Electric Reliability Organization
16 regarding such rule or order. The Commission
17 may establish an appropriate deadline for the
18 submission of such recommendations.

19 “(2) RESCISSION.—The Commission shall ap-
20 prove a reliability standard developed under section
21 215 that addresses a grid security vulnerability that
22 is the subject of a rule or order under paragraph
23 (1)(B), unless the Commission determines that such
24 reliability standard does not adequately protect
25 against such vulnerability or otherwise does not sat-

1 isfy the requirements of section 215. Upon such ap-
2 proval, the Commission shall rescind the rule pro-
3 mulgated or order issued under paragraph (1)(B)
4 addressing such vulnerability, effective upon the ef-
5 fective date of the newly approved reliability stand-
6 ard.

7 “(3) GEOMAGNETIC STORMS AND ELECTRO-
8 MAGNETIC PULSE.—Not later than 6 months after
9 the date of enactment of this section, the Commis-
10 sion shall, after notice and an opportunity for com-
11 ment and after consultation with the Secretary and
12 other appropriate Federal agencies, issue an order
13 directing the Electric Reliability Organization to
14 submit to the Commission for approval under section
15 215, not later than 6 months after the issuance of
16 such order, reliability standards adequate to protect
17 the bulk-power system from any reasonably foresee-
18 able geomagnetic storm or electromagnetic pulse
19 event. The Commission’s order shall specify the na-
20 ture and magnitude of the reasonably foreseeable
21 events against which such standards must protect.
22 Such standards shall appropriately balance the risks
23 to the bulk-power system associated with such
24 events, including any regional variation in such
25 risks, the costs of mitigating such risks, and the pri-

1 orities and timing associated with implementation. If
2 the Commission determines that the reliability
3 standards submitted by the Electric Reliability Or-
4 ganization pursuant to this paragraph are inad-
5 equate, the Commission shall promulgate a rule or
6 issue an order adequate to protect the bulk-power
7 system from geomagnetic storms or electromagnetic
8 pulse as required under paragraph (1)(B).

9 “(4) LARGE TRANSFORMER AVAILABILITY.—

10 Not later than 1 year after the date of enactment
11 of this section, the Commission shall, after notice
12 and an opportunity for comment and after consulta-
13 tion with the Secretary and other appropriate Fed-
14 eral agencies, issue an order directing the Electric
15 Reliability Organization to submit to the Commis-
16 sion for approval under section 215, not later than
17 1 year after the issuance of such order, reliability
18 standards addressing availability of large trans-
19 formers. Such standards shall require entities that
20 own or operate large transformers to ensure, individ-
21 ually or jointly, adequate availability of large trans-
22 formers to promptly restore the reliable operation of
23 the bulk-power system in the event that any such
24 transformer is destroyed or disabled as a result of
25 a geomagnetic storm event or electromagnetic pulse

1 event. The Commission’s order shall specify the na-
2 ture and magnitude of the reasonably foreseeable
3 events that shall provide the basis for such stand-
4 ards. Such standards shall—

5 “(A) provide entities subject to the stand-
6 ards with the option of meeting such standards
7 individually or jointly; and

8 “(B) appropriately balance the risks asso-
9 ciated with a reasonably foreseeable event, in-
10 cluding any regional variation in such risks, and
11 the costs of ensuring adequate availability of
12 spare transformers.

13 “(5) CERTAIN FEDERAL ENTITIES.—For the
14 11-year period commencing on the date of enact-
15 ment of this section, the Tennessee Valley Authority
16 and the Bonneville Power Administration shall be
17 exempt from any requirement under this subsection.

18 “(f) SECURITY CLEARANCES.—The Secretary shall
19 facilitate and, to the extent practicable, expedite the acqui-
20 sition of adequate security clearances by key personnel of
21 any entity subject to the requirements of this section, to
22 enable optimum communication with Federal agencies re-
23 garding threats to the security of the critical electric infra-
24 structure. The Secretary, the Commission, and other ap-
25 propriate Federal agencies shall, to the extent practicable

1 and consistent with their obligations to protect classified
2 and critical electric infrastructure information, share time-
3 ly actionable information regarding grid security with ap-
4 propriate key personnel of owners, operators, and users
5 of the critical electric infrastructure.

6 “(g) CLARIFICATIONS OF LIABILITY.—

7 “(1) COMPLIANCE WITH OR VIOLATION OF THIS
8 ACT.—Except as provided in paragraph (4), to the
9 extent any action or omission taken by an entity
10 that is necessary to comply with an order for emer-
11 gency measures issued under subsection (b)(1), in-
12 cluding any action or omission taken to voluntarily
13 comply with such order, results in noncompliance
14 with, or causes such entity not to comply with any
15 rule, order, regulation, or provision of this Act, in-
16 cluding any reliability standard approved by the
17 Commission pursuant to section 215, such action or
18 omission shall not be considered a violation of such
19 rule, order, regulation, or provision.

20 “(2) RELATION TO SECTION 202(c).—Except as
21 provided in paragraph (4), an action or omission
22 taken by an owner, operator, or user of critical elec-
23 tric infrastructure or of defense critical electric in-
24 frastructure to comply with an order for emergency
25 measures issued under subsection (b)(1) shall be

1 treated as an action or omission taken to comply
2 with an order issued under section 202(c) for pur-
3 poses of such section.

4 “(3) SHARING OR RECEIPT OF INFORMATION.—
5 No cause of action shall lie or be maintained in any
6 Federal or State court for the sharing or receipt of
7 information under, and that is conducted in accord-
8 ance with, subsection (d).

9 “(4) RULE OF CONSTRUCTION.—Nothing in
10 this subsection shall be construed to require dis-
11 missal of a cause of action against an entity that,
12 in the course of complying with an order for emer-
13 gency measures issued under subsection (b)(1) by
14 taking an action or omission for which they would
15 be liable but for paragraph (1) or (2), takes such ac-
16 tion or omission in a grossly negligent manner.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) JURISDICTION.—Section 201(b)(2) of the
19 Federal Power Act (16 U.S.C. 824(b)(2)) is amend-
20 ed by inserting “215A,” after “215,” each place it
21 appears.

22 (2) PUBLIC UTILITY.—Section 201(e) of the
23 Federal Power Act (16 U.S.C. 824(e)) is amended
24 by inserting “215A,” after “215,”.

1 **SEC. 1105. STRATEGIC TRANSFORMER RESERVE.**

2 (a) FINDING.—Congress finds that the storage of
3 strategically located spare large power transformers and
4 emergency mobile substations will reduce the vulnerability
5 of the United States to multiple risks facing electric grid
6 reliability, including physical attack, cyber attack, electro-
7 magnetic pulse, geomagnetic disturbances, severe weather,
8 and seismic events.

9 (b) DEFINITIONS.—In this section:

10 (1) BULK-POWER SYSTEM.—The term “bulk-
11 power system” has the meaning given such term in
12 section 215(a) of the Federal Power Act (16 U.S.C.
13 824o(a)).

14 (2) CRITICALLY DAMAGED LARGE POWER
15 TRANSFORMER.—The term “critically damaged large
16 power transformer” means a large power trans-
17 former that—

18 (A) has sustained extensive damage such
19 that—

20 (i) repair or refurbishment is not eco-
21 nomically viable; or

22 (ii) the extensive time to repair or re-
23 furbish the large power transformer would
24 create an extended period of instability in
25 the bulk-power system; and

1 (B) prior to sustaining such damage, was
2 part of the bulk-power system.

3 (3) CRITICAL ELECTRIC INFRASTRUCTURE.—
4 The term “critical electric infrastructure” has the
5 meaning given that term in section 215A of the Fed-
6 eral Power Act.

7 (4) ELECTRIC RELIABILITY ORGANIZATION.—
8 The term “Electric Reliability Organization” has the
9 meaning given such term in section 215(a) of the
10 Federal Power Act (16 U.S.C. 824o(a)).

11 (5) EMERGENCY MOBILE SUBSTATION.—The
12 term “emergency mobile substation” means a mobile
13 substation or mobile transformer that is—

14 (A) assembled and permanently mounted
15 on a trailer that is capable of highway travel
16 and meets relevant Department of Transpor-
17 tation regulations; and

18 (B) intended for express deployment and
19 capable of being rapidly placed into service.

20 (6) LARGE POWER TRANSFORMER.—The term
21 “large power transformer” means a power trans-
22 former with a maximum nameplate rating of 100
23 megavolt-amperes or higher, including related crit-
24 ical equipment, that is, or is intended to be, a part
25 of the bulk-power system.

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of Energy.

3 (8) SPARE LARGE POWER TRANSFORMER.—The
4 term “spare large power transformer” means a large
5 power transformer that is stored within the Stra-
6 tegic Transformer Reserve to be available to tempo-
7 rarily replace a critically damaged large power trans-
8 former.

9 (c) STRATEGIC TRANSFORMER RESERVE PLAN.—

10 (1) PLAN.—Not later than 1 year after the date
11 of enactment of this Act, the Secretary, acting
12 through the Office of Electricity Delivery and En-
13 ergy Reliability, shall, in consultation with the Fed-
14 eral Energy Regulatory Commission, the Electricity
15 Sub-sector Coordinating Council, the Electric Reli-
16 ability Organization, and owners and operators of
17 critical electric infrastructure and defense and mili-
18 tary installations, prepare and submit to Congress a
19 plan to establish a Strategic Transformer Reserve
20 for the storage, in strategically located facilities, of
21 spare large power transformers and emergency mo-
22 bile substations in sufficient numbers to temporarily
23 replace critically damaged large power transformers
24 and substations that are critical electric infrastruc-
25 ture or serve defense and military installations.

1 (2) INCLUSIONS.—The Strategic Transformer
2 Reserve plan shall include a description of—

3 (A) the appropriate number and type of
4 spare large power transformers necessary to
5 provide or restore sufficient resiliency to the
6 bulk-power system, critical electric infrastruc-
7 ture, and defense and military installations to
8 mitigate significant impacts to the electric grid
9 resulting from—

- 10 (i) physical attack;
11 (ii) cyber attack;
12 (iii) electromagnetic pulse attack;
13 (iv) geomagnetic disturbances;
14 (v) severe weather; or
15 (vi) seismic events;

16 (B) other critical electric grid equipment
17 for which an inventory of spare equipment, in-
18 cluding emergency mobile substations, is nec-
19 essary to provide or restore sufficient resiliency
20 to the bulk-power system, critical electric infra-
21 structure, and defense and military installa-
22 tions;

23 (C) the degree to which utility sector ac-
24 tions or initiatives, including individual utility
25 ownership of spare equipment, joint ownership

1 of spare equipment inventory, sharing agree-
2 ments, or other spare equipment reserves or ar-
3 rangements, satisfy the needs identified under
4 subparagraphs (A) and (B);

5 (D) the potential locations for, and feasi-
6 bility and appropriate number of, strategic stor-
7 age locations for reserve equipment, including
8 consideration of—

9 (i) the physical security of such loca-
10 tions;

11 (ii) the protection of the confiden-
12 tiality of such locations; and

13 (iii) the proximity of such locations to
14 sites of potentially critically damaged large
15 power transformers and substations that
16 are critical electric infrastructure or serve
17 defense and military installations, so as to
18 enable efficient delivery of equipment to
19 such sites;

20 (E) the necessary degree of flexibility of
21 spare large power transformers to be included
22 in the Strategic Transformer Reserve to con-
23 form to different substation configurations, in-
24 cluding consideration of transformer—

- 1 (i) power and voltage rating for each
2 winding;
- 3 (ii) overload requirements;
- 4 (iii) impedance between windings;
- 5 (iv) configuration of windings; and
- 6 (v) tap requirements;
- 7 (F) an estimate of the direct cost of the
8 Strategic Transformer Reserve, as proposed, in-
9 cluding—
- 10 (i) the cost of storage facilities;
- 11 (ii) the cost of the equipment; and
- 12 (iii) management, maintenance, and
13 operation costs;
- 14 (G) the funding options available to estab-
15 lish, stock, manage, and maintain the Strategic
16 Transformer Reserve, including consideration of
17 fees on owners and operators of bulk-power sys-
18 tem facilities, critical electric infrastructure,
19 and defense and military installations relying on
20 the Strategic Transformer Reserve, use of Fed-
21 eral appropriations, and public-private cost-
22 sharing options;
- 23 (H) the ease and speed of transportation,
24 installation, and energization of spare large
25 power transformers to be included in the Stra-

- 1 ategic Transformer Reserve, including consider-
2 ation of factors such as—
- 3 (i) transformer transportation weight;
 - 4 (ii) transformer size;
 - 5 (iii) topology of critical substations;
 - 6 (iv) availability of appropriate trans-
7 former mounting pads;
 - 8 (v) flexibility of the spare large power
9 transformers as described in subparagraph
10 (E); and
 - 11 (vi) ability to rapidly transition a
12 spare large power transformer from stor-
13 age to energization;
 - 14 (I) eligibility criteria for withdrawal of
15 equipment from the Strategic Transformer Re-
16 serve;
 - 17 (J) the process by which owners or opera-
18 tors of critically damaged large power trans-
19 formers or substations that are critical electric
20 infrastructure or serve defense and military in-
21 stallations may apply for a withdrawal from the
22 Strategic Transformer Reserve;
 - 23 (K) the process by which equipment with-
24 drawn from the Strategic Transformer Reserve

1 is returned to the Strategic Transformer Re-
2 serve or is replaced;

3 (L) possible fees to be paid by users of
4 equipment withdrawn from the Strategic Trans-
5 former Reserve;

6 (M) possible fees to be paid by owners and
7 operators of large power transformers and sub-
8 stations that are critical electric infrastructure
9 or serve defense and military installations to
10 cover operating costs of the Strategic Trans-
11 former Reserve;

12 (N) the domestic and international large
13 power transformer supply chain;

14 (O) the potential reliability, cost, and oper-
15 ational benefits of including emergency mobile
16 substations in any Strategic Transformer Re-
17 serve established under this section; and

18 (P) other considerations for designing, con-
19 structing, stocking, funding, and managing the
20 Strategic Transformer Reserve.

21 (d) ESTABLISHMENT.—The Secretary may establish
22 a Strategic Transformer Reserve in accordance with the
23 plan prepared pursuant to subsection (c) after the date
24 that is 6 months after the date on which such plan is sub-
25 mitted to Congress.

1 (e) DISCLOSURE OF INFORMATION.—Any informa-
2 tion included in the Strategic Transformer Reserve plan,
3 or shared in the preparation and development of such
4 plan, the disclosure of which the agency reasonably fore-
5 sees would cause harm to critical electric infrastructure,
6 shall be deemed to be critical electric infrastructure infor-
7 mation for purposes of section 215A(d) of the Federal
8 Power Act.

9 **SEC. 1106. CYBER SENSE.**

10 (a) IN GENERAL.—The Secretary of Energy shall es-
11 tablish a voluntary Cyber Sense program to identify and
12 promote cyber-secure products intended for use in the
13 bulk-power system, as defined in section 215(a) of the
14 Federal Power Act (16 U.S.C. 824o(a)).

15 (b) PROGRAM REQUIREMENTS.—In carrying out sub-
16 section (a), the Secretary of Energy shall—

17 (1) establish a Cyber Sense testing process to
18 identify products and technologies intended for use
19 in the bulk-power system, including products relat-
20 ing to industrial control systems, such as supervisory
21 control and data acquisition systems;

22 (2) for products tested and identified under the
23 Cyber Sense program, establish and maintain cyber-
24 security vulnerability reporting processes and a re-
25 lated database;

1 (3) promulgate regulations regarding vulner-
2 ability reporting processes for products tested and
3 identified under the Cyber Sense program;

4 (4) provide technical assistance to utilities,
5 product manufacturers, and other electric sector
6 stakeholders to develop solutions to mitigate identi-
7 fied vulnerabilities in products tested and identified
8 under the Cyber Sense program;

9 (5) biennially review products tested and identi-
10 fied under the Cyber Sense program for
11 vulnerabilities and provide analysis with respect to
12 how such products respond to and mitigate cyber
13 threats;

14 (6) develop procurement guidance for utilities
15 for products tested and identified under the Cyber
16 Sense program;

17 (7) provide reasonable notice to the public, and
18 solicit comments from the public, prior to estab-
19 lishing or revising the Cyber Sense testing process;

20 (8) oversee Cyber Sense testing carried out by
21 third parties; and

22 (9) consider incentives to encourage the use in
23 the bulk-power system of products tested and identi-
24 fied under the Cyber Sense program.

1 (c) DISCLOSURE OF INFORMATION.—Any vulner-
2 ability reported pursuant to regulations promulgated
3 under subsection (b)(3), the disclosure of which the agency
4 reasonably foresees would cause harm to critical electric
5 infrastructure (as defined in section 215A of the Federal
6 Power Act), shall be deemed to be critical electric infra-
7 structure information for purposes of section 215A(d) of
8 the Federal Power Act.

9 (d) FEDERAL GOVERNMENT LIABILITY.—Consistent
10 with other voluntary Federal Government certification
11 programs, nothing in this section shall be construed to au-
12 thorize the commencement of an action against the United
13 States Government with respect to the testing and identi-
14 fication of a product under the Cyber Sense program.

15 **SEC. 1107. STATE COVERAGE AND CONSIDERATION OF**
16 **PURPA STANDARDS FOR ELECTRIC UTILI-**
17 **TIES.**

18 (a) STATE CONSIDERATION OF RESILIENCY AND AD-
19 VANCED ENERGY ANALYTICS TECHNOLOGIES AND RELI-
20 ABLE GENERATION.—

21 (1) CONSIDERATION.—Section 111(d) of the
22 Public Utility Regulatory Policies Act of 1978 (16
23 U.S.C. 2621(d)) is amended by adding the following
24 at the end:

1 “(20) IMPROVING THE RESILIENCE OF ELEC-
2 TRIC INFRASTRUCTURE.—

3 “(A) IN GENERAL.—Each electric utility
4 shall develop a plan to use resiliency-related
5 technologies, upgrades, measures, and other ap-
6 proaches designed to improve the resilience of
7 electric infrastructure, mitigate power outages,
8 continue delivery of vital services, and maintain
9 the flow of power to facilities critical to public
10 health, safety, and welfare, to the extent prac-
11 ticable using the most current data, metrics,
12 and frameworks related to current and future
13 threats, including physical and cyber attacks,
14 electromagnetic pulse attacks, geomagnetic dis-
15 turbances, seismic events, and severe weather
16 and other environmental stressors.

17 “(B) RESILIENCY-RELATED TECH-
18 NOLOGIES.—For purposes of this paragraph,
19 examples of resiliency-related technologies, up-
20 grades, measures, and other approaches in-
21 clude—

22 “(i) hardening, or other enhanced pro-
23 tection, of utility poles, wiring, cabling,
24 and other distribution components, facili-
25 ties, or structures;

1 “(ii) advanced grid technologies capa-
2 ble of isolating or repairing problems re-
3 motely, such as advanced metering infra-
4 structure, high-tech sensors, grid moni-
5 toring and control systems, and remote re-
6 configuration and redundancy systems;

7 “(iii) cybersecurity products and com-
8 ponents;

9 “(iv) distributed generation, including
10 back-up generation to power critical facili-
11 ties and essential services, and related inte-
12 gration components, such as advanced in-
13 verter technology;

14 “(v) microgrid systems, including hy-
15 brid microgrid systems for isolated commu-
16 nities;

17 “(vi) combined heat and power;

18 “(vii) waste heat resources;

19 “(viii) non-grid-scale energy storage
20 technologies;

21 “(ix) wiring, cabling, and other dis-
22 tribution components, including submers-
23 ible distribution components, and enclo-
24 sures;

1 “(x) electronically controlled reclosers
2 and similar technologies for power restora-
3 tion, including emergency mobile sub-
4 stations, as defined in section 1105 of the
5 North American Energy Security and In-
6 frastructure Act of 2015;

7 “(xi) advanced energy analytics tech-
8 nology, such as Internet-based and cloud-
9 based computing solutions and subscription
10 licensing models;

11 “(xii) measures that enhance resil-
12 ience through planning, preparation, re-
13 sponse, and recovery activities;

14 “(xiii) operational capabilities to en-
15 hance resilience through rapid response re-
16 covery; and

17 “(xiv) measures to ensure availability
18 of key critical components through con-
19 tracts, cooperative agreements, stockpiling
20 and prepositioning, or other measures.

21 “(C) RATE RECOVERY.—Each State regu-
22 latory authority (with respect to each electric
23 utility for which it has ratemaking authority)
24 shall consider authorizing each such electric
25 utility to recover any capital, operating expendi-

1 ture, or other costs of the electric utility related
2 to the procurement, deployment, or use of resil-
3 iency-related technologies, including a reason-
4 able rate of return on the capital expenditures
5 of the electric utility for the procurement, de-
6 ployment, or use of resiliency-related tech-
7 nologies.

8 “(21) PROMOTING INVESTMENTS IN ADVANCED
9 ENERGY ANALYTICS TECHNOLOGY.—

10 “(A) IN GENERAL.—Each electric utility
11 shall develop and implement a plan for deploy-
12 ing advanced energy analytics technology.

13 “(B) RATE RECOVERY.—Each State regu-
14 latory authority (with respect to each electric
15 utility for which it has ratemaking authority)
16 shall consider confirming and clarifying, if nec-
17 essary, that each such electric utility is author-
18 ized to recover the costs of the electric utility
19 relating to the procurement, deployment, or use
20 of advanced energy analytics technology, includ-
21 ing a reasonable rate of return on all such costs
22 incurred by the electric utility for the procure-
23 ment, deployment, or use of advanced energy
24 analytics technology, provided such technology
25 is used by the electric utility for purposes of re-

1 alizing operational efficiencies, cost savings, en-
2 hanced energy management and customer en-
3 gagement, improvements in system reliability,
4 safety, and cybersecurity, or other benefits to
5 ratepayers.

6 “(C) ADVANCED ENERGY ANALYTICS
7 TECHNOLOGY.—For purposes of this para-
8 graph, examples of advanced energy analytics
9 technology include Internet-based and cloud-
10 based computing solutions and subscription li-
11 censing models, including software as a service
12 that uses cyber-physical systems to allow the
13 correlation of data aggregated from appropriate
14 data sources and smart grid sensor networks,
15 employs analytics and machine learning, or em-
16 ploys other advanced computing solutions and
17 models.

18 “(22) ASSURING ELECTRIC RELIABILITY WITH
19 RELIABLE GENERATION.—

20 “(A) ASSURANCE OF ELECTRIC RELI-
21 ABILITY.—Each electric utility shall adopt or
22 modify policies to ensure that such electric util-
23 ity incorporates reliable generation into its inte-
24 grated resource plan to assure the availability

1 of electric energy over a 10-year planning pe-
2 riod.

3 “(B) RELIABLE GENERATION.—For pur-
4 poses of this paragraph, ‘reliable generation’
5 means electric generation facilities with reli-
6 ability attributes that include—

7 “(i)(I) possession of adequate fuel on-
8 site to enable operation for an extended pe-
9 riod of time;

10 “(II) the operational ability to gen-
11 erate electric energy from more than one
12 source; or

13 “(III) fuel certainty, through firm
14 contractual obligations (which may not be
15 required to be for a period longer than one
16 year), that ensures adequate fuel supply to
17 enable operation, for an extended period of
18 time, for the duration of an emergency or
19 severe weather conditions;

20 “(ii) operational characteristics that
21 enable the generation of electric energy for
22 the duration of an emergency or severe
23 weather conditions; and

24 “(iii) unless procured through other
25 procurement mechanisms, essential reli-

1 ability services, including frequency sup-
2 port and regulation services.

3 “(23) SUBSIDIZATION OF CUSTOMER-SIDE
4 TECHNOLOGY.—

5 “(A) CONSIDERATION.—To the extent that
6 a State regulatory authority may require or
7 allow rates charged by any electric utility for
8 which it has ratemaking authority to electric
9 consumers that do not use a customer-side
10 technology to include any cost, fee, or charge
11 that directly or indirectly cross-subsidizes the
12 deployment, construction, maintenance, or oper-
13 ation of that customer-side technology, such au-
14 thority shall evaluate whether subsidizing the
15 deployment, construction, maintenance, or oper-
16 ation of a customer-side technology would—

17 “(i) result in benefits predominately
18 enjoyed by only the users of that customer-
19 side technology;

20 “(ii) shift costs of a customer-side
21 technology to electricity consumers that do
22 not use that customer-side technology, par-
23 ticularly where disparate economic or re-
24 source conditions exist among the elec-

1 tricity consumers cross-subsidizing the cus-
2 tomer-side technology;

3 “(iii) negatively affect resource utiliza-
4 tion, fuel diversity, or grid security;

5 “(iv) provide any unfair competitive
6 advantage to market the customer-side
7 technology; and

8 “(v) be necessary to fulfill an obliga-
9 tion to serve electric consumers.

10 “(B) PUBLIC NOTICE.—Each State regu-
11 latory authority shall make available to the pub-
12 lic the evaluation completed under subpara-
13 graph (A) at least 90 days prior to any pro-
14 ceedings in which such authority considers the
15 cross-subsidization of a customer-side tech-
16 nology.

17 “(C) CUSTOMER-SIDE TECHNOLOGY.—For
18 purposes of this paragraph, the term ‘customer-
19 side technology’ means a device connected to
20 the electricity distribution system—

21 “(i) at, or on the customer side of, the
22 meter; or

23 “(ii) that, if owned or operated by or
24 on behalf of an electric utility, would other-

1 wise be at, or on the customer side of, the
2 meter.”.

3 (2) COMPLIANCE.—

4 (A) TIME LIMITATIONS.—Section 112(b)
5 of the Public Utility Regulatory Policies Act of
6 1978 (16 U.S.C. 2622(b)) is amended by add-
7 ing at the end the following:

8 “(7)(A) Not later than 1 year after the date of
9 enactment of this paragraph, each State regulatory
10 authority (with respect to each electric utility for
11 which it has ratemaking authority) and each non-
12 regulated electric utility, as applicable, shall com-
13 mence the consideration referred to in section 111,
14 or set a hearing date for consideration, with respect
15 to the standards established by paragraphs (20),
16 (22), and (23) of section 111(d).

17 “(B) Not later than 2 years after the date of
18 the enactment of this paragraph, each State regu-
19 latory authority (with respect to each electric utility
20 for which it has ratemaking authority) and each
21 nonregulated electric utility, as applicable, shall com-
22 plete the consideration, and shall make the deter-
23 mination, referred to in section 111 with respect to
24 each standard established by paragraphs (20), (22),
25 and (23) of section 111(d).

1 “(8)(A) Not later than 6 months after the date
2 of enactment of this paragraph, each State regu-
3 latory authority (with respect to each electric utility
4 for which it has ratemaking authority) and each
5 nonregulated electric utility shall commence the con-
6 sideration referred to in section 111, or set a hear-
7 ing date for consideration, with respect to the stand-
8 ard established by paragraph (21) of section 111(d).

9 “(B) Not later than 1 year after the date of en-
10 actment of this paragraph, each State regulatory au-
11 thority (with respect to each electric utility for which
12 it has ratemaking authority) and each nonregulated
13 electric utility shall complete the consideration, and
14 shall make the determination, referred to in section
15 111 with respect to the standard established by
16 paragraph (21) of section 111(d).”.

17 (B) FAILURE TO COMPLY.—Section 112(c)
18 of the Public Utility Regulatory Policies Act of
19 1978 (16 U.S.C. 2622(c)) is amended by add-
20 ing the following at the end: “In the case of the
21 standards established by paragraphs (20)
22 through (23) of section 111(d), the reference
23 contained in this subsection to the date of en-
24 actment of this Act shall be deemed to be a ref-

1 erence to the date of enactment of such para-
2 graphs.”.

3 (C) PRIOR STATE ACTIONS.—Section 112
4 of the Public Utility Regulatory Policies Act of
5 1978 (16 U.S.C. 2622) is amended by adding
6 at the end the following new subsection:

7 “(g) PRIOR STATE ACTIONS.—Subsections (b) and
8 (c) of this section shall not apply to a standard established
9 by paragraph (20), (21), (22), or (23) of section 111(d)
10 in the case of any electric utility in a State if—

11 “(1) before the date of enactment of this sub-
12 section, the State has implemented for such utility
13 the standard concerned (or a comparable standard);

14 “(2) the State regulatory authority for such
15 State or relevant nonregulated electric utility has
16 conducted a proceeding to consider implementation
17 of the standard concerned (or a comparable stand-
18 ard) for such utility during the 3-year period ending
19 on the date of enactment of this subsection; or

20 “(3) the State legislature has voted on the im-
21 plementation of the standard concerned (or a com-
22 parable standard) for such utility during the 3-year
23 period ending on the date of enactment of this sub-
24 section.”.

1 (b) COVERAGE FOR COMPETITIVE MARKETS.—Sec-
2 tion 102 of the Public Utility Regulatory Policies Act of
3 1978 (16 U.S.C. 2612) is amended by adding at the end
4 the following:

5 “(d) COVERAGE FOR COMPETITIVE MARKETS.—The
6 requirements of this title do not apply to the operations
7 of an electric utility, or to proceedings respecting such op-
8 erations, to the extent that such operations or proceedings,
9 or any portion thereof, relate to the competitive sale of
10 retail electric energy that is unbundled or separated from
11 the regulated provision or sale of distribution service.”.

12 **SEC. 1108. RELIABILITY ANALYSIS FOR CERTAIN RULES**
13 **THAT AFFECT ELECTRIC GENERATING FA-**
14 **CILITIES.**

15 (a) APPLICABILITY.—This section shall apply with
16 respect to any proposed or final covered rule issued by
17 a Federal agency for which compliance with the rule may
18 impact an electric utility generating unit or units, includ-
19 ing by resulting in closure or interruption to operations
20 of such a unit or units.

21 (b) RELIABILITY ANALYSIS.—

22 (1) ANALYSIS OF RULES.—The Federal Energy
23 Regulatory Commission, in consultation with the
24 Electric Reliability Organization, shall conduct an
25 independent reliability analysis of a proposed or final

1 covered rule under this section to evaluate the antici-
2 pated effects of implementation and enforcement of
3 the rule on—

4 (A) electric reliability and resource ade-
5 quacy;

6 (B) the electricity generation portfolio of
7 the United States;

8 (C) the operation of wholesale electricity
9 markets; and

10 (D) energy delivery and infrastructure, in-
11 cluding electric transmission facilities and nat-
12 ural gas pipelines.

13 (2) RELEVANT INFORMATION.—

14 (A) MATERIALS FROM FEDERAL AGEN-
15 CIES.—A Federal agency shall provide to the
16 Commission materials and information relevant
17 to the analysis required under paragraph (1)
18 for a rule, including relevant data, modeling,
19 and resource adequacy and reliability assess-
20 ments, prepared or relied upon by such agency
21 in developing the rule.

22 (B) ANALYSES FROM OTHER ENTITIES.—
23 The Electric Reliability Organization, regional
24 entities, regional transmission organizations,
25 independent system operators, and other reli-

1 ability coordinators and planning authorities
2 shall timely conduct analyses and provide such
3 information as may be reasonably requested by
4 the Commission.

5 (3) NOTICE.—A Federal agency shall provide to
6 the Commission notice of the issuance of any pro-
7 posed or final covered rule not later than 15 days
8 after the date of such issuance.

9 (c) PROPOSED RULES.—Not later than 150 days
10 after the date of publication in the Federal Register of
11 a proposed rule described in subsection (a), the Federal
12 Energy Regulatory Commission shall make available to
13 the public an analysis of the proposed rule conducted in
14 accordance with subsection (b), and any relevant special
15 assessment or seasonal or long-term reliability assessment
16 completed by the Electric Reliability Organization.

17 (d) FINAL RULES.—

18 (1) INCLUSION.—A final rule described in sub-
19 section (a) shall include, if available at the time of
20 issuance, a copy of the analysis conducted pursuant
21 to subsection (c) of the rule as proposed.

22 (2) ANALYSIS.—Not later than 120 days after
23 the date of publication in the Federal Register of a
24 final rule described in subsection (a), the Federal
25 Energy Regulatory Commission shall make available

1 to the public an analysis of the final rule conducted
2 in accordance with subsection (b), and any relevant
3 special assessment or seasonal or long-term reli-
4 ability assessment completed by the Electric Reli-
5 ability Organization.

6 (e) DEFINITIONS.—In this section:

7 (1) ELECTRIC RELIABILITY ORGANIZATION.—

8 The term “Electric Reliability Organization” has the
9 meaning given to such term in section 215(a) of the
10 Federal Power Act (16 U.S.C. 824o(a)).

11 (2) FEDERAL AGENCY.—The term “Federal

12 agency” means an agency, as that term is defined
13 in section 551 of title 5, United States Code.

14 (3) COVERED RULE.—The term “covered rule”

15 means a proposed or final rule that is estimated by
16 the Federal agency issuing the rule, or the Director
17 of the Office of Management and Budget, to result
18 in an annual effect on the economy of
19 \$1,000,000,000 or more.

20 **SEC. 1109. INCREASED ACCOUNTABILITY WITH RESPECT**
21 **TO CARBON CAPTURE, UTILIZATION, AND SE-**
22 **QUESTRATION PROJECTS.**

23 (a) DOE EVALUATION.—

24 (1) IN GENERAL.—The Secretary of Energy (in

25 this section referred to as the “Secretary”) shall, in

1 accordance with this section, annually conduct an
2 evaluation, and make recommendations, with respect
3 to each project conducted by the Secretary for re-
4 search, development, demonstration, or deployment
5 of carbon capture, utilization, and sequestration
6 technologies (also known as carbon capture and stor-
7 age and utilization technologies).

8 (2) SCOPE.—For purposes of this section, a
9 project includes any contract, lease, cooperative
10 agreement, or other similar transaction with a public
11 agency or private organization or person, entered
12 into or performed, or any payment made, by the
13 Secretary for research, development, demonstration,
14 or deployment of carbon capture, utilization, and se-
15 questration technologies.

16 (b) REQUIREMENTS FOR EVALUATION.—In con-
17 ducting an evaluation of a project under this section, the
18 Secretary shall—

19 (1) examine if the project has made advance-
20 ments toward achieving any specific goal of the
21 project with respect to a carbon capture, utilization,
22 and sequestration technology; and

23 (2) evaluate and determine if the project has
24 made significant progress in advancing a carbon
25 capture, utilization, and sequestration technology.

1 (c) RECOMMENDATIONS.—For each evaluation of a
2 project conducted under this section, if the Secretary de-
3 termines that—

4 (1) significant progress in advancing a carbon
5 capture, utilization, and sequestration technology
6 has been made, the Secretary shall assess the fund-
7 ing of the project and make a recommendation as to
8 whether increased funding is necessary to advance
9 the project; or

10 (2) significant progress in advancing a carbon
11 capture, utilization, and sequestration technology
12 has not been made, the Secretary shall—

13 (A) assess the funding of the project and
14 make a recommendation as to whether in-
15 creased funding is necessary to advance the
16 project;

17 (B) assess and determine if the project has
18 reached its full potential; and

19 (C) make a recommendation as to whether
20 the project should continue.

21 (d) REPORTS.—

22 (1) REPORT ON EVALUATIONS AND REC-
23 OMMENDATIONS.—Not later than 2 years after the
24 date of enactment of this Act, and every 2 years
25 thereafter, the Secretary shall—

1 (A) issue a report on the evaluations con-
2 ducted and recommendations made during the
3 previous year pursuant to this section; and

4 (B) make each such report available on the
5 Internet website of the Department of Energy.

6 (2) REPORT.—Not later than 2 years after the
7 date of enactment of this Act, and every 3 years
8 thereafter, the Secretary shall submit to the Sub-
9 committee on Energy and Power of the Committee
10 on Energy and Commerce and the Committee on
11 Science, Space, and Technology of the House of
12 Representatives and the Committee on Energy and
13 Natural Resources and the Committee on Com-
14 merce, Science, and Transportation of the Senate a
15 report on—

16 (A) the evaluations conducted and rec-
17 ommendations made during the previous 3
18 years pursuant to this section; and

19 (B) the progress of the Department of En-
20 ergy in advancing carbon capture, utilization,
21 and sequestration technologies, including
22 progress in achieving the Department of Ener-
23 gy's goal of having an array of advanced carbon
24 capture and sequestration technologies ready by
25 2020 for large-scale demonstration.

1 **SEC. 1110. RELIABILITY AND PERFORMANCE ASSURANCE**
2 **IN REGIONAL TRANSMISSION ORGANIZA-**
3 **TIONS.**

4 Part II of the Federal Power Act (16 U.S.C. 824 et
5 seq.), as amended by section 1104, is further amended by
6 adding after section 215A the following new section:

7 **“SEC. 215B. RELIABILITY AND PERFORMANCE ASSURANCE**
8 **IN REGIONAL TRANSMISSION ORGANIZA-**
9 **TIONS.**

10 “(a) EXISTING CAPACITY MARKETS.—

11 “(1) ANALYSIS CONCERNING CAPACITY MARKET
12 DESIGN.—Not later than 180 days after the date of
13 enactment of this section, each Regional Trans-
14 mission Organization, and each Independent System
15 Operator, that operates a capacity market, or a com-
16 parable market intended to ensure the procurement
17 and availability of sufficient future electric energy
18 resources, that is subject to the jurisdiction of the
19 Commission, shall provide to the Commission an
20 analysis of how the structure of such market meets
21 the following criteria:

22 “(A) The structure of such market utilizes
23 competitive market forces to the extent prac-
24 ticable in procuring capacity resources.

25 “(B) Consistent with subparagraph (A),
26 the structure of such market includes resource-

1 neutral performance criteria that ensure the
2 procurement of sufficient capacity from physical
3 generation facilities that have reliability at-
4 tributes that include—

5 “(i)(I) possession of adequate fuel on-
6 site to enable operation for an extended pe-
7 riod of time;

8 “(II) the operational ability to gen-
9 erate electric energy from more than one
10 fuel source; or

11 “(III) fuel certainty, through firm
12 contractual obligations, that ensures ade-
13 quate fuel supply to enable operation, for
14 an extended period of time, for the dura-
15 tion of an emergency or severe weather
16 conditions;

17 “(ii) operational characteristics that
18 enable the generation of electric energy for
19 the duration of an emergency or severe
20 weather conditions; and

21 “(iii) unless procured through other
22 markets or procurement mechanisms, es-
23 sential reliability services, including fre-
24 quency support and regulation services.

1 “(2) COMMISSION EVALUATION AND REPORT.—
2 Not later than 1 year after the date of enactment
3 of this section, the Commission shall make publicly
4 available, and submit to the Committee on Energy
5 and Commerce in the House of Representatives and
6 the Committee on Energy and Natural Resources in
7 the Senate, a report containing—

8 “(A) evaluation of whether the structure of
9 each market addressed in an analysis submitted
10 pursuant to paragraph (1) meets the criteria
11 under such paragraph, based on the analysis;
12 and

13 “(B) to the extent a market so addressed
14 does not meet such criteria, any recommenda-
15 tions with respect to the procurement of suffi-
16 cient capacity, as described in paragraph
17 (1)(B).

18 “(b) COMMISSION EVALUATION AND REPORT FOR
19 NEW SCHEDULES.—

20 “(1) INCLUSION OF ANALYSIS IN FILING.—Ex-
21 cept as provided in subsection (a)(2), whenever a
22 Regional Transmission Organization or Independent
23 System Operator files a new schedule under section
24 205 to establish a market described in subsection
25 (a)(1), or that substantially modifies the capacity

1 market design of a market described in subsection
2 (a)(1), the Regional Transmission Organization or
3 Independent System Operator shall include in any
4 such filing the analysis required by subsection
5 (a)(1).

6 “(2) EVALUATION AND REPORT.—Not later
7 than 180 days of receiving an analysis under para-
8 graph (1), the Commission shall make publicly avail-
9 able, and submit to the Committee on Energy and
10 Commerce in the House of Representatives and the
11 Committee on Energy and Natural Resources in the
12 Senate, a report containing—

13 “(A) an evaluation of whether the struc-
14 ture of the market addressed in the analysis
15 meets the criteria under subsection (a)(1),
16 based on the analysis; and

17 “(B) to the extent the market does not
18 meet such criteria, any recommendations with
19 respect to the procurement of sufficient capac-
20 ity, as described in subsection (a)(1)(B).

21 “(c) EFFECT ON EXISTING APPROVALS.—Nothing in
22 this section shall be considered to—

23 “(1) require a modification of the Commission’s
24 approval of the capacity market design approved

1 pursuant to docket numbers ER15–623–000, EL15–
2 29–000, EL14–52–000, and ER14–2419–000; or

3 “(2) provide grounds for the Commission to
4 grant rehearing or otherwise modify orders issued in
5 those dockets.”.

6 **SEC. 1111. ETHANE STORAGE STUDY.**

7 (a) IN GENERAL.—The Secretary of Energy and the
8 Secretary of Commerce, in consultation with other rel-
9 evant agencies and stakeholders, shall conduct a study on
10 the feasibility of establishing an ethane storage and dis-
11 tribution hub in the United States.

12 (b) CONTENTS.—The study conducted under sub-
13 section (a) shall include—

14 (1) an examination of—

15 (A) potential locations;

16 (B) economic feasibility;

17 (C) economic benefits;

18 (D) geological storage capacity capabilities;

19 (E) above ground storage capabilities;

20 (F) infrastructure needs; and

21 (G) other markets and trading hubs, par-

22 ticularly related to ethane; and

23 (2) identification of potential additional benefits
24 to energy security.

1 (c) PUBLICATION OF RESULTS.—Not later than 2
2 years after the date of enactment of this Act, the Secre-
3 taries of Energy and Commerce shall publish the results
4 of the study conducted under subsection (a) on the
5 websites of the Departments of Energy and Commerce,
6 respectively, and shall submit such results to the Com-
7 mittee on Energy and Commerce of the House of Rep-
8 resentatives and the Committees on Energy and Natural
9 Resources and Commerce, Science, and Transportation of
10 the Senate.

11 **SEC. 1112. STATEMENT OF POLICY ON GRID MODERNIZA-**
12 **TION.**

13 It is the policy of the United States to promote and
14 advance—

15 (1) the modernization of the energy delivery in-
16 frastructure of the United States, and bolster the re-
17 liability, affordability, diversity, efficiency, security,
18 and resiliency of domestic energy supplies, through
19 advanced grid technologies;

20 (2) the modernization of the electric grid to en-
21 able a robust multi-directional power flow that
22 leverages centralized energy resources and distrib-
23 uted energy resources, enables robust retail trans-
24 actions, and facilitates the alignment of business and

1 regulatory models to achieve a grid that optimizes
2 the entire electric delivery system;

3 (3) relevant research and development in ad-
4 vanced grid technologies, including—

5 (A) energy storage;

6 (B) predictive tools and requisite real-time
7 data to enable the dynamic optimization of grid
8 operations;

9 (C) power electronics, including smart in-
10 verters, that ease the challenge of intermittent
11 renewable resources and distributed generation;

12 (D) real-time data and situational aware-
13 ness tools and systems; and

14 (E) tools to increase data security, physical
15 security, and cybersecurity awareness and pro-
16 tection;

17 (4) the leadership of the United States in basic
18 and applied sciences to develop a systems approach
19 to innovation and development of cyber-secure ad-
20 vanced grid technologies, architectures, and control
21 paradigms capable of managing diverse supplies and
22 loads;

23 (5) the safeguarding of the critical energy deliv-
24 ery infrastructure of the United States and the en-

1 hanced resilience of the infrastructure to all hazards,
2 including—

3 (A) severe weather events;

4 (B) cyber and physical threats; and

5 (C) other factors that affect energy deliv-
6 ery;

7 (6) the coordination of goals, investments to op-
8 timize the grid, and other measures for energy effi-
9 ciency, advanced grid technologies, interoperability,
10 and demand response-side management resources;

11 (7) partnerships with States and the private
12 sector—

13 (A) to facilitate advanced grid capabilities
14 and strategies; and

15 (B) to provide technical assistance, tools,
16 or other related information necessary to en-
17 hance grid integration, particularly in connec-
18 tion with the development at the State and local
19 levels of strategic energy, energy surety and as-
20 surance, and emergency preparedness, response,
21 and restoration planning;

22 (8) the deployment of information and commu-
23 nications technologies at all levels of the electric sys-
24 tem;

1 (9) opportunities to provide consumers with
2 timely information and advanced control options;

3 (10) sophisticated or advanced control options
4 to integrate distributed energy resources and associ-
5 ated ancillary services;

6 (11) open-source communications, database ar-
7 chitectures, and common information model stand-
8 ards, guidelines, and protocols that enable interoper-
9 ability to maximize efficiency gains and associated
10 benefits among—

11 (A) the grid;

12 (B) energy and building management sys-
13 tems; and

14 (C) residential, commercial, and industrial
15 equipment;

16 (12) private sector investment in the energy de-
17 livery infrastructure of the United States through
18 targeted demonstration and validation of advanced
19 grid technologies; and

20 (13) establishment of common valuation meth-
21 ods and tools for cost-benefit analysis of grid inte-
22 gration paradigms.

23 **SEC. 1113. GRID RESILIENCE REPORT.**

24 Not later than 120 days after the date of enactment
25 of this Act, the Secretary of Energy shall submit to the

1 Congress a report on methods to increase electric grid re-
2 silience with respect to all threats, including cyber attacks,
3 vandalism, terrorism, and severe weather.

4 **SEC. 1114. GAO REPORT ON IMPROVING NATIONAL RE-**
5 **SPONSE CENTER.**

6 The Comptroller General of the United States shall
7 conduct a study of ways in which the capabilities of the
8 National Response Center could be improved.

9 **SEC. 1115. DESIGNATION OF NATIONAL ENERGY SECURITY**
10 **CORRIDORS ON FEDERAL LANDS.**

11 (a) IN GENERAL.—Section 28 of the Mineral Leasing
12 Act (30 U.S.C. 185) is amended as follows:

13 (1) In subsection (b)—

14 (A) by striking “(b)(1) For the purposes of
15 this section ‘Federal lands’ means” and insert-
16 ing the following:

17 “(b)(1) For the purposes of this section ‘Federal
18 lands’—

19 “(A) except as provided in subparagraph (B),
20 means”;

21 (B) by striking the period at the end of
22 paragraph (1) and inserting “; and” and by
23 adding at the end of paragraph (1) the fol-
24 lowing:

1 “(B) for purposes of granting an application for
2 a natural gas pipeline right-of-way, means all lands
3 owned by the United States except—

4 “(i) such lands held in trust for an Indian
5 or Indian tribe; and

6 “(ii) lands on the Outer Continental
7 Shelf.”.

8 (2) By redesignating subsection (b), as so
9 amended, as subsection (z), and transferring such
10 subsection to appear after subsection (y) of that sec-
11 tion.

12 (3) By inserting after subsection (a) the fol-
13 lowing:

14 “(b) NATIONAL ENERGY SECURITY CORRIDORS.—

15 “(1) DESIGNATION.—In addition to other au-
16 thorities under this section, the Secretary shall—

17 “(A) identify and designate suitable Fed-
18 eral lands as National Energy Security Cor-
19 ridors (in this subsection referred to as a ‘Cor-
20 ridor’), which shall be used for construction, op-
21 eration, and maintenance of natural gas trans-
22 mission facilities; and

23 “(B) incorporate such Corridors upon des-
24 ignation into the relevant agency land use and
25 resource management plans or equivalent plans.

1 “(2) CONSIDERATIONS.—In evaluating Federal
2 lands for designation as a National Energy Security
3 Corridor, the Secretary shall—

4 “(A) employ the principle of multiple use
5 to ensure route decisions balance national en-
6 ergy security needs with existing land use prin-
7 ciples;

8 “(B) seek input from other Federal coun-
9 terparts, State, local, and tribal governments,
10 and affected utility and pipeline industries to
11 determine the best suitable, most cost-effective,
12 and commercially viable acreage for natural gas
13 transmission facilities;

14 “(C) focus on transmission routes that im-
15 prove domestic energy security through increas-
16 ing reliability, relieving congestion, reducing
17 natural gas prices, and meeting growing de-
18 mand for natural gas; and

19 “(D) take into account technological inno-
20 vations that reduce the need for surface dis-
21 turbance.

22 “(3) PROCEDURES.—The Secretary shall estab-
23 lish procedures to expedite and approve applications
24 for rights-of-way for natural gas pipelines across
25 National Energy Security Corridors, that—

1 “(A) ensure a transparent process for re-
2 view of applications for rights-of-way on such
3 corridors;

4 “(B) require an approval time of not more
5 than 1 year after the date of receipt of an ap-
6 plication for a right-of-way; and

7 “(C) require, upon receipt of such an ap-
8 plication, notice to the applicant of a predict-
9 able timeline for consideration of the applica-
10 tion, that clearly delineates important mile-
11 stones in the process of such consideration.

12 “(4) STATE INPUT.—

13 “(A) REQUESTS AUTHORIZED.—The Gov-
14 ernor of a State may submit requests to the
15 Secretary of the Interior to designate Corridors
16 on Federal land in that State.

17 “(B) CONSIDERATION OF REQUESTS.—
18 After receiving such a request, the Secretary
19 shall respond in writing, within 30 days—

20 “(i) acknowledging receipt of the re-
21 quest; and

22 “(ii) setting forth a timeline in which
23 the Secretary shall grant, deny, or modify
24 such request and state the reasons for
25 doing so.

1 “(5) SPATIAL DISTRIBUTION OF CORRIDORS.—

2 In implementing this subsection, the Secretary shall
3 coordinate with other Federal Departments to—

4 “(A) minimize the proliferation of duplica-
5 tive natural gas pipeline rights-of-way on Fed-
6 eral lands where feasible;

7 “(B) ensure Corridors can connect effec-
8 tively across Federal lands; and

9 “(C) utilize input from utility and pipeline
10 industries submitting applications for rights-of-
11 way to site corridors in economically feasible
12 areas that reduce impacts, to the extent prac-
13 ticable, on local communities.

14 “(6) NOT A MAJOR FEDERAL ACTION.—Des-
15 ignation of a Corridor under this subsection, and in-
16 corporation of Corridors into agency plans under
17 paragraph (1)(B), shall not be treated as a major
18 Federal action for purpose of section 102 of the Na-
19 tional Environmental Policy Act of 1969 (42 U.S.C.
20 4332).

21 “(7) NO LIMIT ON NUMBER OR LENGTH OF
22 CORRIDORS.—Nothing in this subsection limits the
23 number or physical dimensions of Corridors that the
24 Secretary may designate under this subsection.

1 “(8) OTHER AUTHORITY NOT AFFECTED.—
2 Nothing in this subsection affects the authority of
3 the Secretary to issue rights-of-way on Federal land
4 that is not located in a Corridor designated under
5 this subsection.

6 “(9) NEPA CLARIFICATION.—All applications
7 for rights-of-way for natural gas transmission facili-
8 ties across Corridors designated under this sub-
9 section shall be subject to the environmental protec-
10 tions outlined in subsection (h).”.

11 (b) APPLICATIONS RECEIVED BEFORE DESIGNATION
12 OF CORRIDORS.—Any application for a right-of-way under
13 section 28 of the Mineral Leasing Act (30 U.S.C. 185)
14 that is received by the Secretary of the Interior before des-
15 ignation of National Energy Security Corridors under the
16 amendment made by subsection (a) of this section shall
17 be reviewed and acted upon independently by the Sec-
18 retary without regard to the process for such designation.

19 (c) DEADLINE.—Within 2 years after the date of the
20 enactment of this Act, the Secretary of the Interior shall
21 designate at least 10 National Energy Security Corridors
22 under the amendment made by subsection (a) in States
23 referred to in section 368(b) of the Energy Policy Act of
24 2005 (42 U.S.C. 15926(b)).

1 **SEC. 1116. VEGETATION MANAGEMENT, FACILITY INSPEC-**
2 **TION, AND OPERATION AND MAINTENANCE**
3 **ON FEDERAL LANDS CONTAINING ELECTRIC**
4 **TRANSMISSION AND DISTRIBUTION FACILI-**
5 **TIES.**

6 (a) IN GENERAL.—Title V of the Federal Land Pol-
7 icy and Management Act of 1976 (43 U.S.C. 1761 et seq.)
8 is amended by adding at the end the following new section:

9 **“SEC. 512. VEGETATION MANAGEMENT, FACILITY INSPEC-**
10 **TION, AND OPERATION AND MAINTENANCE**
11 **RELATING TO ELECTRIC TRANSMISSION AND**
12 **DISTRIBUTION FACILITY RIGHTS-OF-WAY.**

13 “(a) GENERAL DIRECTION.—In order to enhance the
14 reliability of the electric grid and reduce the threat of
15 wildfires to and from electric transmission and distribu-
16 tion rights-of-way and related facilities and adjacent prop-
17 erty, the Secretary, with respect to public lands and other
18 lands under the jurisdiction of the Secretary, and the Sec-
19 retary of Agriculture, with respect to National Forest Sys-
20 tem lands, shall provide direction to ensure that all exist-
21 ing and future rights-of-way, however established (includ-
22 ing by grant, special use authorization, and easement), for
23 electric transmission and distribution facilities on such
24 lands include provisions for utility vegetation manage-
25 ment, facility inspection, and operation and maintenance
26 activities that, while consistent with applicable law—

1 “(1) are developed in consultation with the
2 holder of the right-of-way;

3 “(2) enable the owner or operator of an electric
4 transmission and distribution facility to operate and
5 maintain the facility in good working order and to
6 comply with Federal, State, and local electric system
7 reliability and fire safety requirements, including re-
8 liability standards established by the North Amer-
9 ican Electric Reliability Corporation and plans to
10 meet such reliability standards;

11 “(3) minimize the need for case-by-case or an-
12 nual approvals for—

13 “(A) routine vegetation management, facil-
14 ity inspection, and operation and maintenance
15 activities within existing electric transmission
16 and distribution rights-of-way; and

17 “(B) utility vegetation management activi-
18 ties that are necessary to control hazard trees
19 within or adjacent to electric transmission and
20 distribution rights-of-way; and

21 “(4) when review is required, provide for expe-
22 dited review and approval of utility vegetation man-
23 agement, facility inspection, and operation and
24 maintenance activities, especially activities requiring

1 prompt action to avoid an adverse impact on human
2 safety or electric reliability to avoid fire hazards.

3 “(b) VEGETATION MANAGEMENT, FACILITY INSPEC-
4 TION, AND OPERATION AND MAINTENANCE PLANS.—

5 “(1) DEVELOPMENT AND SUBMISSION.—Con-
6 sistent with subsection (a), the Secretary and the
7 Secretary of Agriculture shall provide owners and
8 operators of electric transmission and distribution
9 facilities located on lands described in such sub-
10 section with the option to develop and submit a
11 vegetation management, facility inspection, and op-
12 eration and maintenance plan, that at each owner or
13 operator’s discretion may cover some or all of the
14 owner or operator’s electric transmission and dis-
15 tribution rights-of-way on Federal lands, for ap-
16 proval to the Secretary with jurisdiction over the
17 lands. A plan under this paragraph shall enable the
18 owner or operator of an electric transmission and
19 distribution facility, at a minimum, to comply with
20 applicable Federal, State, and local electric system
21 reliability and fire safety requirements, as provided
22 in subsection (a)(2). The Secretaries shall not have
23 the authority to modify those requirements.

24 “(2) REVIEW AND APPROVAL PROCESS.—The
25 Secretary and the Secretary of Agriculture shall

1 jointly develop a consolidated and coordinated pro-
2 cess for review and approval of—

3 “(A) vegetation management, facility in-
4 spection, and operation and maintenance plans
5 submitted under paragraph (1) that—

6 “(i) assures prompt review and ap-
7 proval not to exceed 90 days;

8 “(ii) includes timelines and bench-
9 marks for agency comments on submitted
10 plans and final approval of such plans;

11 “(iii) is consistent with applicable law;

12 and

13 “(iv) minimizes the costs of the pro-
14 cess to the reviewing agency and the entity
15 submitting the plans; and

16 “(B) amendments to the plans in a prompt
17 manner if changed conditions necessitate a
18 modification to a plan.

19 “(3) NOTIFICATION.—The review and approval
20 process under paragraph (2) shall—

21 “(A) include notification by the agency of
22 any changed conditions that warrant a modi-
23 fication to a plan;

24 “(B) provide an opportunity for the owner
25 or operator to submit a proposed plan amend-

1 ment to address directly the changed condition;
2 and

3 “(C) allow the owner or operator to con-
4 tinue to implement those elements of the ap-
5 proved plan that do not directly and adversely
6 affect the condition precipitating the need for
7 modification.

8 “(4) CATEGORICAL EXCLUSION PROCESS.—The
9 Secretary and the Secretary of Agriculture shall
10 apply his or her categorical exclusion process under
11 the National Environmental Policy Act of 1969 (42
12 U.S.C. 4321 et seq.) to plans developed under this
13 subsection on existing electric transmission and dis-
14 tribution rights-of-way under this subsection.

15 “(5) IMPLEMENTATION.—A plan approved
16 under this subsection shall become part of the au-
17 thorization governing the covered right-of-way and
18 hazard trees adjacent to the right-of-way. If a vege-
19 tation management plan is proposed for an existing
20 electric transmission and distribution facility concu-
21 rent with the siting of a new electric transmission or
22 distribution facility, necessary reviews shall be com-
23 pleted as part of the siting process or sooner. Once
24 the plan is approved, the owner or operator shall
25 provide the agency with only a notification of activi-

1 ties anticipated to be undertaken in the coming year,
2 a description of those activities, and certification
3 that the activities are in accordance with the plan.

4 “(c) RESPONSE TO EMERGENCY CONDITIONS.—If
5 vegetation on Federal lands within, or hazard trees on
6 Federal lands adjacent to, an electric transmission or dis-
7 tribution right-of-way granted by the Secretary or the Sec-
8 retary of Agriculture has contacted or is in imminent dan-
9 ger of contacting one or more electric transmission or dis-
10 tribution lines, the owner or operator of the electric trans-
11 mission or distribution lines—

12 “(1) may prune or remove the vegetation to
13 avoid the disruption of electric service and risk of
14 fire; and

15 “(2) shall notify the appropriate local agent of
16 the relevant Secretary not later than 24 hours after
17 such removal.

18 “(d) COMPLIANCE WITH APPLICABLE RELIABILITY
19 AND SAFETY STANDARDS.—If vegetation on Federal
20 lands within or adjacent to an electric transmission or dis-
21 tribution right-of-way under the jurisdiction of each Sec-
22 retary does not meet clearance requirements under stand-
23 ards established by the North American Electric Reli-
24 ability Corporation, or by State and local authorities, and
25 the Secretary having jurisdiction over the lands has failed

1 to act to allow an electric transmission or distribution fa-
2 cility owner or operator to conduct vegetation manage-
3 ment activities within 3 business days after receiving a
4 request to allow such activities, the owner or operator
5 may, after notifying the Secretary, conduct such vegeta-
6 tion management activities to meet those clearance re-
7 quirements.

8 “(e) REPORTING REQUIREMENT.—The Secretary or
9 Secretary of Agriculture shall report requests and actions
10 made under subsections (c) and (d) annually on each Sec-
11 retary’s website.

12 “(f) LIABILITY.—An owner or operator of an electric
13 transmission or distribution facility shall not be held liable
14 for wildfire damage, loss, or injury, including the cost of
15 fire suppression, if—

16 “(1) the Secretary or the Secretary of Agri-
17 culture fails to allow the owner or operator to oper-
18 ate consistently with an approved vegetation man-
19 agement, facility inspection, and operation and
20 maintenance plan on Federal lands under the rel-
21 evant Secretary’s jurisdiction within or adjacent to
22 a right-of-way to comply with Federal, State, or
23 local electric system reliability and fire safety stand-
24 ards, including standards established by the North
25 American Electric Reliability Corporation; or

1 “(2) the Secretary or the Secretary of Agri-
2 culture fails to allow the owner or operator of the
3 electric transmission or distribution facility to per-
4 form appropriate vegetation management activities
5 in response to an identified hazard tree, or a tree in
6 imminent danger of contacting the owner’s or opera-
7 tor’s electric transmission or distribution facility.

8 “(g) TRAINING AND GUIDANCE.—In consultation
9 with the electric utility industry, the Secretary and the
10 Secretary of Agriculture are encouraged to develop a pro-
11 gram to train personnel of the Department of the Interior
12 and the Forest Service involved in vegetation management
13 decisions relating to electric transmission and distribution
14 facilities to ensure that such personnel—

15 “(1) understand electric system reliability and
16 fire safety requirements, including reliability stand-
17 ards established by the North American Electric Re-
18 liability Corporation;

19 “(2) assist owners and operators of electric
20 transmission and distribution facilities to comply
21 with applicable electric reliability and fire safety re-
22 quirements; and

23 “(3) encourage and assist willing owners and
24 operators of electric transmission and distribution
25 facilities to incorporate on a voluntary basis vegeta-

1 tion management practices to enhance habitats and
2 forage for pollinators and for other wildlife so long
3 as the practices are compatible with the integrated
4 vegetation management practices necessary for reli-
5 ability and safety.

6 “(h) IMPLEMENTATION.—The Secretary and the Sec-
7 retary of Agriculture shall—

8 “(1) not later than one year after the date of
9 the enactment of this section, propose regulations, or
10 amended existing regulations, to implement this sec-
11 tion; and

12 “(2) not later than two years after the date of
13 the enactment of this section, finalize regulations, or
14 amended existing regulations, to implement this sec-
15 tion.

16 “(i) EXISTING VEGETATION MANAGEMENT, FACIL-
17 ITY INSPECTION, AND OPERATION AND MAINTENANCE
18 PLANS.—Nothing in this section requires an owner or op-
19 erator to develop and submit a vegetation management,
20 facility inspection, and operation and maintenance plan if
21 one has already been approved by the Secretary or Sec-
22 retary of Agriculture before the date of the enactment of
23 this section.

24 “(j) DEFINITIONS.—In this section:

1 “(1) HAZARD TREE.—The term ‘hazard tree’
2 means any tree inside the right-of-way or located
3 outside the right-of-way that has been found by the
4 either the owner or operator of an electric trans-
5 mission or distribution facility, or the Secretary or
6 the Secretary of Agriculture, to be likely to fail and
7 cause a high risk of injury, damage, or disruption
8 within 10 feet of an electric power line or related
9 structure if it fell.

10 “(2) OWNER OR OPERATOR.—The terms
11 ‘owner’ and ‘operator’ include contractors or other
12 agents engaged by the owner or operator of an elec-
13 tric transmission and distribution facility.

14 “(3) VEGETATION MANAGEMENT, FACILITY IN-
15 SPECTION, AND OPERATION AND MAINTENANCE
16 PLAN.—The term ‘vegetation management, facility
17 inspection, and operation and maintenance plan’
18 means a plan that—

19 “(A) is prepared by the owner or operator
20 of one or more electric transmission or distribu-
21 tion facilities to cover one or more electric
22 transmission and distribution rights-of-way; and

23 “(B) provides for the long-term, cost-effec-
24 tive, efficient, and timely management of facili-
25 ties and vegetation within the width of the

1 right-of-way and adjacent Federal lands to en-
2 hance electric reliability, promote public safety,
3 and avoid fire hazards.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for the Federal Land Policy and Management Act of 1976
6 (43 U.S.C. 1761 et seq.), is amended by inserting after
7 the item relating to section 511 the following new item:

“Sec. 512. Vegetation management, facility inspection, and operation and main-
tenance relating to electric transmission and distribution facil-
ity rights-of-way.”.

8 **Subtitle B—Hydropower**
9 **Regulatory Modernization**

10 **SEC. 1201. PROTECTION OF PRIVATE PROPERTY RIGHTS IN**
11 **HYDROPOWER LICENSING.**

12 (a) LICENCES.—Section 4(e) of the Federal Power
13 Act (16 U.S.C. 797(e)) is amended—

14 (1) by striking “and” after “recreational oppor-
15 tunities,”; and

16 (2) by inserting “, and minimizing infringement
17 on the useful exercise and enjoyment of property
18 rights held by nonlicensees” after “aspects of envi-
19 ronmental quality”.

20 (b) PRIVATE LANDOWNERSHIP.—Section 10 of the
21 Federal Power Act (16 U.S.C. 803) is amended—

22 (1) in subsection (a)(1), by inserting “, includ-
23 ing minimizing infringement on the useful exercise

1 and enjoyment of property rights held by non-
2 licensees” after “section 4(e)”; and

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

4 “(k) PRIVATE LANDOWNERSHIP.—In developing any
5 recreational resource within the project boundary, the li-
6 censee shall consider private landownership as a means to
7 encourage and facilitate—

8 “(1) private investment; and

9 “(2) increased tourism and recreational use.”.

10 **SEC. 1202. EXTENSION OF TIME FOR FERC PROJECT IN-**
11 **VOLVING W. KERR SCOTT DAM.**

12 (a) IN GENERAL.—Notwithstanding the time period
13 specified in section 13 of the Federal Power Act (16
14 U.S.C. 806) that would otherwise apply to the Federal En-
15 ergy Regulatory Commission project numbered 12642, the
16 Commission may, at the request of the licensee for the
17 project, and after reasonable notice, in accordance with
18 the good faith, due diligence, and public interest require-
19 ments of that section and the Commission’s procedures
20 under that section, extend the time period during which
21 the licensee is required to commence the construction of
22 the project for up to 3 consecutive 2-year periods from
23 the date of the expiration of the extension originally issued
24 by the Commission.

1 (b) REINSTATEMENT OF EXPIRED LICENSE.—If the
 2 period required for commencement of construction of the
 3 project described in subsection (a) has expired prior to the
 4 date of the enactment of this Act, the Commission may
 5 reinstate the license effective as of the date of its expira-
 6 tion and the first extension authorized under subsection
 7 (a) shall take effect on the date of such expiration.

8 **SEC. 1203. HYDROPOWER LICENSING AND PROCESS IM-**
 9 **PROVEMENTS.**

10 Part I of the Federal Power Act (16 U.S.C. 792 et
 11 seq.) is amended by adding at the end the following:

12 **“SEC. 34. HYDROPOWER LICENSING AND PROCESS IM-**
 13 **PROVEMENTS.**

14 “(a) DEFINITION.—In this section, the term ‘Federal
 15 authorization’—

16 “(1) means any authorization required under
 17 Federal law with respect to an application for a li-
 18 cense, license amendment, or exemption under this
 19 part; and

20 “(2) includes any permits, special use author-
 21 izations, certifications, opinions, or other approvals
 22 as may be required under Federal law to approve or
 23 implement the license, license amendment, or exemp-
 24 tion under this part.

25 “(b) DESIGNATION AS LEAD AGENCY.—

1 “(1) IN GENERAL.—The Commission shall act
2 as the lead agency for the purposes of coordinating
3 all applicable Federal authorizations and for the
4 purposes of complying with the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

6 “(2) OTHER AGENCIES AND INDIAN TRIBES.—

7 “(A) IN GENERAL.—Each Federal, State,
8 and local government agency and Indian tribe
9 considering an aspect of an application for Fed-
10 eral authorization shall coordinate with the
11 Commission and comply with the deadline es-
12 tablished in the schedule developed for the
13 project in accordance with the rule issued by
14 the Commission under subsection (c).

15 “(B) IDENTIFICATION.—The Commission
16 shall identify, as early as practicable after it is
17 notified by the applicant of a project or facility
18 requiring Commission action under this part,
19 any Federal or State agency, local government,
20 or Indian tribe that may consider an aspect of
21 an application for a Federal authorization.

22 “(C) NOTIFICATION.—

23 “(i) IN GENERAL.—The Commission
24 shall notify any agency and Indian tribe
25 identified under subparagraph (B) of the

1 opportunity to participate in the process of
2 reviewing an aspect of an application for a
3 Federal authorization.

4 “(ii) DEADLINE.—Each agency and
5 Indian tribe receiving a notice under clause
6 (i) shall submit a response acknowledging
7 receipt of the notice to the Commission
8 within 30 days of receipt of such notice
9 and request.

10 “(D) ISSUE IDENTIFICATION AND RESOLU-
11 TION.—

12 “(i) IDENTIFICATION OF ISSUES.—
13 Federal, State, and local government agen-
14 cies and Indian tribes that may consider
15 an aspect of an application for Federal au-
16 thorization shall identify, as early as pos-
17 sible, and share with the Commission and
18 the applicant, any issues of concern identi-
19 fied during the pendency of the Commis-
20 sion’s action under this part relating to
21 any Federal authorization that may delay
22 or prevent the granting of such authoriza-
23 tion, including any issues that may prevent
24 the agency or Indian tribe from meeting
25 the schedule established for the project in

1 accordance with the rule issued by the
2 Commission under subsection (c).

3 “(ii) ISSUE RESOLUTION.—The Com-
4 mission may forward any issue of concern
5 identified under clause (i) to the heads of
6 the relevant State and Federal agencies
7 (including, in the case of scheduling con-
8 cerns identified by a State or local govern-
9 ment agency or Indian tribe, the Federal
10 agency overseeing the delegated authority,
11 or the Secretary of the Interior with re-
12 gard to scheduling concerns identified by
13 an Indian tribe) for resolution. The Com-
14 mission and any relevant agency shall
15 enter into a memorandum of under-
16 standing to facilitate interagency coordina-
17 tion and resolution of such issues of con-
18 cern, as appropriate.

19 “(c) SCHEDULE.—

20 “(1) COMMISSION RULEMAKING TO ESTABLISH
21 PROCESS TO SET SCHEDULE.—Within 180 days of
22 the date of enactment of this section the Commis-
23 sion shall, in consultation with the appropriate Fed-
24 eral agencies, issue a rule, after providing for notice
25 and public comment, establishing a process for set-

1 ting a schedule following the filing of an application
2 under this part for the review and disposition of
3 each Federal authorization.

4 “(2) ELEMENTS OF SCHEDULING RULE.—In
5 issuing a rule under this subsection, the Commission
6 shall ensure that the schedule for each Federal au-
7 thorization—

8 “(A) includes deadlines for actions by—

9 “(i) any Federal or State agency, local
10 government, or Indian tribe that may con-
11 sider an aspect of an application for the
12 Federal authorization;

13 “(ii) the applicant;

14 “(iii) the Commission; and

15 “(iv) other participants in a pro-
16 ceeding;

17 “(B) is developed in consultation with the
18 applicant and any agency and Indian tribe that
19 submits a response under subsection
20 (b)(2)(C)(ii);

21 “(C) provides an opportunity for any Fed-
22 eral or State agency, local government, or In-
23 dian tribe that may consider an aspect of an
24 application for the applicable Federal authoriza-

1 tion to identify and resolve issues of concern, as
2 provided in subsection (b)(2)(D);

3 “(D) complies with applicable schedules es-
4 tablished under Federal and State law;

5 “(E) ensures expeditious completion of all
6 proceedings required under Federal and State
7 law, to the extent practicable; and

8 “(F) facilitates completion of Federal and
9 State agency studies, reviews, and any other
10 procedures required prior to, or concurrent
11 with, the preparation of the Commission’s envi-
12 ronmental document required under the Na-
13 tional Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.).

15 “(d) TRANSMISSION OF FINAL SCHEDULE.—

16 “(1) IN GENERAL.—For each application for a
17 license, license amendment, or exemption under this
18 part, the Commission shall establish a schedule in
19 accordance with the rule issued by the Commission
20 under subsection (c). The Commission shall publicly
21 notice and transmit the final schedule to the appli-
22 cant and each agency and Indian tribe identified
23 under subsection (b)(2)(B).

24 “(2) RESPONSE.—Each agency and Indian
25 tribe receiving a schedule under this subsection shall

1 acknowledge receipt of such schedule in writing to
2 the Commission within 30 days.

3 “(e) ADHERENCE TO SCHEDULE.—All applicants,
4 other licensing participants, and agencies and tribes con-
5 sidering an aspect of an application for a Federal author-
6 ization shall meet the deadlines set forth in the schedule
7 established pursuant to subsection (d)(1).

8 “(f) APPLICATION PROCESSING.—The Commission,
9 Federal, State, and local government agencies, and Indian
10 tribes may allow an applicant seeking a Federal authoriza-
11 tion to fund a third-party contractor selected by such
12 agency or tribe to assist in reviewing the application. All
13 costs of an agency or tribe incurred pursuant to direct
14 funding by the applicant, including all costs associated
15 with the third party contractor, shall not be considered
16 costs of the United States for the administration of this
17 part under section 10(e).

18 “(g) COMMISSION RECOMMENDATION ON SCOPE OF
19 ENVIRONMENTAL REVIEW.—For the purposes of coordi-
20 nating Federal authorizations for each project, the Com-
21 mission shall consult with and make a recommendation
22 to agencies and Indian tribes receiving a schedule under
23 subsection (d) on the scope of the environmental review
24 for all Federal authorizations for such project. Each Fed-
25 eral and State agency and Indian tribe shall give due con-

1 sideration and may give deference to the Commission’s
2 recommendations, to the extent appropriate under Federal
3 law.

4 “(h) FAILURE TO MEET SCHEDULE.—A Federal,
5 State, or local government agency or Indian tribe that an-
6 ticipates that it will be unable to complete its disposition
7 of a Federal authorization by the deadline set forth in the
8 schedule established under subsection (d)(1) may file for
9 an extension as provided under section 313(b)(2).

10 “(i) CONSOLIDATED RECORD.—The Commission
11 shall, with the cooperation of Federal, State, and local
12 government agencies and Indian tribes, maintain a com-
13 plete consolidated record of all decisions made or actions
14 taken by the Commission or by a Federal administrative
15 agency or officer (or State or local government agency or
16 officer or Indian tribe acting under delegated Federal au-
17 thority) with respect to any Federal authorization. Such
18 record shall constitute the record for judicial review under
19 section 313(b).”.

20 **SEC. 1204. JUDICIAL REVIEW OF DELAYED FEDERAL AU-**
21 **THORIZATIONS.**

22 Section 313(b) of the Federal Power Act (16 U.S.C.
23 825l(b)) is amended—

24 (1) by striking “(b) Any party” and inserting
25 the following:

1 “(b) JUDICIAL REVIEW.—

2 “(1) IN GENERAL.—Any party”; and

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

4 “(2) DELAY OF A FEDERAL AUTHORIZATION.—

5 Any Federal, State, or local government agency or
6 Indian tribe that will not complete its disposition of
7 a Federal authorization by the deadline set forth in
8 the schedule by the Commission under section 34
9 may file for an extension in the United States court
10 of appeals for any circuit wherein the project or pro-
11 posed project is located, or in the United States
12 Court of Appeals for the District of Columbia. Such
13 petition shall be filed not later than 30 days prior
14 to such deadline. The court shall only grant an ex-
15 tension if the agency or tribe demonstrates, based on
16 the record maintained under section 34, that it oth-
17 erwise complied with the requirements of section 34
18 and that complying with the schedule set by the
19 Commission would have prevented the agency or
20 tribe from complying with applicable Federal or
21 State law. If the court grants the extension, the
22 court shall set a reasonable schedule and deadline,
23 not to exceed 90 days, for the agency to act on re-
24 mand. If the court denies the extension, or if an
25 agency or tribe does not file for an extension as pro-

1 vided in this subsection and does not complete its
2 disposition of a Federal authorization by the applica-
3 ble deadline, the Commission and applicant may
4 move forward with the proposed action.”.

5 **SEC. 1205. LICENSING STUDY IMPROVEMENTS.**

6 Part I of the Federal Power Act (16 U.S.C. 792 et
7 seq.), as amended by section 1203, is further amended by
8 adding at the end the following:

9 **“SEC. 35. LICENSING STUDY IMPROVEMENTS.**

10 “(a) IN GENERAL.—To facilitate the timely and effi-
11 cient completion of the license proceedings under this part,
12 the Commission shall, in consultation with applicable Fed-
13 eral and State agencies and interested members of the
14 public—

15 “(1) compile current and accepted best prac-
16 tices in performing studies required in such license
17 proceedings, including methodologies and the design
18 of studies to assess the full range of environmental
19 impacts of a project that reflect the most recent
20 peer-reviewed science;

21 “(2) compile a comprehensive collection of stud-
22 ies and data accessible to the public that could be
23 used to inform license proceedings under this part;
24 and

1 “(3) encourage license applicants, agencies, and
2 Indian tribes to develop and use, for the purpose of
3 fostering timely and efficient consideration of license
4 applications, a limited number of open-source meth-
5 odologies and tools applicable across a wide array of
6 projects, including water balance models and
7 streamflow analyses.

8 “(b) USE OF STUDIES.—To the extent practicable,
9 the Commission and other Federal, State, and local gov-
10 ernment agencies and Indian tribes considering an aspect
11 of an application for Federal authorization shall use cur-
12 rent, accepted science toward studies and data in support
13 of their actions. Any participant in a proceeding with re-
14 spect to a Federal authorization shall demonstrate a study
15 requested by the party is not duplicative of current, exist-
16 ing studies that are applicable to the project.

17 “(c) BASIN-WIDE OR REGIONAL REVIEW.—The
18 Commission shall establish a program to develop com-
19 prehensive plans, at the request of project applicants, on
20 a regional or basin-wide scale, in consultation with the ap-
21 plicants, appropriate Federal agencies, and affected
22 States, local governments, and Indian tribes, in basins or
23 regions with respect to which there are more than one
24 project or application for a project. Upon such a request,
25 the Commission, in consultation with the applicants, such

1 Federal agencies, and affected States, local governments,
2 and Indian tribes, may conduct or commission regional or
3 basin-wide environmental studies, with the participation of
4 at least 2 applicants. Any study conducted under this sub-
5 section shall apply only to a project with respect to which
6 the applicant participates.”.

7 **SEC. 1206. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

8 Part I of the Federal Power Act (16 U.S.C. 792 et
9 seq.), as amended by section 1205, is further amended by
10 adding at the end the following:

11 **“SEC. 36. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

12 “(a) DEFINITION.—For purposes of this section, a
13 closed-loop pumped storage project is a project—

14 “(1) in which the upper and lower reservoirs do
15 not impound or directly withdraw water from navi-
16 gable waters; or

17 “(2) that is not continuously connected to a
18 naturally flowing water feature.

19 “(b) IN GENERAL.—As provided in this section, the
20 Commission may issue and amend licenses and prelimi-
21 nary permits, as appropriate, for closed-loop pumped stor-
22 age projects.

23 “(c) DAM SAFETY.—Before issuing any license for a
24 closed-loop pumped storage project, the Commission shall
25 assess the safety of existing dams and other structures

1 related to the project (including possible consequences as-
2 sociated with failure of such structures).

3 “(d) LICENSE CONDITIONS.—With respect to a
4 closed-loop pumped storage project, the authority of the
5 Commission to impose conditions on a license under sec-
6 tions 4(e), 10(a), 10(g), and 10(j) shall not apply, and
7 any condition included in or applicable to a closed-loop
8 pumped storage project licensed under this section, includ-
9 ing any condition or other requirement of a Federal au-
10 thorization, shall be limited to those that are—

11 “(1) necessary to protect public safety; or

12 “(2) reasonable, economically feasible, and es-
13 sential to prevent loss of or damage to, or to miti-
14 gate adverse effects on, fish and wildlife resources
15 directly caused by the construction and operation of
16 the project, as compared to the environmental base-
17 line existing at the time the Commission completes
18 its environmental review.

19 “(e) TRANSFERS.—Notwithstanding section 5, and
20 regardless of whether the holder of a preliminary permit
21 for a closed-loop pumped storage project claimed munic-
22 ipal preference under section 7(a) when obtaining the per-
23 mit, the Commission may, to facilitate development of a
24 closed-loop pumped storage project—

1 “(1) add entities as joint permittees following
2 issuance of a preliminary permit; and

3 “(2) transfer a license in part to one or more
4 nonmunicipal entities as co-licensees with a municipi-
5 pality.”.

6 **SEC. 1207. LICENSE AMENDMENT IMPROVEMENTS.**

7 Part I of the Federal Power Act (16 U.S.C. 792 et
8 seq.), as amended by section 1206, is further amended by
9 adding at the end the following:

10 **“SEC. 37. LICENSE AMENDMENT IMPROVEMENTS.**

11 “(a) QUALIFYING PROJECT UPGRADES.—

12 “(1) IN GENERAL.—As provided in this section,
13 the Commission may approve an application for an
14 amendment to a license issued under this part for a
15 qualifying project upgrade.

16 “(2) APPLICATION.—A licensee filing an appli-
17 cation for an amendment to a project license under
18 this section shall include in such application infor-
19 mation sufficient to demonstrate that the proposed
20 change to the project described in the application is
21 a qualifying project upgrade.

22 “(3) INITIAL DETERMINATION.—Not later than
23 15 days after receipt of an application under para-
24 graph (2), the Commission shall make an initial de-
25 termination as to whether the proposed change to

1 the project described in the application for a license
2 amendment is a qualifying project upgrade. The
3 Commission shall publish its initial determination
4 and issue notice of the application filed under para-
5 graph (2). Such notice shall solicit public comment
6 on the initial determination within 45 days.

7 “(4) PUBLIC COMMENT ON QUALIFYING CRI-
8 TERIA.—The Commission shall accept public com-
9 ment regarding whether a proposed license amend-
10 ment is for a qualifying project upgrade for a period
11 of 45 days beginning on the date of publication of
12 a public notice described in paragraph (3), and
13 shall—

14 “(A) if no entity contests whether the pro-
15 posed license amendment is for a qualifying
16 project upgrade during such comment period,
17 immediately publish a notice stating that the
18 initial determination has not been contested; or

19 “(B) if an entity contests whether the pro-
20 posed license amendment is for a qualifying
21 project upgrade during the comment period,
22 issue a written determination in accordance
23 with paragraph (5).

24 “(5) WRITTEN DETERMINATION.—If an entity
25 contests whether the proposed license amendment is

1 for a qualifying project upgrade during the comment
2 period under paragraph (4), the Commission shall,
3 not later than 30 days after the date of publication
4 of the public notice of the initial determination
5 under paragraph (3), issue a written determination
6 as to whether the proposed license amendment is for
7 a qualifying project upgrade.

8 “(6) PUBLIC COMMENT ON AMENDMENT APPLI-
9 CATION.—If no entity contests whether the proposed
10 license amendment is for a qualifying project up-
11 grade during the comment period under paragraph
12 (4) or the Commission issues a written determina-
13 tion under paragraph (5) that a proposed license
14 amendment is a qualifying project upgrade, the
15 Commission shall—

16 “(A) during the 60-day period beginning
17 on the date of publication of a notice under
18 paragraph (4)(A) or the date on which the
19 Commission issues the written determination
20 under paragraph (5), as applicable, solicit com-
21 ments from each Federal, State, and local gov-
22 ernment agency and Indian tribe considering an
23 aspect of an application for Federal authoriza-
24 tion (as defined in section 34) with respect to
25 the proposed license amendment, as well as

1 other interested agencies, Indian tribes, and
2 members of the public; and

3 “(B) during the 90-day period beginning
4 on the date of publication of a notice under
5 paragraph (4)(A) or the date on which the
6 Commission issues the written determination
7 under paragraph (5), as applicable, consult
8 with—

9 “(i) appropriate Federal agencies and
10 the State agency exercising administrative
11 control over the fish and wildlife resources,
12 and water quality and supply, of the State
13 in which the qualifying project upgrade is
14 located;

15 “(ii) any Federal department super-
16 vising any public lands or reservations oc-
17 cupied by the qualifying project upgrade;
18 and

19 “(iii) any Indian tribe affected by the
20 qualifying project upgrade.

21 “(7) FEDERAL AUTHORIZATIONS.—The sched-
22 ule established by the Commission under section 34
23 for any project upgrade under this subsection shall
24 require final disposition on all necessary Federal au-
25 thorizations (as defined in section 34), other than

1 final action by the Commission, by not later than
2 120 days after the date on which the Commission
3 issues a notice under paragraph (4)(A) or a written
4 determination under paragraph (5), as applicable.

5 “(8) COMMISSION ACTION.—Not later than 150
6 days after the date on which the Commission issues
7 a notice under paragraph (4)(A) or a written deter-
8 mination under paragraph (5), as applicable, the
9 Commission shall take final action on the license
10 amendment application.

11 “(9) LICENSE AMENDMENT CONDITIONS.—Any
12 condition included in or applicable to a license
13 amendment approved under this subsection, includ-
14 ing any condition or other requirement of a Federal
15 authorization, shall be limited to those that are—

16 “(A) necessary to protect public safety; or

17 “(B) reasonable, economically feasible, and
18 essential to prevent loss of or damage to, or to
19 mitigate adverse effects on, fish and wildlife re-
20 sources, water supply, and water quality that
21 are directly caused by the construction and op-
22 eration of the qualifying project upgrade, as
23 compared to the environmental baseline existing
24 at the time the Commission approves the appli-
25 cation for the license amendment.

1 “(10) PROPOSED LICENSE AMENDMENTS THAT
2 ARE NOT QUALIFYING PROJECT UPGRADES.—If the
3 Commission determines under paragraph (3) or (5)
4 that a proposed license amendment is not for a
5 qualifying project upgrade, the procedures under
6 paragraphs (6) through (9) shall not apply to the
7 application.

8 “(11) RULEMAKING.—Not later than 180 days
9 after the date of enactment of this section, the Com-
10 mission shall, after notice and opportunity for public
11 comment, issue a rule to implement this subsection.

12 “(12) DEFINITIONS.—For purposes of this sub-
13 section:

14 “(A) QUALIFYING PROJECT UPGRADE.—
15 The term ‘qualifying project upgrade’ means a
16 change to a project licensed under this part
17 that meets the qualifying criteria, as deter-
18 mined by the Commission.

19 “(B) QUALIFYING CRITERIA.—The term
20 ‘qualifying criteria’ means, with respect to a
21 project license under this part, a change to the
22 project that—

23 “(i) if carried out, would be unlikely
24 to adversely affect any species listed as
25 threatened or endangered under the En-

1 dangered Species Act of 1973 or result in
2 the destruction or adverse modification of
3 critical habitat, as determined in consulta-
4 tion with the Secretary of the Interior or
5 Secretary of Commerce, as appropriate, in
6 accordance with section 7 of the Endan-
7 gered Species Act of 1973;

8 “(ii) is consistent with any applicable
9 comprehensive plan under section 10(a)(2);

10 “(iii) includes only changes to project
11 lands, waters, or operations that, in the
12 judgment of the Commission, would result
13 in only insignificant or minimal cumulative
14 adverse environmental effects;

15 “(iv) would be unlikely to adversely
16 affect water quality and water supply; and

17 “(v) proposes to implement—

18 “(I) capacity increases, efficiency
19 improvements, or other enhancements
20 to hydropower generation at the li-
21 censed project;

22 “(II) environmental protection,
23 mitigation, or enhancement measures
24 to benefit fish and wildlife resources

1 or other natural and cultural re-
2 sources; or

3 “(III) improvements to public
4 recreation at the licensed project.

5 “(b) AMENDMENT APPROVAL PROCESSES.—

6 “(1) RULE.—Not later than 1 year after the
7 date of enactment of this section, the Commission
8 shall, after notice and opportunity for public com-
9 ment, issue a rule establishing new standards and
10 procedures for license amendment applications under
11 this part. In issuing such rule, the Commission shall
12 seek to develop the most efficient and expedient
13 process, consultation, and review requirements, com-
14 mensurate with the scope of different categories of
15 proposed license amendments. Such rule shall ac-
16 count for differences in environmental effects across
17 a wide range of categories of license amendment ap-
18 plications.

19 “(2) CAPACITY.—In issuing a rule under this
20 subsection, the Commission shall take into consider-
21 ation that a change in generating or hydraulic ca-
22 pacity may indicate the potential environmental ef-
23 fects of a proposed amendment but is not determina-
24 tive of such effects.

1 “(3) PROCESS OPTIONS.—In issuing a rule
 2 under this subsection, the Commission shall take
 3 into consideration the range of process options avail-
 4 able under the Commission’s regulations for new
 5 and original license applications and adapt such op-
 6 tions to amendment applications, where appro-
 7 priate.”.

8 **SEC. 1208. PROMOTING HYDROPOWER DEVELOPMENT AT**
 9 **EXISTING NONPOWERED DAMS.**

10 Part I of the Federal Power Act (16 U.S.C. 792 et
 11 seq.), as amended by section 1207, is further amended by
 12 adding at the end the following:

13 **“SEC. 38. PROMOTING HYDROPOWER DEVELOPMENT AT**
 14 **EXISTING NONPOWERED DAMS.**

15 “(a) EXEMPTIONS FOR QUALIFYING FACILITIES.—

16 “(1) EXEMPTION QUALIFICATIONS.—Subject to
 17 the requirements of this subsection, the Commission
 18 may grant an exemption in whole or in part from
 19 the requirements of this part, including any license
 20 requirements contained in this part, to any facility
 21 the Commission determines is a qualifying facility.

22 “(2) CONSULTATION WITH FEDERAL AND
 23 STATE AGENCIES.—In granting any exemption under
 24 this subsection, the Commission shall consult with—

1 “(A) the United States Fish and Wildlife
2 Service, the National Marine Fisheries Service,
3 and the State agency exercising administrative
4 control over the fish and wildlife resources of
5 the State in which the facility will be located,
6 in the manner provided by the Fish and Wild-
7 life Coordination Act;

8 “(B) any Federal department supervising
9 any public lands or reservations occupied by the
10 project; and

11 “(C) any Indian tribe affected by the
12 project.

13 “(3) EXEMPTION CONDITIONS.—

14 “(A) IN GENERAL.—The Commission shall
15 include in any exemption granted under this
16 subsection only such terms and conditions that
17 the Commission determines are—

18 “(i) necessary to protect public safety;

19 or

20 “(ii) reasonable, economically feasible,
21 and essential to prevent loss of or damage
22 to, or to mitigate adverse effects on, fish
23 and wildlife resources directly caused by
24 the construction and operation of the
25 qualifying facility, as compared to the envi-

1 ronmental baseline existing at the time the
2 Commission grants the exemption.

3 “(B) NO CHANGES TO RELEASE RE-
4 GIME.—No Federal authorization required with
5 respect to a qualifying facility described in
6 paragraph (1), including an exemption granted
7 by the Commission under this subsection, may
8 include any condition or other requirement that
9 results in any material change to the storage,
10 control, withdrawal, diversion, release, or flow
11 operations of the associated qualifying nonpow-
12 ered dam.

13 “(4) ENVIRONMENTAL REVIEW.—The Commis-
14 sion’s environmental review under the National En-
15 vironmental Policy Act of 1969 of a proposed ex-
16 emption under this subsection shall consist only of
17 an environmental assessment, unless the Commis-
18 sion determines, by rule or order, that the Commis-
19 sion’s obligations under such Act for granting ex-
20 emptions under this subsection can be met through
21 a categorical exclusion.

22 “(5) VIOLATION OF TERMS OF EXEMPTION.—
23 Any violation of a term or condition of any exemp-
24 tion granted under this subsection shall be treated

1 as a violation of a rule or order of the Commission
2 under this Act.

3 “(6) ANNUAL CHARGES FOR ENHANCEMENT
4 ACTIVITIES.—Exemptees under this subsection for
5 any facility located at a non-Federal dam shall pay
6 to the United States reasonable annual charges in
7 an amount to be fixed by the Commission for the
8 purpose of funding environmental enhancement
9 projects in watersheds in which facilities exempted
10 under this subsection are located. Such annual
11 charges shall be equivalent to the annual charges for
12 use of a Government dam under section 10(e), un-
13 less the Commission determines, by rule, that a
14 lower charge is appropriate to protect exemptees’ in-
15 vestment in the project or avoid increasing the price
16 to consumers of power due to such charges. The pro-
17 ceeds of charges made by the Commission under this
18 paragraph shall be paid into the Treasury of the
19 United States and credited to miscellaneous receipts.
20 Subject to annual appropriation Acts, such proceeds
21 shall be available to Federal and State fish and wild-
22 life agencies for purposes of carrying out specific en-
23 vironmental enhancement projects in watersheds in
24 which one or more facilities exempted under this
25 subsection are located. Not later than 180 days after

1 the date of enactment of this section, the Commis-
2 sion shall establish rules, after notice and oppor-
3 tunity for public comment, for the collection and ad-
4 ministration of annual charges under this para-
5 graph.

6 “(7) EFFECT OF JURISDICTION.—The jurisdic-
7 tion of the Commission over any qualifying facility
8 exempted under this subsection shall extend only to
9 the qualifying facility exempted and any associated
10 primary transmission line, and shall not extend to
11 any conduit, dam, impoundment, shoreline or other
12 land, or any other project work associated with the
13 qualifying facility exempted under this subsection.

14 “(b) DEFINITIONS.—For purposes of this section—

15 “(1) FEDERAL AUTHORIZATION.—The term
16 ‘Federal authorization’ has the same meaning as
17 provided in section 34.

18 “(2) QUALIFYING CRITERIA.—The term ‘quali-
19 fying criteria’ means, with respect to a facility—

20 “(A) as of the date of enactment of this
21 section, the facility is not licensed under, or ex-
22 empted from the license requirements contained
23 in, this part;

24 “(B) the facility will be associated with a
25 qualifying nonpowered dam;

1 “(C) the facility will be constructed, oper-
2 ated, and maintained for the generation of elec-
3 tric power;

4 “(D) the facility will use for such genera-
5 tion any withdrawals, diversions, releases, or
6 flows from the associated qualifying nonpow-
7 ered dam, including its associated impoundment
8 or other infrastructure; and

9 “(E) the operation of the facility will not
10 result in any material change to the storage,
11 control, withdrawal, diversion, release, or flow
12 operations of the associated qualifying nonpow-
13 ered dam.

14 “(3) QUALIFYING FACILITY.—The term ‘quali-
15 fying facility’ means a facility that is determined
16 under this section to meet the qualifying criteria.

17 “(4) QUALIFYING NONPOWERED DAM.—The
18 term ‘qualifying nonpowered dam’ means any dam,
19 dike, embankment, or other barrier—

20 “(A) the construction of which was com-
21 pleted on or before the date of enactment of
22 this section;

23 “(B) that is operated for the control, re-
24 lease, or distribution of water for agricultural,
25 municipal, navigational, industrial, commercial,

1 environmental, recreational, aesthetic, or flood
2 control purposes;

3 “(C) that, as of the date of enactment of
4 this section, is not equipped with hydropower
5 generating works that are licensed under, or ex-
6 empted from the license requirements contained
7 in, this part; and

8 “(D) that, in the case of a non-Federal
9 dam, has been certified by an independent con-
10 sultant approved by the Commission as com-
11 plying with the Commission’s dam safety re-
12 quirements.”.

13 **TITLE II—ENERGY SECURITY** 14 **AND DIPLOMACY**

15 **SEC. 2001. SENSE OF CONGRESS.**

16 Congress finds the following:

17 (1) North America’s energy revolution has sig-
18 nificantly enhanced energy security in the United
19 States, and fundamentally changed the Nation’s en-
20 ergy future from that of scarcity to abundance.

21 (2) North America’s energy abundance has in-
22 creased global energy supplies and reduced the price
23 of energy for consumers in the United States and
24 abroad.

1 (3) Allies and trading partners of the United
2 States, including in Europe and Asia, are seeking
3 stable and affordable energy supplies from North
4 America to enhance their energy security.

5 (4) The United States has an opportunity to
6 improve its energy security and promote greater sta-
7 bility and affordability of energy supplies for its al-
8 lies and trading partners through a more integrated,
9 secure, and competitive North American energy sys-
10 tem.

11 (5) The United States also has an opportunity
12 to promote such objectives by supporting the free
13 flow of energy commodities and more open, trans-
14 parent, and competitive global energy markets, and
15 through greater Federal agency coordination relating
16 to regulations or agency actions that significantly af-
17 fect the supply, distribution, or use of energy.

18 **SEC. 2002. ENERGY SECURITY VALUATION.**

19 (a) ESTABLISHMENT OF ENERGY SECURITY VALU-
20 ATION METHODS.—Not later than 1 year after the date
21 of enactment of this Act, the Secretary of Energy, in col-
22 laboration with the Secretary of State, shall develop and
23 transmit, after public notice and comment, to the Com-
24 mittee on Energy and Commerce, the Committee on
25 Science, Space, and Technology, and the Committee on

1 Foreign Affairs of the House of Representatives and the
2 Committee on Energy and Natural Resources, the Com-
3 mittee on Commerce, Science, and Transportation, and
4 the Committee on Foreign Relations of the Senate a re-
5 port that develops recommended United States energy se-
6 curity valuation methods. In developing the report, the
7 Secretaries may consider the recommendations of the Ad-
8 ministration’s Quadrennial Energy Review released on
9 April 21, 2015. The report shall—

10 (1) evaluate and define United States energy
11 security to reflect modern domestic and global en-
12 ergy markets and the collective needs of the United
13 States and its allies and partners;

14 (2) identify transparent and uniform or coordi-
15 nated procedures and criteria to ensure that energy-
16 related actions that significantly affect the supply,
17 distribution, transportation, or use of energy are
18 evaluated with respect to their potential impact on
19 energy security, including their impact on—

20 (A) consumers and the economy;

21 (B) energy supply diversity and resiliency;

22 (C) well-functioning and competitive en-
23 ergy markets;

24 (D) United States trade balance; and

25 (E) national security objectives; and

1 (3) include a recommended implementation
2 strategy that identifies and aims to ensure that the
3 procedures and criteria referred to in paragraph (2)
4 are—

5 (A) evaluated consistently across the Fed-
6 eral Government; and

7 (B) weighed appropriately and balanced
8 with environmental considerations required by
9 Federal law.

10 (b) PARTICIPATION.—In developing the report re-
11 ferred to in subsection (a), the Secretaries may consult
12 with relevant Federal, State, private sector, and inter-
13 national participants, as appropriate and consistent with
14 applicable law.

15 **SEC. 2003. NORTH AMERICAN ENERGY SECURITY PLAN.**

16 (a) REQUIREMENT.—Not later than 1 year after the
17 date of enactment of this Act, the Secretary of Energy,
18 in collaboration with the Secretary of State, shall develop
19 and transmit to the Committee on Energy and Commerce
20 and the Committee on Foreign Affairs of the House of
21 Representatives and the Committee on Energy and Nat-
22 ural Resources and the Committee on Foreign Relations
23 of the Senate the plan described in subsection (b).

24 (b) PURPOSE.—The plan referred to in subsection (a)
25 shall include—

1 (1) a recommended framework and implementa-
2 tion strategy to—

3 (A) improve planning and coordination
4 with Canada and Mexico to enhance energy in-
5 tegration, strengthen North American energy
6 security, and promote efficiencies in the explo-
7 ration, production, storage, supply, distribution,
8 marketing, pricing, and regulation of North
9 American energy resources; and

10 (B) address—

11 (i) North American energy public
12 data, statistics, and mapping collaboration;

13 (ii) responsible and sustainable best
14 practices for the development of unconven-
15 tional oil and natural gas; and

16 (iii) modern, resilient energy infra-
17 structure for North America, including
18 physical infrastructure as well as institu-
19 tional infrastructure such as policies, regu-
20 lations, and practices relating to energy de-
21 velopment; and

22 (2) a recommended framework and implementa-
23 tion strategy to improve collaboration with Carib-
24 bean and Central American partners on energy secu-
25 rity, including actions to support—

1 (A) more open, transparent, and competi-
2 tive energy markets;

3 (B) regulatory capacity building;

4 (C) improvements to energy transmission
5 and storage; and

6 (D) improvements to the performance of
7 energy infrastructure and efficiency.

8 (c) PARTICIPATION.—In developing the plan referred
9 to in subsection (a), the Secretaries may consult with
10 other Federal, State, private sector, and international par-
11 ticipants, as appropriate and consistent with applicable
12 law.

13 **SEC. 2004. COLLECTIVE ENERGY SECURITY.**

14 (a) IN GENERAL.—The Secretary of Energy and the
15 Secretary of State shall collaborate to strengthen domestic
16 energy security and the energy security of the allies and
17 trading partners of the United States, including through
18 actions that support or facilitate—

19 (1) energy diplomacy;

20 (2) the delivery of United States assistance, in-
21 cluding energy resources and technologies, to pre-
22 vent or mitigate an energy security crisis;

23 (3) the development of environmentally and
24 commercially sustainable energy resources;

1 (4) open, transparent, and competitive energy
2 markets; and

3 (5) regulatory capacity building.

4 (b) ENERGY SECURITY FORUMS.—Not later than 1
5 year after the date of enactment of this Act, the Secretary
6 of Energy, in collaboration with the Secretary of State,
7 shall convene not less than 2 forums to promote the collec-
8 tive energy security of the United States and its allies and
9 trading partners. The forums shall include participation
10 by the Secretary of Energy and the Secretary of State.
11 In addition, an invitation shall be extended to—

12 (1) appropriate representatives of foreign gov-
13 ernments that are allies or trading partners of the
14 United States; and

15 (2) independent experts and industry represent-
16 atives.

17 (c) REQUIREMENTS.—The forums shall—

18 (1) consist of at least 1 Trans-Atlantic and 1
19 Trans-Pacific energy security forum;

20 (2) be designed to foster dialogue among gov-
21 ernment officials, independent experts, and industry
22 representatives regarding—

23 (A) the current state of global energy mar-
24 kets;

1 (B) trade and investment issues relevant to
2 energy; and

3 (C) barriers to more open, competitive, and
4 transparent energy markets; and

5 (3) be recorded and made publicly available on
6 the Department of Energy's website, including, not
7 later than 30 days after each forum, publication on
8 the website any significant outcomes.

9 (d) NOTIFICATION.—At least 30 days before each of
10 the forums referred to in subsection (b), the Secretary of
11 Energy shall send a notification regarding the forum to—

12 (1) the chair and the ranking minority member
13 of the Committee on Energy and Commerce and the
14 Committee on Foreign Affairs of the House of Rep-
15 resentatives; and

16 (2) the chair and ranking minority member of
17 the Committee on Energy and Natural Resources
18 and the Committee on Foreign Relations of the Sen-
19 ate.

20 **SEC. 2005. AUTHORIZATION TO EXPORT NATURAL GAS.**

21 (a) DECISION DEADLINE.—For proposals that must
22 also obtain authorization from the Federal Energy Regu-
23 latory Commission or the United States Maritime Admin-
24 istration to site, construct, expand, or operate LNG export
25 facilities, the Department of Energy shall issue a final de-

1 cision on any application for the authorization to export
2 natural gas under section 3 of the Natural Gas Act (15
3 U.S.C. 717b) not later than 30 days after the later of—

4 (1) the conclusion of the review to site, con-
5 struct, expand, or operate the LNG facilities re-
6 quired by the National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 et seq.); or

8 (2) the date of enactment of this Act.

9 (b) CONCLUSION OF REVIEW.—For purposes of sub-
10 section (a), review required by the National Environ-
11 mental Policy Act of 1969 shall be considered concluded—

12 (1) for a project requiring an Environmental
13 Impact Statement, 30 days after publication of a
14 Final Environmental Impact Statement;

15 (2) for a project for which an Environmental
16 Assessment has been prepared, 30 days after publi-
17 cation by the Department of Energy of a Finding of
18 No Significant Impact; and

19 (3) upon a determination by the lead agency
20 that an application is eligible for a categorical exclu-
21 sion pursuant to National Environmental Policy Act
22 of 1969 implementing regulations.

23 (c) PUBLIC DISCLOSURE OF EXPORT DESTINA-
24 TIONS.—Section 3 of the Natural Gas Act (15 U.S.C.
25 717b) is amended by adding at the end the following:

1 “(g) PUBLIC DISCLOSURE OF LNG EXPORT DES-
2 TINATION.—As a condition for approval of any authoriza-
3 tion to export LNG, the Secretary of Energy shall require
4 the applicant to publicly disclose the specific destination
5 or destinations of any such authorized LNG exports.”.

6 **SEC. 2006. ENVIRONMENTAL REVIEW FOR ENERGY EXPORT**
7 **FACILITIES.**

8 Notwithstanding any other provision of law, including
9 any other provision of this Act and any amendment made
10 by this Act, to the extent that the National Environmental
11 Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies to
12 the issuance of a permit for the construction, operation,
13 or maintenance of a facility for the export of bulk com-
14 modities, no such permit may be denied until each applica-
15 ble Federal agency has completed all reviews required for
16 the facility under such Act.

17 **SEC. 2007. AUTHORIZATION OF CROSS-BORDER INFRA-**
18 **STRUCTURE PROJECTS.**

19 (a) FINDING.—Congress finds that the United States
20 should establish a more uniform, transparent, and modern
21 process for the construction, connection, operation, and
22 maintenance of pipelines and electric transmission facili-
23 ties for the import and export of liquid products, including
24 water and petroleum, and natural gas and the trans-
25 mission of electricity to and from Canada and Mexico.

1 (b) AUTHORIZATION OF CERTAIN INFRASTRUCTURE
2 PROJECTS AT THE NATIONAL BOUNDARY OF THE
3 UNITED STATES.—

4 (1) REQUIREMENT.—No person may construct,
5 connect, operate, or maintain a cross-border segment
6 of a pipeline or electric transmission facility for the
7 import or export of liquid products or natural gas,
8 or the transmission of electricity, to or from Canada
9 or Mexico without obtaining a certificate of crossing
10 for such construction, connection, operation, or
11 maintenance under this subsection.

12 (2) CERTIFICATE OF CROSSING.—

13 (A) ISSUANCE.—

14 (i) IN GENERAL.—Not later than 120
15 days after final action is taken under the
16 National Environmental Policy Act of
17 1969 (42 U.S.C. 4321 et seq.) with respect
18 to a cross-border segment described in
19 paragraph (1), the relevant official identi-
20 fied under subparagraph (B), in consulta-
21 tion with appropriate Federal agencies,
22 shall issue a certificate of crossing for the
23 cross-border segment unless the relevant
24 official finds that the construction, connec-
25 tion, operation, or maintenance of the

1 cross-border segment is not in the public
2 interest of the United States.

3 (ii) NATURAL GAS.—For the purposes
4 of natural gas pipelines, a finding with re-
5 spect to the public interest under section
6 3(a) of the Natural Gas Act (15 U.S.C.
7 717b(a)) shall serve as a finding under
8 clause (i) of this subparagraph.

9 (B) RELEVANT OFFICIAL.—The relevant
10 official referred to in subparagraph (A) is—

11 (i) the Secretary of State with respect
12 to liquid pipelines;

13 (ii) the Federal Energy Regulatory
14 Commission with respect to natural gas
15 pipelines; and

16 (iii) the Secretary of Energy with re-
17 spect to electric transmission facilities.

18 (C) ADDITIONAL REQUIREMENT FOR
19 ELECTRIC TRANSMISSION FACILITIES.—The
20 Secretary of Energy shall require, as a condi-
21 tion of issuing a certificate of crossing for an
22 electric transmission facility, that the cross-bor-
23 der segment be constructed, connected, oper-
24 ated, or maintained consistent with all applica-
25 ble policies and standards of—

- 1 (i) the Electric Reliability Organiza-
2 tion and the applicable regional entity; and
3 (ii) any Regional Transmission Orga-
4 nization or Independent System Operator
5 with operational or functional control over
6 the cross-border segment of the electric
7 transmission facility.

8 (3) MODIFICATIONS TO EXISTING PROJECTS.—
9 No certificate of crossing shall be required under
10 this subsection for a change in ownership, volume
11 expansion, downstream or upstream interconnection,
12 or adjustment to maintain flow (such as a reduction
13 or increase in the number of pump or compressor
14 stations) with respect to a liquid or natural gas pipe-
15 line or electric transmission facility unless such
16 modification would result in a significant impact at
17 the national boundary.

18 (4) EFFECT OF OTHER LAWS.—Nothing in this
19 subsection shall affect the application of any other
20 Federal statute (including the Natural Gas Act and
21 the Energy Policy and Conservation Act) to a
22 project for which a certificate of crossing is sought
23 under this subsection.

24 (c) IMPORTATION OR EXPORTATION OF NATURAL
25 GAS TO CANADA AND MEXICO.—Section 3(c) of the Nat-

1 ural Gas Act (15 U.S.C. 717b(c)) is amended by adding
2 at the end the following: “In the case of an application
3 for the importation or exportation of natural gas to or
4 from Canada or Mexico, the Commission shall grant the
5 application not later than 30 days after the date of receipt
6 of the complete application.”.

7 (d) TRANSMISSION OF ELECTRIC ENERGY TO CAN-
8 ADA AND MEXICO.—

9 (1) REPEAL OF REQUIREMENT TO SECURE
10 ORDER.—Section 202(e) of the Federal Power Act
11 (16 U.S.C. 824a(e)) is repealed.

12 (2) CONFORMING AMENDMENTS.—

13 (A) STATE REGULATIONS.—Section 202(f)
14 of the Federal Power Act (16 U.S.C. 824a(f))
15 is amended by striking “insofar as such State
16 regulation does not conflict with the exercise of
17 the Commission’s powers under or relating to
18 subsection 202(e)”.

19 (B) SEASONAL DIVERSITY ELECTRICITY
20 EXCHANGE.—Section 602(b) of the Public Util-
21 ity Regulatory Policies Act of 1978 (16 U.S.C.
22 824a–4(b)) is amended by striking “the Com-
23 mission has conducted hearings and made the
24 findings required under section 202(e) of the
25 Federal Power Act” and all that follows

1 through the period at the end and inserting
2 “the Secretary has conducted hearings and
3 finds that the proposed transmission facilities
4 would not impair the sufficiency of electric sup-
5 ply within the United States or would not im-
6 pede or tend to impede the coordination in the
7 public interest of facilities subject to the juris-
8 diction of the Secretary”.

9 (e) EFFECTIVE DATE; RULEMAKING DEADLINES.—

10 (1) EFFECTIVE DATE.—Subsections (b)
11 through (d), and the amendments made by such
12 subsections, shall take effect on January 20, 2017.

13 (2) RULEMAKING DEADLINES.—Each relevant
14 official described in subsection (b)(2)(B) shall—

15 (A) not later than 180 days after the date
16 of enactment of this Act, publish in the Federal
17 Register notice of a proposed rulemaking to
18 carry out the applicable requirements of sub-
19 section (b); and

20 (B) not later than 1 year after the date of
21 enactment of this Act, publish in the Federal
22 Register a final rule to carry out the applicable
23 requirements of subsection (b).

24 (f) DEFINITIONS.—In this section—

1 (1) the term “cross-border segment” means the
2 portion of a liquid or natural gas pipeline or electric
3 transmission facility that is located at the national
4 boundary of the United States with either Canada or
5 Mexico;

6 (2) the terms “Electric Reliability Organiza-
7 tion” and “regional entity” have the meanings given
8 those terms in section 215 of the Federal Power Act
9 (16 U.S.C. 824o);

10 (3) the terms “Independent System Operator”
11 and “Regional Transmission Organization” have the
12 meanings given those terms in section 3 of the Fed-
13 eral Power Act (16 U.S.C. 796);

14 (4) the term “liquid” includes water, petroleum,
15 petroleum product, and any other substance that
16 flows through a pipeline other than natural gas; and

17 (5) the term “natural gas” has the meaning
18 given that term in section 2 of the Natural Gas Act
19 (15 U.S.C. 717a).

20 **SEC. 2008. REPORT ON SMART METER SECURITY CON-**
21 **CERNS.**

22 Not later than 1 year after the date of enactment
23 of this Act, the Secretary of Energy shall transmit to Con-
24 gress a report on the weaknesses in currently available
25 smart meters’ security architecture and features, including

1 an absence of event logging, as described in the Govern-
2 ment Accountability Office testimony entitled “Critical In-
3 frastructure Protection: Cybersecurity of the Nation’s
4 Electricity Grid Requires Continued Attention” on Octo-
5 ber 21, 2015.

6 **TITLE III—ENERGY EFFICIENCY**
7 **AND ACCOUNTABILITY**

8 **Subtitle A—Energy Efficiency**

9 **CHAPTER 1—FEDERAL AGENCY ENERGY**
10 **EFFICIENCY**

11 **SEC. 3111. ENERGY-EFFICIENT AND ENERGY-SAVING IN-**
12 **FORMATION TECHNOLOGIES.**

13 (a) AMENDMENT.—Subtitle C of title V of the En-
14 ergy Independence and Security Act of 2007 (Public Law
15 110–140; 121 Stat. 1661) is amended by adding at the
16 end the following:

17 **“SEC. 530. ENERGY-EFFICIENT AND ENERGY-SAVING INFOR-**
18 **MATION TECHNOLOGIES.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) DIRECTOR.—The term ‘Director’ means
21 the Director of the Office of Management and Budg-
22 et.

23 “(2) INFORMATION TECHNOLOGY.—The term
24 ‘information technology’ has the meaning given that

1 term in section 11101 of title 40, United States
2 Code.

3 “(b) DEVELOPMENT OF IMPLEMENTATION STRAT-
4 EGY.—Not later than 1 year after the date of enactment
5 of this section, each Federal agency shall coordinate with
6 the Director, the Secretary, and the Administrator of the
7 Environmental Protection Agency to develop an implemen-
8 tation strategy (that includes best practices and measure-
9 ment and verification techniques) for the maintenance,
10 purchase, and use by the Federal agency of energy-effi-
11 cient and energy-saving information technologies, taking
12 into consideration the performance goals established under
13 subsection (d).

14 “(c) ADMINISTRATION.—In developing an implemen-
15 tation strategy under subsection (b), each Federal agency
16 shall consider—

17 “(1) advanced metering infrastructure;

18 “(2) energy-efficient data center strategies and
19 methods of increasing asset and infrastructure utili-
20 zation;

21 “(3) advanced power management tools;

22 “(4) building information modeling, including
23 building energy management;

24 “(5) secure telework and travel substitution
25 tools; and

1 “(6) mechanisms to ensure that the agency re-
2 alizes the energy cost savings brought about through
3 increased efficiency and utilization.

4 “(d) PERFORMANCE GOALS.—

5 “(1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of this section, the Di-
7 rector, in consultation with the Secretary, shall es-
8 tablish performance goals for evaluating the efforts
9 of Federal agencies in improving the maintenance,
10 purchase, and use of energy-efficient and energy-sav-
11 ing information technology.

12 “(2) BEST PRACTICES.—The Chief Information
13 Officers Council established under section 3603 of
14 title 44, United States Code, shall recommend best
15 practices for the attainment of the performance
16 goals, which shall include Federal agency consider-
17 ation of, to the extent applicable by law, the use
18 of—

19 “(A) energy savings performance con-
20 tracting; and

21 “(B) utility energy services contracting.

22 “(e) REPORTS.—

23 “(1) AGENCY REPORTS.—Each Federal agency
24 shall include in the report of the agency under sec-

1 tion 527 a description of the efforts and results of
2 the agency under this section.

3 “(2) OMB GOVERNMENT EFFICIENCY REPORTS
4 AND SCORECARDS.—Effective beginning not later
5 than October 1, 2017, the Director shall include in
6 the annual report and scorecard of the Director re-
7 quired under section 528 a description of the efforts
8 and results of Federal agencies under this section.”.

9 (b) CONFORMING AMENDMENT.—The table of con-
10 tents for the Energy Independence and Security Act of
11 2007 is amended by adding after the item relating to sec-
12 tion 529 the following:

 “Sec. 530. Energy-efficient and energy-saving information technologies.”.

13 **SEC. 3112. ENERGY EFFICIENT DATA CENTERS.**

14 Section 453 of the Energy Independence and Security
15 Act of 2007 (42 U.S.C. 17112) is amended—

16 (1) in subsection (b)(2)(D)(iv), by striking “de-
17 termined by the organization” and inserting “pro-
18 posed by the stakeholders”;

19 (2) by striking subsection (b)(3); and

20 (3) by striking subsections (e) through (g) and
21 inserting the following:

22 “(c) STAKEHOLDER INVOLVEMENT.—The Secretary
23 and the Administrator shall carry out subsection (b) in
24 collaboration with the information technology industry and
25 other key stakeholders, with the goal of producing results

1 that accurately reflect the most relevant and useful infor-
2 mation available. In such collaboration, the Secretary and
3 the Administrator shall pay particular attention to organi-
4 zations that—

5 “(1) have members with expertise in energy ef-
6 ficiency and in the development, operation, and
7 functionality of data centers, information technology
8 equipment, and software, such as representatives of
9 hardware manufacturers, data center operators, and
10 facility managers;

11 “(2) obtain and address input from Department
12 of Energy National Laboratories or any college, uni-
13 versity, research institution, industry association,
14 company, or public interest group with applicable ex-
15 pertise;

16 “(3) follow—

17 “(A) commonly accepted procedures for
18 the development of specifications; and

19 “(B) accredited standards development
20 processes; and

21 “(4) have a mission to promote energy effi-
22 ciency for data centers and information technology.

23 “(d) MEASUREMENTS AND SPECIFICATIONS.—The
24 Secretary and the Administrator shall consider and assess
25 the adequacy of the specifications, measurements, best

1 practices, and benchmarks described in subsection (b) for
2 use by the Federal Energy Management Program, the En-
3 ergy Star Program, and other efficiency programs of the
4 Department of Energy or the Environmental Protection
5 Agency.

6 “(e) STUDY.—The Secretary, in collaboration with
7 the Administrator, shall, not later than 18 months after
8 the date of enactment of the North American Energy Se-
9 curity and Infrastructure Act of 2015, make available to
10 the public an update to the Report to Congress on Server
11 and Data Center Energy Efficiency published on August
12 2, 2007, under section 1 of Public Law 109–431 (120
13 Stat. 2920), that provides—

14 “(1) a comparison and gap analysis of the esti-
15 mates and projections contained in the original re-
16 port with new data regarding the period from 2008
17 through 2015;

18 “(2) an analysis considering the impact of in-
19 formation technologies, including virtualization and
20 cloud computing, in the public and private sectors;

21 “(3) an evaluation of the impact of the com-
22 bination of cloud platforms, mobile devices, social
23 media, and big data on data center energy usage;

1 “(4) an evaluation of water usage in data cen-
2 ters and recommendations for reductions in such
3 water usage; and

4 “(5) updated projections and recommendations
5 for best practices through fiscal year 2020.

6 “(f) DATA CENTER ENERGY PRACTITIONER PRO-
7 GRAM.—The Secretary, in collaboration with key stake-
8 holders and the Director of the Office of Management and
9 Budget, shall maintain a data center energy practitioner
10 program that leads to the certification of energy practi-
11 tioners qualified to evaluate the energy usage and effi-
12 ciency opportunities in Federal data centers. Each Federal
13 agency shall consider having the data centers of the agen-
14 cy evaluated every 4 years, in accordance with section
15 543(f) of the National Energy Conservation Policy Act (42
16 U.S.C. 8253), by energy practitioners certified pursuant
17 to such program.

18 “(g) OPEN DATA INITIATIVE.—The Secretary, in col-
19 laboration with key stakeholders and the Director of the
20 Office of Management and Budget, shall establish an open
21 data initiative for Federal data center energy usage data,
22 with the purpose of making such data available and acces-
23 sible in a manner that encourages further data center in-
24 novation, optimization, and consolidation. In establishing

1 the initiative, the Secretary shall consider the use of the
2 online Data Center Maturity Model.

3 “(h) INTERNATIONAL SPECIFICATIONS AND
4 METRICS.—The Secretary, in collaboration with key
5 stakeholders, shall actively participate in efforts to har-
6 monize global specifications and metrics for data center
7 energy and water efficiency.

8 “(i) DATA CENTER UTILIZATION METRIC.—The Sec-
9 retary, in collaboration with key stakeholders, shall facili-
10 tate the development of an efficiency metric that measures
11 the energy efficiency of a data center (including equipment
12 and facilities).

13 “(j) PROTECTION OF PROPRIETARY INFORMATION.—
14 The Secretary and the Administrator shall not disclose
15 any proprietary information or trade secrets provided by
16 any individual or company for the purposes of carrying
17 out this section or the programs and initiatives established
18 under this section.”.

19 **SEC. 3113. REPORT ON ENERGY AND WATER SAVINGS PO-**
20 **TENTIAL FROM THERMAL INSULATION.**

21 (a) REPORT.—Not later than 1 year after the date
22 of enactment of this Act, the Secretary of Energy, in con-
23 sultation with appropriate Federal agencies and relevant
24 stakeholders, shall submit to the Committee on Energy
25 and Natural Resources of the Senate and the Committee

1 on Energy and Commerce of the House of Representatives
2 a report on the impact of thermal insulation on both en-
3 ergy and water use systems for potable hot and chilled
4 water in Federal buildings, and the return on investment
5 of installing such insulation.

6 (b) CONTENTS.—The report shall include—

7 (1) an analysis based on the cost of municipal
8 or regional water for delivered water and the avoided
9 cost of new water; and

10 (2) a summary of energy and water savings, in-
11 cluding short-term and long-term (20 years) projec-
12 tions of such savings.

13 **SEC. 3114. BATTERY STORAGE REPORT.**

14 Not later than 1 year after the date of enactment
15 of this Act, the Comptroller General shall transmit to Con-
16 gress a report on the potential of battery energy storage
17 that answers the following questions:

18 (1) How do existing Federal standards impact
19 the development and deployment of battery storage
20 systems?

21 (2) What are the benefits of using existing bat-
22 tery storage technology, and what challenges exist to
23 their widespread use? What are some examples of
24 existing battery storage projects providing these ben-
25 efits?

1 (3) What potential impact could large-scale bat-
2 tery storage and behind-the-meter battery storage
3 have on renewable energy utilization?

4 (4) What is the potential of battery technology
5 for grid-scale use nationwide? What is the potential
6 impact of battery technology on the national grid ca-
7 pabilities?

8 (5) How much economic activity associated with
9 large-scale and behind-the-meter battery storage
10 technology is located in the United States? How
11 many jobs do these industries account for?

12 (6) What policies other than the Renewable En-
13 ergy Investment Tax Credit have research and avail-
14 able data shown to promote renewable energy use
15 and storage technology deployment by State and
16 local governments or private end-users?

17 **SEC. 3115. FEDERAL PURCHASE REQUIREMENT.**

18 (a) DEFINITIONS.—Section 203(b) of the Energy
19 Policy Act of 2005 (42 U.S.C. 15852(b)) is amended by
20 striking paragraph (2) and inserting the following:

21 “(2) RENEWABLE ENERGY.—The term ‘renew-
22 able energy’ means electric energy, or thermal en-
23 ergy if resulting from a thermal energy project
24 placed in service after December 31, 2014, gen-
25 erated from, or avoided by, solar, wind, biomass,

1 landfill gas, ocean (including tidal, wave, current,
2 and thermal), geothermal, municipal solid waste (in
3 accordance with subsection (e)), qualified waste heat
4 resource, or new hydroelectric generation capacity
5 achieved from increased efficiency or additions of
6 new capacity at an existing hydroelectric project.

7 “(3) QUALIFIED WASTE HEAT RESOURCE.—The
8 term ‘qualified waste heat resource’ means—

9 “(A) exhaust heat or flared gas from any
10 industrial process;

11 “(B) waste gas or industrial tail gas that
12 would otherwise be flared, incinerated, or vent-
13 ed;

14 “(C) a pressure drop in any gas for an in-
15 dustrial or commercial process; or

16 “(D) such other forms of waste heat as the
17 Secretary determines appropriate.”.

18 (b) PAPER RECYCLING.—Section 203 of the Energy
19 Policy Act of 2005 (42 U.S.C. 15852) is amended by add-
20 ing at the end the following:

21 “(e) PAPER RECYCLING.—

22 “(1) SEPARATE COLLECTION.—For purposes of
23 this section, any Federal agency may consider elec-
24 tric energy generation purchased from a facility to

1 be renewable energy if the municipal solid waste
2 used by the facility to generate the electricity is—

3 “(A) separately collected (within the mean-
4 ing of section 246.101(z) of title 40, Code of
5 Federal Regulations, as in effect on the date of
6 enactment of the North American Energy Secu-
7 rity and Infrastructure Act of 2015) from
8 paper that is commonly recycled; and

9 “(B) processed in a way that keeps paper
10 that is commonly recycled segregated from non-
11 recyclable solid waste.

12 “(2) INCIDENTAL INCLUSION.—Municipal solid
13 waste used to generate electric energy that meets the
14 conditions described in paragraph (1) shall be con-
15 sidered renewable energy even if the municipal solid
16 waste contains incidental commonly recycled paper.

17 “(3) NO EFFECT ON EXISTING PROCESSES.—
18 Nothing in paragraph (1) shall be interpreted to re-
19 quire a State or political subdivision of a State, di-
20 rectly or indirectly, to change the systems, processes,
21 or equipment it uses to collect, treat, dispose of, or
22 otherwise use municipal solid waste, within the
23 meaning of the Solid Waste Disposal Act (42 U.S.C.
24 6901 et seq.), nor require a change to the regula-

1 tions that implement subtitle D of such Act (42
2 U.S.C. 6941 et seq.).”.

3 **SEC. 3116. ENERGY PERFORMANCE REQUIREMENT FOR**
4 **FEDERAL BUILDINGS.**

5 Section 543 of the National Energy Conservation
6 Policy Act (42 U.S.C. 8253) is amended—

7 (1) by striking subsection (a) and inserting the
8 following:

9 “(a) ENERGY PERFORMANCE REQUIREMENT FOR
10 FEDERAL BUILDINGS.—

11 “(1) REQUIREMENT.—Subject to paragraph
12 (2), each agency shall apply energy conservation
13 measures to, and shall improve the design for the
14 construction of, the Federal buildings of the agency
15 (including each industrial or laboratory facility) so
16 that the energy consumption per gross square foot
17 of the Federal buildings of the agency in fiscal years
18 2006 through 2017 is reduced, as compared with the
19 energy consumption per gross square foot of the
20 Federal buildings of the agency in fiscal year 2003,
21 by the percentage specified in the following table:

“Fiscal Year	Percentage Reduction
2006	2
2007	4
2008	9
2009	12
2010	15
2011	18
2012	21

“Fiscal Year	Percentage Reduction
2013	24
2014	27
2015	30
2016	33
2017	36.

1 “(2) EXCLUSION FOR BUILDINGS WITH ENERGY
2 INTENSIVE ACTIVITIES.—

3 “(A) IN GENERAL.—An agency may ex-
4 clude from the requirements of paragraph (1)
5 any building (including the associated energy
6 consumption and gross square footage) in which
7 energy intensive activities are carried out.

8 “(B) REPORTS.—Each agency shall iden-
9 tify and list in each report made under section
10 548(a) the buildings designated by the agency
11 for exclusion under subparagraph (A).

12 “(3) REVIEW.—Not later than December 31,
13 2017, the Secretary shall—

14 “(A) review the results of the implementa-
15 tion of the energy performance requirements es-
16 tablished under paragraph (1); and

17 “(B) based on the review conducted under
18 subparagraph (A), submit to Congress a report
19 that addresses the feasibility of requiring each
20 agency to apply energy conservation measures
21 to, and improve the design for the construction
22 of, the Federal buildings of the agency (includ-

1 ing each industrial or laboratory facility) so
2 that the energy consumption per gross square
3 foot of the Federal buildings of the agency in
4 each of fiscal years 2018 through 2030 is re-
5 duced, as compared with the energy consump-
6 tion per gross square foot of the Federal build-
7 ings of the agency in the prior fiscal year, by
8 3 percent.”; and

9 (2) in subsection (f)—

10 (A) in paragraph (1)—

11 (i) by redesignating subparagraphs
12 (E), (F), and (G) as subparagraphs (F),
13 (G), and (H), respectively; and

14 (ii) by inserting after subparagraph
15 (D) the following:

16 “(E) ONGOING COMMISSIONING.—The
17 term ‘ongoing commissioning’ means an ongo-
18 ing process of commissioning using monitored
19 data, the primary goal of which is to ensure
20 continuous optimum performance of a facility,
21 in accordance with design or operating needs,
22 over the useful life of the facility, while meeting
23 facility occupancy requirements.”;

24 (B) in paragraph (2), by adding at the end
25 the following:

1 “(C) ENERGY MANAGEMENT SYSTEM.—An
2 energy manager designated under subparagraph
3 (A) shall consider use of a system to manage
4 energy use at the facility and certification of
5 the facility in accordance with the International
6 Organization for Standardization standard
7 numbered 50001 and entitled ‘Energy Manage-
8 ment Systems.’”;

9 (C) by striking paragraphs (3) and (4) and
10 inserting the following:

11 “(3) ENERGY AND WATER EVALUATIONS AND
12 COMMISSIONING.—

13 “(A) EVALUATIONS.—Except as provided
14 in subparagraph (B), effective beginning on the
15 date that is 180 days after the date of enact-
16 ment of the North American Energy Security
17 and Infrastructure Act of 2015, and annually
18 thereafter, each energy manager shall complete,
19 for each calendar year, a comprehensive energy
20 and water evaluation and recommissioning or
21 retrocommissioning for approximately 25 per-
22 cent of the facilities of that energy manager’s
23 agency that meet the criteria under paragraph
24 (2)(B) in a manner that ensures that an eval-

1 uation of each facility is completed at least once
2 every 4 years.

3 “(B) EXCEPTIONS.—An evaluation and re-
4 commissioning or recommissioning shall not be
5 required under subparagraph (A) with respect
6 to a facility that—

7 “(i) has had a comprehensive energy
8 and water evaluation during the 8-year pe-
9 riod preceding the date of the evaluation;

10 “(ii)(I) has been commissioned, re-
11 commissioned, or retrocommissioned dur-
12 ing the 10-year period preceding the date
13 of the evaluation; or

14 “(II) is under ongoing commissioning,
15 recommissioning, or retrocommissioning;

16 “(iii) has not had a major change in
17 function or use since the previous evalua-
18 tion and commissioning, recommissioning,
19 or retrocommissioning;

20 “(iv) has been benchmarked with pub-
21 lic disclosure under paragraph (8) within
22 the year preceding the evaluation; and

23 “(v)(I) based on the benchmarking,
24 has achieved at a facility level the most re-
25 cent cumulative energy savings target

1 under subsection (a) compared to the ear-
2 lier of—

3 “(aa) the date of the most recent
4 evaluation; or

5 “(bb) the date—

6 “(AA) of the most recent
7 commissioning, recommissioning,
8 or retrocommissioning; or

9 “(BB) on which ongoing
10 commissioning, recommissioning,
11 or retrocommissioning began; or

12 “(II) has a long-term contract in
13 place guaranteeing energy savings at least
14 as great as the energy savings target under
15 subclause (I).

16 “(4) IMPLEMENTATION OF IDENTIFIED ENERGY
17 AND WATER EFFICIENCY MEASURES.—

18 “(A) IN GENERAL.—Not later than 2 years
19 after the date of completion of each evaluation
20 under paragraph (3), each energy manager
21 may—

22 “(i) implement any energy- or water-
23 saving measure that the Federal agency
24 identified in the evaluation conducted

1 under paragraph (3) that is life-cycle cost
2 effective; and

3 “(ii) bundle individual measures of
4 varying paybacks together into combined
5 projects.

6 “(B) MEASURES NOT IMPLEMENTED.—
7 Each energy manager, as part of the certifi-
8 cation system under paragraph (7) and using
9 guidelines developed by the Secretary, shall pro-
10 vide an explanation regarding any life-cycle
11 cost-effective measures described in subpara-
12 graph (A)(i) that have not been implemented.”;
13 and

14 (D) in paragraph (7)(C), by adding at the
15 end the following:

16 “(iii) SUMMARY REPORT.—The Sec-
17 retary shall make publicly available a re-
18 port that summarizes the information
19 tracked under subparagraph (B)(i) by each
20 agency and, as applicable, by each type of
21 measure.”.

1 **SEC. 3117. FEDERAL BUILDING ENERGY EFFICIENCY PER-**
2 **FORMANCE STANDARDS; CERTIFICATION**
3 **SYSTEM AND LEVEL FOR FEDERAL BUILD-**
4 **INGS.**

5 (a) DEFINITIONS.—Section 303 of the Energy Con-
6 servation and Production Act (42 U.S.C. 6832) is amend-
7 ed—

8 (1) in paragraph (6), by striking “to be con-
9 structed” and inserting “constructed or altered”;
10 and

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

12 “(17) MAJOR RENOVATION.—The term ‘major
13 renovation’ means a modification of building energy
14 systems sufficiently extensive that the whole building
15 can meet energy standards for new buildings, based
16 on criteria to be established by the Secretary
17 through notice and comment rulemaking.”.

18 (b) FEDERAL BUILDING EFFICIENCY STANDARDS.—
19 Section 305 of the Energy Conservation and Production
20 Act (42 U.S.C. 6834) is amended—

21 (1) in subsection (a)(3)—

22 (A) by striking “(3)(A) Not later than”
23 and all that follows through the end of subpara-
24 graph (B) and inserting the following:

1 “(3) REVISED FEDERAL BUILDING ENERGY EF-
2 FICIENCY PERFORMANCE STANDARDS; CERTIFI-
3 CATION FOR GREEN BUILDINGS.—

4 “(A) REVISED FEDERAL BUILDING EN-
5 ERGY EFFICIENCY PERFORMANCE STAND-
6 ARDS.—

7 “(i) IN GENERAL.—Not later than 1
8 year after the date of enactment of the
9 North American Energy Security and In-
10 frastructure Act of 2015, the Secretary
11 shall establish, by rule, revised Federal
12 building energy efficiency performance
13 standards that require that—

14 “(I) new Federal buildings and
15 alterations and additions to existing
16 Federal buildings—

17 “(aa) meet or exceed the
18 most recent revision of the IECC
19 (in the case of residential build-
20 ings) or ASHRAE Standard 90.1
21 (in the case of commercial build-
22 ings) as of the date of enactment
23 of the North American Energy
24 Security and Infrastructure Act
25 of 2015; and

1 “(bb) meet or exceed the en-
2 ergy provisions of State and local
3 building codes applicable to the
4 building, if the codes are more
5 stringent than the IECC or
6 ASHRAE Standard 90.1, as ap-
7 plicable;

8 “(II) unless demonstrated not to
9 be life-cycle cost effective for new
10 Federal buildings and Federal build-
11 ings with major renovations—

12 “(aa) the buildings be de-
13 signed to achieve energy con-
14 sumption levels that are at least
15 30 percent below the levels estab-
16 lished in the version of the
17 ASHRAE Standard or the IECC,
18 as appropriate, that is applied
19 under subclause (I)(aa), includ-
20 ing updates under subparagraph
21 (B); and

22 “(bb) sustainable design
23 principles are applied to the loca-
24 tion, siting, design, and construc-
25 tion of all new Federal buildings

1 and replacement Federal build-
2 ings;

3 “(III) if water is used to achieve
4 energy efficiency, water conservation
5 technologies shall be applied to the ex-
6 tent that the technologies are life-
7 cycle cost effective; and

8 “(IV) if life-cycle cost effective,
9 as compared to other reasonably avail-
10 able technologies, not less than 30
11 percent of the hot water demand for
12 each new Federal building or Federal
13 building undergoing a major renova-
14 tion be met through the installation
15 and use of solar hot water heaters.

16 “(ii) LIMITATION.—Clause (i)(I) shall
17 not apply to unaltered portions of existing
18 Federal buildings and systems that have
19 been added to or altered.

20 “(B) UPDATES.—Not later than 1 year
21 after the date of approval of each subsequent
22 revision of ASHRAE Standard 90.1 or the
23 IECC, as appropriate, the Secretary shall deter-
24 mine whether the revised standards established
25 under subparagraph (A) should be updated to

1 reflect the revisions, based on the energy sav-
2 ings and life-cycle cost effectiveness of the revi-
3 sions.”;

4 (B) in subparagraph (C), by striking “(C)
5 In the budget request” and inserting the fol-
6 lowing:

7 “(C) BUDGET REQUEST.—In the budget
8 request”; and

9 (C) in subparagraph (D)—

10 (i) by striking “(D) Not later than”
11 and all that follows through the end of the
12 first sentence of clause (i)(III) and insert-
13 ing the following:

14 “(D) CERTIFICATION FOR GREEN BUILD-
15 INGS.—

16 “(i) IN GENERAL.—”;

17 (ii) by striking clause (ii);

18 (iii) in clause (iii), by striking “(iii) In
19 identifying” and inserting the following:

20 “(ii) CONSIDERATIONS.—In identi-
21 fying”;

22 (iv) in clause (iv)—

23 (I) by striking “(iv) At least
24 once” and inserting the following:

25 “(iii) STUDY.—At least once”; and

1 (II) by striking “clause (iii)” and
2 inserting “clause (ii)”;

3 (v) in clause (v)—

4 (I) by striking “(v) The Sec-
5 retary may” and inserting the fol-
6 lowing:

7 “(iv) INTERNAL CERTIFICATION PROC-
8 ESSES.—The Secretary may”; and

9 (II) by striking “clause (i)(III)”
10 each place it appears and inserting
11 “clause (i)”;

12 (vi) in clause (vi)—

13 (I) by striking “(vi) With re-
14 spect” and inserting the following:

15 “(v) PRIVATIZED MILITARY HOUS-
16 ING.—With respect”; and

17 (II) by striking “develop alter-
18 native criteria to those established by
19 subclauses (I) and (III) of clause (i)
20 that achieve an equivalent result in
21 terms of energy savings, sustainable
22 design, and” and inserting “develop
23 alternative certification systems and
24 levels than the systems and levels

1 identified under clause (i) that achieve
2 an equivalent result in terms of”; and
3 (vii) in clause (vii), by striking “(vii)

4 In addition to” and inserting the following:

5 “(vi) WATER CONSERVATION TECH-
6 NOLOGIES.—In addition to”; and

7 (2) by striking subsections (c) and (d) and in-
8 serting the following:

9 “(c) PERIODIC REVIEW.—The Secretary shall—

10 “(1) every 5 years, review the Federal building
11 energy standards established under this section; and

12 “(2) on completion of a review under paragraph
13 (1), if the Secretary determines that significant en-
14 ergy savings would result, upgrade the standards to
15 include all new energy efficiency and renewable en-
16 ergy measures that are technologically feasible and
17 economically justified.”.

18 **SEC. 3118. OPERATION OF BATTERY RECHARGING STA-**
19 **TIONS IN PARKING AREAS USED BY FEDERAL**
20 **EMPLOYEES.**

21 (a) AUTHORIZATION.—

22 (1) IN GENERAL.—The head of any office of
23 the Federal Government which owns or operates a
24 parking area for the use of its employees (either di-
25 rectly or indirectly through a contractor) may in-

1 stall, construct, operate, and maintain on a reim-
2 bursable basis a battery recharging station in such
3 area for the use of privately owned vehicles of em-
4 ployees of the office and others who are authorized
5 to park in such area.

6 (2) USE OF VENDORS.—The head of an office
7 may carry out paragraph (1) through a contract
8 with a vendor, under such terms and conditions (in-
9 cluding terms relating to the allocation between the
10 office and the vendor of the costs of carrying out the
11 contract) as the head of the office and the vendor
12 may agree to.

13 (b) IMPOSITION OF FEES TO COVER COSTS.—

14 (1) FEES.—The head of an office of the Fed-
15 eral Government which operates and maintains a
16 battery recharging station under this section shall
17 charge fees to the individuals who use the station in
18 such amount as is necessary to ensure that office re-
19 covers all of the costs it incurs in installing, con-
20 structing, operating, and maintaining the station.

21 (2) DEPOSIT AND AVAILABILITY OF FEES.—
22 Any fees collected by the head of an office under this
23 subsection shall be—

1 (A) deposited monthly in the Treasury to
2 the credit of the appropriations account for sal-
3 aries and expenses of the office; and

4 (B) available for obligation without further
5 appropriation during—

6 (i) the fiscal year collected; and

7 (ii) the fiscal year following the fiscal
8 year collected.

9 (c) NO EFFECT ON EXISTING PROGRAMS FOR
10 HOUSE AND SENATE.—Nothing in this section may be
11 construed to affect the installation, construction, oper-
12 ation, or maintenance of battery recharging stations by
13 the Architect of the Capitol—

14 (1) under Public Law 112–170 (2 U.S.C.
15 2171), relating to employees of the House of Rep-
16 resentatives and individuals authorized to park in
17 any parking area under the jurisdiction of the House
18 of Representatives on the Capitol Grounds; or

19 (2) under Public Law 112–167 (2 U.S.C.
20 2170), relating to employees of the Senate and indi-
21 viduals authorized to park in any parking area
22 under the jurisdiction of the Senate on the Capitol
23 Grounds.

24 (d) EFFECTIVE DATE.—This section shall apply with
25 respect to fiscal year 2016 and each succeeding fiscal year.

1 **SEC. 3119. REPORT ON ENERGY SAVINGS AND GREEN-**
2 **HOUSE GAS EMISSIONS REDUCTION FROM**
3 **CONVERSION OF CAPTURED METHANE TO**
4 **ENERGY.**

5 (a) REPORT.—Not later than 1 year after the date
6 of enactment of this Act, the Secretary of Energy, in con-
7 sultation with appropriate Federal agencies and relevant
8 stakeholders, shall submit to the Committee on Energy
9 and Natural Resources of the Senate and the Committee
10 on Energy and Commerce of the House of Representatives
11 a report on the impact of captured methane converted for
12 energy and power generation on Federal lands, Federal
13 buildings, and relevant municipalities that use such gen-
14 eration, and the return on investment and reduction in
15 greenhouse gas emissions of utilizing such power genera-
16 tion.

17 (b) CONTENTS.—The report shall include—

18 (1) a summary of energy performance and sav-
19 ings resulting from the utilization of such power
20 generation, including short-term and long-term (20
21 years) projections of such savings; and

22 (2) an analysis of the reduction in greenhouse
23 emissions resulting from the utilization of such
24 power generation.

1 **CHAPTER 2—ENERGY EFFICIENT**
2 **TECHNOLOGY AND MANUFACTURING**

3 **SEC. 3121. INCLUSION OF SMART GRID CAPABILITY ON EN-**
4 **ERGY GUIDE LABELS.**

5 Section 324(a)(2) of the Energy Policy and Conserva-
6 tion Act (42 U.S.C. 6294(a)(2)) is amended by adding the
7 following at the end:

8 “(J) SMART GRID CAPABILITY ON ENERGY
9 GUIDE LABELS.—

10 “(i) RULE.—Not later than 1 year
11 after the date of enactment of this sub-
12 paragraph, the Commission shall initiate a
13 rulemaking to consider making a special
14 note in a prominent manner on any En-
15 ergy Guide label for any product that in-
16 cludes Smart Grid capability that—

17 “(I) Smart Grid capability is a
18 feature of that product;

19 “(II) the use and value of that
20 feature depend on the Smart Grid ca-
21 pability of the utility system in which
22 the product is installed and the active
23 utilization of that feature by the cus-
24 tomer; and

1 “(III) on a utility system with
2 Smart Grid capability, the use of the
3 product’s Smart Grid capability could
4 reduce the customer’s cost of the
5 product’s annual operation as a result
6 of the incremental energy and elec-
7 tricity cost savings that would result
8 from the customer taking full advan-
9 tage of such Smart Grid capability.

10 “(ii) DEADLINE.—Not later than 3
11 years after the date of enactment of this
12 subparagraph, the Commission shall com-
13 plete the rulemaking initiated under clause
14 (i).”.

15 **SEC. 3122. VOLUNTARY VERIFICATION PROGRAMS FOR AIR**
16 **CONDITIONING, FURNACE, BOILER, HEAT**
17 **PUMP, AND WATER HEATER PRODUCTS.**

18 Section 326(b) of the Energy Policy and Conserva-
19 tion Act (42 U.S.C. 6296(b)) is amended by adding at
20 the end the following:

21 “(6) VOLUNTARY VERIFICATION PROGRAMS FOR
22 AIR CONDITIONING, FURNACE, BOILER, HEAT PUMP,
23 AND WATER HEATER PRODUCTS.—

24 “(A) RELIANCE ON VOLUNTARY PRO-
25 GRAMS.—For the purpose of verifying compli-

1 ance with energy conservation standards estab-
2 lished under sections 325 and 342 for covered
3 products described in paragraphs (3), (4), (5),
4 (9), and (11) of section 322(a) and covered
5 equipment described in subparagraphs (B), (C),
6 (D), (F), (I), (J), and (K) of section 340(1),
7 the Secretary shall rely on testing conducted by
8 recognized voluntary verification programs that
9 are recognized by the Secretary in accordance
10 with subparagraph (B).

11 “(B) RECOGNITION OF VOLUNTARY
12 VERIFICATION PROGRAMS.—

13 “(i) IN GENERAL.—Not later than
14 180 days after the date of enactment of
15 this paragraph, the Secretary shall initiate
16 a negotiated rulemaking in accordance
17 with subchapter III of chapter 5 of title 5,
18 United States Code (commonly known as
19 the ‘Negotiated Rulemaking Act of 1990’)
20 to develop criteria that have consensus
21 support for achieving recognition by the
22 Secretary as an approved voluntary
23 verification program. Any subsequent
24 amendment to such criteria may be made
25 only pursuant to a subsequent negotiated

1 rulemaking in accordance with subchapter
2 III of chapter 5 of title 5, United States
3 Code.

4 “(ii) MINIMUM REQUIREMENTS.—The
5 criteria developed under clause (i) shall, at
6 a minimum, ensure that a voluntary
7 verification program—

8 “(I) is nationally recognized;

9 “(II) is operated by a third party
10 and not directly operated by a pro-
11 gram participant;

12 “(III) satisfies any applicable ele-
13 ments of—

14 “(aa) International Organi-
15 zation for Standardization stand-
16 ard numbered 17025; and

17 “(bb) any other relevant
18 International Organization for
19 Standardization standards identi-
20 fied and agreed to through the
21 negotiated rulemaking under
22 clause (i);

23 “(IV) at least annually tests
24 independently obtained products fol-
25 lowing the test procedures established

1 under this title to verify the certified
2 rating of a representative sample of
3 products and equipment within the
4 scope of the program;

5 “(V) maintains a publicly avail-
6 able list of all ratings of products sub-
7 ject to verification;

8 “(VI) requires the changing of
9 the performance rating or removal of
10 the product or equipment from the
11 program if testing determines that the
12 performance rating does not meet the
13 levels the manufacturer has certified
14 to the Secretary;

15 “(VII) requires new program
16 participants to substantiate ratings
17 through test data generated in accord-
18 ance with Department of Energy reg-
19 ulations;

20 “(VIII) allows for challenge test-
21 ing of products and equipment within
22 the scope of the program;

23 “(IX) requires program partici-
24 pants to disclose the performance rat-
25 ing of all covered products and equip-

1 ment within the scope of the program
2 for the covered product or equipment;

3 “(X) provides to the Secretary—

4 “(aa) an annual report of all
5 test results, the contents of which
6 shall be determined through the
7 negotiated rulemaking process
8 under clause (i); and

9 “(bb) test reports, on the re-
10 quest of the Secretary, that note
11 any instructions specified by the
12 manufacturer or the representa-
13 tive of the manufacturer for the
14 purpose of conducting the
15 verification testing; and

16 “(XI) satisfies any additional re-
17 quirements or standards that the Sec-
18 retary shall establish consistent with
19 this subparagraph.

20 “(iii) CESSATION OF RECOGNITION.—

21 The Secretary may only cease recognition
22 of a voluntary verification program as an
23 approved program described in subpara-
24 graph (A) upon a finding that the program
25 is not meeting its obligations for compli-

1 ance through program review criteria de-
2 veloped during the negotiated rulemaking
3 conducted under subparagraph (B).

4 “(C) ADMINISTRATION.—

5 “(i) IN GENERAL.—The Secretary
6 shall not require—

7 “(I) manufacturers to participate
8 in a recognized voluntary verification
9 program described in subparagraph
10 (A); or

11 “(II) participating manufacturers
12 to provide information that has al-
13 ready been provided to the Secretary.

14 “(ii) LIST OF COVERED PRODUCTS.—
15 The Secretary may maintain a publicly
16 available list of covered products and
17 equipment that distinguishes between
18 products that are and are not covered
19 products and equipment verified through a
20 recognized voluntary verification program
21 described in subparagraph (A).

22 “(iii) PERIODIC VERIFICATION TEST-
23 ING.—The Secretary—

24 “(I) shall not subject products or
25 equipment that have been verification

1 tested under a recognized voluntary
2 verification program described in sub-
3 paragraph (A) to periodic verification
4 testing to verify the accuracy of the
5 certified performance rating of the
6 products or equipment; but

7 “(II) may require testing of prod-
8 ucts or equipment described in sub-
9 clause (I)—

10 “(aa) if the testing is nec-
11 essary—

12 “(AA) to assess the
13 overall performance of a vol-
14 untary verification program;

15 “(BB) to address spe-
16 cific performance issues;

17 “(CC) for use in updat-
18 ing test procedures and
19 standards; or

20 “(DD) for other pur-
21 poses consistent with this
22 title; or

23 “(bb) if such testing is
24 agreed to during the negotiated

1 rulemaking conducted under sub-
2 paragraph (B).

3 “(D) EFFECT ON OTHER AUTHORITY.—
4 Nothing in this paragraph limits the authority
5 of the Secretary to enforce compliance with any
6 law.”.

7 **SEC. 3123. FACILITATING CONSENSUS FURNACE STAND-**
8 **ARDS.**

9 (a) CONGRESSIONAL FINDINGS AND DECLARATION
10 OF PURPOSE.—

11 (1) FINDINGS.—Congress finds that—

12 (A) acting pursuant to the requirements of
13 section 325 of the Energy Policy and Conserva-
14 tion Act (42 U.S.C. 6295), the Secretary of En-
15 ergy is considering amending the energy con-
16 servation standards applicable to residential
17 nonweatherized gas furnaces and mobile home
18 gas furnaces;

19 (B) numerous stakeholders, representing
20 manufacturers, distributors, and installers of
21 residential nonweatherized gas furnaces and
22 mobile home furnaces, natural gas utilities,
23 home builders, multifamily property owners,
24 and energy efficiency, environmental, and con-
25 sumer advocates have begun negotiations in an

1 attempt to agree on a consensus recommenda-
2 tion to the Secretary on levels for such stand-
3 ards that will meet the statutory criteria; and

4 (C) the stakeholders believe these negotia-
5 tions are likely to result in a consensus rec-
6 ommendation, but several of the stakeholders
7 do not support suspending the current rule-
8 making.

9 (2) PURPOSE.—It is the purpose of this section
10 to provide the stakeholders described in paragraph
11 (1) with an opportunity to continue negotiations for
12 a limited time period to facilitate the proposal for
13 adoption of standards that enjoy consensus support,
14 while not delaying the current rulemaking except to
15 the extent necessary to provide such opportunity.

16 (b) OPPORTUNITY FOR A NEGOTIATED FURNACE
17 STANDARD.—Section 325(f)(4) of the Energy Policy and
18 Conservation Act (42 U.S.C. 6295(f)(4)) is amended by
19 adding after subparagraph (D) the following:

20 “(E)(i) Unless the Secretary has published such a no-
21 tice prior to the date of enactment of this Act, the Sec-
22 retary shall publish, not later than October 31, 2015, a
23 supplemental notice of proposed rulemaking or a notice
24 of data availability updating the proposed rule entitled
25 ‘Energy Conservation Program for Consumer Products:

1 Energy Conservation Standards for Residential Furnaces’
2 and published in the Federal Register on March 12, 2015
3 (80 Fed. Reg. 13119), to provide notice and an oppor-
4 tunity for comment on—

5 “(I) dividing nonweatherized gas furnaces into
6 two or more product classes with separate energy
7 conservation standards based on capacity; and

8 “(II) any other matters the Secretary deter-
9 mines appropriate.

10 “(ii) On receipt of a statement that is submitted on
11 or before January 1, 2016, jointly by interested persons
12 that are fairly representative of relevant points of view,
13 that contains recommended standards for nonweatherized
14 gas furnaces and mobile home gas furnaces that are con-
15 sistent with the requirements of this part (except that the
16 date on which such standards will apply may be earlier
17 or later than the date required under this part), the Sec-
18 retary shall evaluate the standards proposed in the joint
19 statement for consistency with the requirements of sub-
20 section (o), and shall publish notice of the potential adop-
21 tion of the standards proposed in the joint statement,
22 modified as necessary to ensure consistency with sub-
23 section (o). The Secretary shall solicit public comment for
24 a period of at least 30 days with respect to such notice.

1 “(iii) Not later than July 31, 2016, but not before
2 July 1, 2016, the Secretary shall publish a final rule con-
3 taining a determination of whether the standards for non-
4 weatherized gas furnaces and mobile home gas furnaces
5 should be amended. Such rule shall contain any such
6 amendments to the standards.”.

7 **SEC. 3124. NO WARRANTY FOR CERTAIN CERTIFIED EN-**
8 **ERGY STAR PRODUCTS.**

9 Section 324A of the Energy Policy and Conservation
10 Act (42 U.S.C. 6294a) is amended by adding at the end
11 the following new subsection:

12 “(e) NO WARRANTY.—

13 “(1) IN GENERAL.—Any disclosure relating to
14 participation of a product in the Energy Star pro-
15 gram shall not create an express or implied warranty
16 or give rise to any private claims or rights of action
17 under State or Federal law relating to the disquali-
18 fication of that product from Energy Star if—

19 “(A) the product has been certified by a
20 certification body recognized by the Energy
21 Star program;

22 “(B) the Administrator has approved cor-
23 rective measures, including a determination of
24 whether or not consumer compensation is ap-
25 propriate; and

1 “(C) the responsible party has fully com-
2 plied with all approved corrective measures.

3 “(2) CONSTRUAL.—Nothing in this subsection
4 shall be construed to require the Administrator to
5 modify any procedure or take any other action.”.

6 **SEC. 3125. CLARIFICATION TO EFFECTIVE DATE FOR RE-**
7 **GIONAL STANDARDS.**

8 Section 325(o)(6)(E)(ii) of the Energy Policy and
9 Conservation Act (42 U.S.C. 6295(o)(6)(E)(ii)) is amend-
10 ed by striking “installed” and inserting “manufactured or
11 imported into the United States”.

12 **SEC. 3126. INTERNET OF THINGS REPORT.**

13 The Secretary of Energy shall, not later than 18
14 months after the date of enactment of this Act, report to
15 the Committee on Energy and Commerce of the House
16 of Representatives and the Committee on Energy and
17 Natural Resources of the Senate on the efforts made to
18 take advantage of, and promote, the utilization of ad-
19 vanced technologies such as Internet of Things end-to-end
20 platform solutions to provide real-time actionable analytics
21 and enable predictive maintenance and asset management
22 to improve energy efficiency wherever feasible. In doing
23 so, the Secretary shall look to encourage and utilize Inter-
24 net of Things energy management solutions that have se-
25 curity tightly integrated into the hardware and software

1 from the outset. The Secretary shall also encourage the
2 use of Internet of Things solutions that enable seamless
3 connectivity and that are interoperable, open standards-
4 based, and built on a repeatable foundation for ease of
5 scalability.

6 **SEC. 3127. ENERGY SAVINGS FROM LUBRICATING OIL.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Secretary of Energy, in cooperation with
9 the Administrator of the Environmental Protection Agen-
10 cy and the Director of Management and Budget, shall—

11 (1) review and update the report prepared pur-
12 suant to section 1838 of the Energy Policy Act of
13 2005;

14 (2) after consultation with relevant Federal,
15 State, and local agencies and affected industry and
16 stakeholder groups, update data that was used in
17 preparing that report; and

18 (3) prepare and submit to Congress a coordi-
19 nated Federal strategy to increase the beneficial
20 reuse of used lubricating oil, that—

21 (A) is consistent with national policy as es-
22 tablished pursuant to section 2 of the Used Oil
23 Recycling Act of 1980 (Public Law 96–463);
24 and

25 (B) addresses measures needed to—

1 (i) increase the responsible collection
2 of used oil;

3 (ii) disseminate public information
4 concerning sustainable reuse options for
5 used oil; and

6 (iii) promote sustainable reuse of used
7 oil by Federal agencies, recipients of Fed-
8 eral grant funds, entities contracting with
9 the Federal Government, and the general
10 public.

11 **SEC. 3128. DEFINITION OF EXTERNAL POWER SUPPLY.**

12 Section 321(36)(A) of the Energy Policy and Con-
13 servation Act (42 U.S.C. 6291(36)(A)) is amended—

14 (1) by striking the subparagraph designation
15 and all that follows through “The term” and insert-
16 ing the following:

17 “(A) EXTERNAL POWER SUPPLY.—

18 “(i) IN GENERAL.—The term”; and

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

20 “(ii) EXCLUSION.—The term ‘external
21 power supply’ does not include a power
22 supply circuit, driver, or device that is de-
23 signed exclusively to be connected to, and
24 power—

1 “(I) light-emitting diodes pro-
2 viding illumination; or

3 “(II) organic light-emitting di-
4 odes providing illumination.”.

5 **SEC. 3129. STANDARDS FOR POWER SUPPLY CIRCUITS CON-**
6 **NECTED TO LEDES OR OLEDS.**

7 (a) IN GENERAL.—Section 325(u) of the Energy Pol-
8 icy and Conservation Act (42 U.S.C. 6295(u)) is amended
9 by adding at the end the following:

10 “(6) POWER SUPPLY CIRCUITS CONNECTED TO
11 LEDES OR OLEDS.—Notwithstanding the exclusion de-
12 scribed in section 321(36)(A)(ii), the Secretary may
13 prescribe, in accordance with subsections (o) and (p)
14 and section 322(b), an energy conservation standard
15 for a power supply circuit, driver, or device that is
16 designed primarily to be connected to, and power,
17 light-emitting diodes or organic light-emitting diodes
18 providing illumination.”.

19 (b) ENERGY CONSERVATION STANDARDS.—Section
20 346 of the Energy Policy and Conservation Act (42 U.S.C.
21 6317) is amended by adding at the end the following:

22 “(g) ENERGY CONSERVATION STANDARD FOR
23 POWER SUPPLY CIRCUITS CONNECTED TO LEDES OR
24 OLEDS.—Not earlier than 1 year after applicable testing
25 requirements are prescribed under section 343, the Sec-

1 retary may prescribe an energy conservation standard for
2 a power supply circuit, driver, or device that is designed
3 primarily to be connected to, and power, light-emitting di-
4 odes or organic light-emitting diodes providing illumina-
5 tion.”.

6 **CHAPTER 3—SCHOOL BUILDINGS**

7 **SEC. 3131. COORDINATION OF ENERGY RETROFITTING AS-** 8 **SISTANCE FOR SCHOOLS.**

9 Section 392 of the Energy Policy and Conservation
10 Act (42 U.S.C. 6371a) is amended by adding at the end
11 the following:

12 “(e) COORDINATION OF ENERGY RETROFITTING AS-
13 SISTANCE FOR SCHOOLS.—

14 “(1) DEFINITION OF SCHOOL.—Notwith-
15 standing section 391(6), for the purposes of this
16 subsection, the term ‘school’ means—

17 “(A) an elementary school or secondary
18 school (as defined in section 9101 of the Ele-
19 mentary and Secondary Education Act of 1965
20 (20 U.S.C. 7801));

21 “(B) an institution of higher education (as
22 defined in section 102(a) of the Higher Edu-
23 cation Act of 1965 (20 U.S.C. 1002(a)));

24 “(C) a school of the defense dependents’
25 education system under the Defense Depend-

1 ents' Education Act of 1978 (20 U.S.C. 921 et
2 seq.) or established under section 2164 of title
3 10, United States Code;

4 “(D) a school operated by the Bureau of
5 Indian Affairs;

6 “(E) a tribally controlled school (as de-
7 fined in section 5212 of the Tribally Controlled
8 Schools Act of 1988 (25 U.S.C. 2511)); and

9 “(F) a Tribal College or University (as de-
10 fined in section 316(b) of the Higher Education
11 Act of 1965 (20 U.S.C. 1059c(b))).

12 “(2) ESTABLISHMENT OF CLEARINGHOUSE.—
13 The Secretary, acting through the Office of Energy
14 Efficiency and Renewable Energy, shall establish a
15 clearinghouse to disseminate information regarding
16 available Federal programs and financing mecha-
17 nisms that may be used to help initiate, develop, and
18 finance energy efficiency, distributed generation, and
19 energy retrofitting projects for schools.

20 “(3) REQUIREMENTS.—In carrying out para-
21 graph (2), the Secretary shall—

22 “(A) consult with appropriate Federal
23 agencies to develop a list of Federal programs
24 and financing mechanisms that are, or may be,

1 used for the purposes described in paragraph
2 (2); and

3 “(B) coordinate with appropriate Federal
4 agencies to develop a collaborative education
5 and outreach effort to streamline communica-
6 tions and promote available Federal programs
7 and financing mechanisms described in sub-
8 paragraph (A), which may include the develop-
9 ment and maintenance of a single online re-
10 source that includes contact information for rel-
11 evant technical assistance in the Office of En-
12 ergy Efficiency and Renewable Energy that
13 States, local education agencies, and schools
14 may use to effectively access and use such Fed-
15 eral programs and financing mechanisms.”.

16 **CHAPTER 4—BUILDING ENERGY CODES**

17 **SEC. 3141. GREATER ENERGY EFFICIENCY IN BUILDING** 18 **CODES.**

19 (a) DEFINITIONS.—Section 303 of the Energy Con-
20 servation and Production Act (42 U.S.C. 6832), as
21 amended by section 3116, is further amended—

22 (1) by striking paragraph (14) and inserting
23 the following:

24 “(14) MODEL BUILDING ENERGY CODE.—The
25 term ‘model building energy code’ means a voluntary

1 building energy code or standard developed and up-
2 dated through a consensus process among interested
3 persons, such as the IECC or ASHRAE Standard
4 90.1 or a code used by other appropriate organiza-
5 tions regarding which the Secretary has issued a de-
6 termination that buildings subject to it would
7 achieve greater energy efficiency than under a pre-
8 viously developed code.”; and

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

10 “(18) ASHRAE STANDARD 90.1.—The term
11 ‘ASHRAE Standard 90.1’ means the American So-
12 ciety of Heating, Refrigerating and Air-Conditioning
13 Engineers ANSI/ASHRAE/IES Standard 90/1 En-
14 ergy Standard for Buildings Except Low-Rise Resi-
15 dential Buildings.

16 “(19) COST-EFFECTIVE.—The term ‘cost-effec-
17 tive’ means having a simple payback of 10 years or
18 less.

19 “(20) IECC.—The term ‘IECC’ means the
20 International Energy Conservation Code as pub-
21 lished by the International Code Council.

22 “(21) INDIAN TRIBE.—The term ‘Indian tribe’
23 has the meaning given the term in section 4 of the
24 Native American Housing Assistance and Self-De-
25 termination Act of 1996 (25 U.S.C. 4103).

1 “(b) STATE AND INDIAN TRIBE CERTIFICATION OF
2 BUILDING ENERGY CODE UPDATES.—

3 “(1) REVIEW AND UPDATING OF CODES BY
4 EACH STATE AND INDIAN TRIBE.—

5 “(A) IN GENERAL.—Not later than 3 years
6 after the date on which a model building energy
7 code is published, each State or Indian tribe
8 shall certify whether or not the State or Indian
9 tribe, respectively, has reviewed and updated
10 the energy provisions of the building code of the
11 State or Indian tribe, respectively.

12 “(B) DEMONSTRATION.—The certification
13 shall include a statement of whether or not the
14 energy savings for the code provisions that are
15 in effect throughout the State or Indian tribal
16 territory meet or exceed—

17 “(i) the energy savings of the most re-
18 cently published model building energy
19 code; or

20 “(ii) the targets established under sec-
21 tion 307(b)(2).

22 “(C) NO MODEL BUILDING ENERGY CODE
23 UPDATE.—If a model building energy code is
24 not updated by a target date established under
25 section 307(b)(2)(D), each State or Indian tribe

1 shall, not later than 3 years after the specified
2 date, certify whether or not the State or Indian
3 tribe, respectively, has reviewed and updated
4 the energy provisions of the building code of the
5 State or Indian tribe, respectively, to meet or
6 exceed the target in section 307(b)(2).

7 “(2) VALIDATION BY SECRETARY.—Not later
8 than 90 days after a State or Indian tribe certifi-
9 cation under paragraph (1), the Secretary shall—

10 “(A) determine whether the code provi-
11 sions of the State or Indian tribe, respectively,
12 meet the criteria specified in paragraph (1);

13 “(B) determine whether the certification
14 submitted by the State or Indian tribe, respec-
15 tively, is complete; and

16 “(C) if the requirements of subparagraph
17 (B) are satisfied, validate the certification.

18 “(3) LIMITATION.—Nothing in this section
19 shall be interpreted to require a State or Indian
20 tribe to adopt any building code or provision within
21 a code.

22 “(c) IMPROVEMENTS IN COMPLIANCE WITH BUILD-
23 ING ENERGY CODES.—

24 “(1) REQUIREMENT.—

1 “(A) IN GENERAL.—Not later than 3 years
2 after the date of a certification under sub-
3 section (b), each State and Indian tribe shall
4 certify whether or not the State or Indian tribe,
5 respectively, has—

6 “(i) achieved full compliance under
7 paragraph (3) with the applicable certified
8 State or Indian tribe building energy code
9 or with the associated model building en-
10 ergy code; or

11 “(ii) made significant progress under
12 paragraph (4) toward achieving compliance
13 with the applicable certified State or In-
14 dian tribe building energy code or with the
15 associated model building energy code.

16 “(B) REPEAT CERTIFICATIONS.—If the
17 State or Indian tribe certifies progress toward
18 achieving compliance, the State or Indian tribe
19 shall repeat the certification until the State or
20 Indian tribe certifies that the State or Indian
21 tribe has achieved full compliance.

22 “(2) MEASUREMENT OF COMPLIANCE.—A cer-
23 tification under paragraph (1) shall include docu-
24 mentation of the rate of compliance based on—

1 “(A) inspections of a random sample of the
2 buildings covered by the code in the preceding
3 year; or

4 “(B) an alternative method that yields an
5 accurate measure of compliance.

6 “(3) ACHIEVEMENT OF COMPLIANCE.—A State
7 or Indian tribe shall be considered to achieve full
8 compliance under paragraph (1) if—

9 “(A) at least 90 percent of building space
10 covered by the code in the preceding year sub-
11 stantially meets all the requirements of the ap-
12 plicable code specified in paragraph (1), or
13 achieves equivalent or greater energy savings
14 level; or

15 “(B) the estimated excess energy use of
16 buildings that did not meet the applicable code
17 specified in paragraph (1) in the preceding
18 year, compared to a baseline of comparable
19 buildings that meet this code, is not more than
20 5 percent of the estimated energy use of all
21 buildings covered by this code during the pre-
22 ceding year.

23 “(4) SIGNIFICANT PROGRESS TOWARD
24 ACHIEVEMENT OF COMPLIANCE.—A State or Indian
25 tribe shall be considered to have made significant

1 progress toward achieving compliance for purposes
2 of paragraph (1) if the State or Indian tribe—

3 “(A) has developed and is implementing a
4 plan for achieving compliance during the 8-year
5 period beginning on the date of enactment of
6 this paragraph, including annual targets for
7 compliance and active training and enforcement
8 programs; and

9 “(B) has met the most recent target under
10 subparagraph (A).

11 “(5) VALIDATION BY SECRETARY.—Not later
12 than 90 days after a State or Indian tribe certifi-
13 cation under paragraph (1), the Secretary shall—

14 “(A) determine whether the State or In-
15 dian tribe has demonstrated meeting the cri-
16 teria of this subsection, including accurate
17 measurement of compliance;

18 “(B) determine whether the certification
19 submitted by the State or Indian tribe is com-
20 plete; and

21 “(C) if the requirements of subparagraph
22 (B) are satisfied, validate the certification.

23 “(6) LIMITATION.—Nothing in this section
24 shall be interpreted to require a State or Indian

1 tribe to adopt any building code or provision within
2 a code.

3 “(d) STATES OR INDIAN TRIBES THAT DO NOT
4 ACHIEVE COMPLIANCE.—

5 “(1) REPORTING.—A State or Indian tribe that
6 has not made a certification required under sub-
7 section (b) or (c) by the applicable deadline shall
8 submit to the Secretary a report on the status of the
9 State or Indian tribe with respect to meeting the re-
10 quirements and submitting the certification.

11 “(2) STATE SOVEREIGNTY.—Nothing in this
12 section shall be interpreted to require a State or In-
13 dian tribe to adopt any building code or provision
14 within a code.

15 “(3) LOCAL GOVERNMENT.—In any State or
16 Indian tribe for which the Secretary has not vali-
17 dated a certification under subsection (b) or (c), a
18 local government may be eligible for Federal support
19 by meeting the certification requirements of sub-
20 sections (b) and (c).

21 “(4) ANNUAL REPORTS BY SECRETARY.—

22 “(A) IN GENERAL.—The Secretary shall
23 annually submit to Congress, and publish in the
24 Federal Register, a report on—

1 “(i) the status of model building en-
2 ergy codes;

3 “(ii) the status of code adoption and
4 compliance in the States and Indian tribes;

5 “(iii) implementation of this section;
6 and

7 “(iv) improvements in energy savings
8 over time as a result of the targets estab-
9 lished under section 307(b)(2).

10 “(B) IMPACTS.—The report shall include
11 estimates of impacts of past action under this
12 section, and potential impacts of further action,
13 on—

14 “(i) upfront financial and construction
15 costs, cost benefits and returns (using a
16 return on investment analysis), and life-
17 time energy use for buildings;

18 “(ii) resulting energy costs to individ-
19 uals and businesses; and

20 “(iii) resulting overall annual building
21 ownership and operating costs.

22 “(e) TECHNICAL ASSISTANCE TO STATES AND IN-
23 DIAN TRIBES.—

24 “(1) IN GENERAL.—The Secretary shall, upon
25 request, provide technical assistance to States and

1 Indian tribes to implement the goals and require-
2 ments of this section—

3 “(A) to implement State residential and
4 commercial building energy codes; and

5 “(B) to document the rate of compliance
6 with a building energy code.

7 “(2) TECHNICAL ASSISTANCE.—The assistance
8 shall include, as requested by the State or Indian
9 tribe, technical assistance in—

10 “(A) evaluating the energy savings of
11 building energy codes;

12 “(B) assessing the economic consider-
13 ations, referenced in section 307(b)(4), of im-
14 plementing building energy codes;

15 “(C) building energy analysis and design
16 tools;

17 “(D) energy simulation models;

18 “(E) building demonstrations;

19 “(F) developing the definitions of energy
20 use intensity and building types for use in
21 model building energy codes to evaluate the effi-
22 ciency impacts of the model building energy
23 codes; and

24 “(G) complying with a performance-based
25 pathway referenced in the model code.

1 “(3) EXCLUSION.—For purposes of this section,
2 ‘technical assistance’ shall not include actions that
3 promote or discourage the adoption of a particular
4 building energy code, code provision, or energy sav-
5 ings target to a State or Indian tribe.

6 “(4) INFORMATION QUALITY AND TRANS-
7 PARENCY.—For purposes of this section, information
8 provided by the Secretary, attendant to any tech-
9 nical assistance provided to a State or Indian tribe,
10 is ‘influential information’ and shall satisfy the
11 guidelines established by the Office of Management
12 and Budget and published at 67 Federal Register
13 8,452 (February 22, 2002).

14 “(f) FEDERAL SUPPORT.—

15 “(1) IN GENERAL.—The Secretary shall provide
16 support to States and Indian tribes—

17 “(A) to implement the reporting require-
18 ments of this section; and

19 “(B) to implement residential and commer-
20 cial building energy codes, including increasing
21 and verifying compliance with the codes and
22 training of State, tribal, and local building code
23 officials to implement and enforce the codes.

24 “(2) EXCLUSION.—Support shall not be given
25 to support adoption and implementation of model

1 building energy codes for which the Secretary has
2 made a determination under section 307(g)(1)(C)
3 that the code is not cost-effective.

4 “(3) TRAINING.—Support shall be offered to
5 States to train State and local building code officials
6 to implement and enforce codes described in para-
7 graph (1)(B).

8 “(4) LOCAL GOVERNMENTS.—States may work
9 under this subsection with local governments that
10 implement and enforce codes described in paragraph
11 (1)(B).

12 “(g) VOLUNTARY PROGRAMS TO EXCEED MODEL
13 BUILDING ENERGY CODE.—

14 “(1) IN GENERAL.—The Secretary shall provide
15 technical assistance, as described in subsection (e),
16 for the development of voluntary programs that ex-
17 ceed the model building energy codes for residential
18 and commercial buildings for use as—

19 “(A) voluntary incentive programs adopted
20 by local, tribal, or State governments; and

21 “(B) nonbinding guidelines for energy-effi-
22 cient building design.

23 “(2) TARGETS.—The voluntary programs de-
24 scribed in paragraph (1) shall be designed—

1 “(A) to achieve substantial energy savings
2 compared to the model building energy codes;
3 and

4 “(B) to meet targets under section 307(b),
5 if available, up to 3 to 6 years in advance of the
6 target years.

7 “(h) STUDIES.—

8 “(1) GAO STUDY.—

9 “(A) IN GENERAL.—The Comptroller Gen-
10 eral of the United States shall conduct a study
11 of the impacts of updating the national model
12 building energy codes for residential and com-
13 mercial buildings. In conducting the study, the
14 Comptroller General shall consider and report,
15 at a minimum—

16 “(i) the actual energy consumption
17 savings stemming from updated energy
18 codes compared to the energy consumption
19 savings predicted during code development;

20 “(ii) the actual consumer cost savings
21 stemming from updated energy codes com-
22 pared to predicted consumer cost savings;
23 and

1 “(iii) an accounting of expenditures of
2 the Federal funds under each program au-
3 thorized by this title.

4 “(B) REPORT TO CONGRESS.—Not later
5 than 3 years after the date of enactment of the
6 North American Energy Security and Infra-
7 structure Act of 2015, the Comptroller General
8 of the United States shall submit a report to
9 the Committee on Energy and Natural Re-
10 sources of the Senate and the Committee on
11 Energy and Commerce of the House of Rep-
12 resentatives including the study findings and
13 conclusions.

14 “(2) FEASIBILITY STUDY.—The Secretary, in
15 consultation with building science experts from the
16 National Laboratories and institutions of higher
17 education, designers and builders of energy-efficient
18 residential and commercial buildings, code officials,
19 and other stakeholders, shall undertake a study of
20 the feasibility, impact, economics, and merit of—

21 “(A) code improvements that would require
22 that buildings be designed, sited, and con-
23 structed in a manner that makes the buildings
24 more adaptable in the future to become zero-
25 net-energy after initial construction, as ad-

1 vances are achieved in energy-saving tech-
2 nologies;

3 “(B) code procedures to incorporate a ten-
4 year payback, not just first-year energy use, in
5 trade-offs and performance calculations; and

6 “(C) legislative options for increasing en-
7 ergy savings from building energy codes, includ-
8 ing additional incentives for effective State and
9 local verification of compliance with and en-
10 forcement of a code.

11 “(3) ENERGY DATA IN MULTITENANT BUILD-
12 INGS.—The Secretary, in consultation with appro-
13 priate representatives of the utility, utility regu-
14 latory, building ownership, and other stakeholders,
15 shall—

16 “(A) undertake a study of best practices
17 regarding delivery of aggregated energy con-
18 sumption information to owners and managers
19 of residential and commercial buildings with
20 multiple tenants and uses; and

21 “(B) consider the development of a memo-
22 randum of understanding between and among
23 affected stakeholders to reduce barriers to the
24 delivery of aggregated energy consumption in-
25 formation to such owners and managers.

1 “(i) EFFECT ON OTHER LAWS.—Nothing in this sec-
2 tion or section 307 supersedes or modifies the application
3 of sections 321 through 346 of the Energy Policy and
4 Conservation Act (42 U.S.C. 6291 et seq.).

5 “(j) FUNDING LIMITATIONS.—No Federal funds
6 shall be—

7 “(1) used to support actions by the Secretary,
8 or States, to promote or discourage the adoption of
9 a particular building energy code, code provision, or
10 energy saving target to a State or Indian tribe; or

11 “(2) provided to private third parties or non-
12 governmental organizations to engage in such activi-
13 ties.”.

14 (c) FEDERAL BUILDING ENERGY EFFICIENCY
15 STANDARDS.—Section 305 of the Energy Conservation
16 and Production Act (42 U.S.C. 6834) is amended by strik-
17 ing “voluntary building energy code” in subsections
18 (a)(2)(B) and (b) and inserting “model building energy
19 code”.

20 (d) MODEL BUILDING ENERGY CODES.—

21 (1) AMENDMENT.—Section 307 of the Energy
22 Conservation and Production Act (42 U.S.C. 6836)
23 is amended to read as follows:

1 **“SEC. 307. SUPPORT FOR MODEL BUILDING ENERGY**
2 **CODES.**

3 “(a) IN GENERAL.—The Secretary shall provide tech-
4 nical assistance, as described in subsection (c), for updat-
5 ing of model building energy codes.

6 “(b) TARGETS.—

7 “(1) IN GENERAL.—The Secretary shall provide
8 technical assistance, for updating the model building
9 energy codes.

10 “(2) TARGETS.—

11 “(A) IN GENERAL.—The Secretary shall
12 provide technical assistance to States, Indian
13 tribes, local governments, nationally recognized
14 code and standards developers, and other inter-
15 ested parties for updating of model building en-
16 ergy codes by establishing one or more aggre-
17 gate energy savings targets through rulemaking
18 in accordance with section 553 of title 5,
19 United States Code, to achieve the purposes of
20 this section.

21 “(B) SEPARATE TARGETS.—Separate tar-
22 gets may be established for commercial and res-
23 idential buildings.

24 “(C) BASELINES.—The baseline for updat-
25 ing model building energy codes shall be the
26 2009 IECC for residential buildings and

1 ASHRAE Standard 90.1–2010 for commercial
2 buildings.

3 “(D) SPECIFIC YEARS.—

4 “(i) IN GENERAL.—Targets for spe-
5 cific years shall be established and revised
6 by the Secretary through rulemaking in ac-
7 cordance with section 553 of title 5,
8 United States Code, and coordinated with
9 nationally recognized code and standards
10 developers at a level that—

11 “(I) is at the maximum level of
12 energy efficiency that is technically
13 feasible and cost effective, while ac-
14 counting for the economic consider-
15 ations under paragraph (4); and

16 “(II) promotes the achievement
17 of commercial and residential high
18 performance buildings through high
19 performance energy efficiency (within
20 the meaning of section 401 of the En-
21 ergy Independence and Security Act
22 of 2007 (42 U.S.C. 17061)).

23 “(ii) INITIAL TARGETS.—Not later
24 than 1 year after the date of enactment of

1 this clause, the Secretary shall establish
2 initial targets under this subparagraph.

3 “(iii) DIFFERENT TARGET YEARS.—
4 Subject to clause (i), prior to the applica-
5 ble year, the Secretary may set a later tar-
6 get year for any of the model building en-
7 ergy codes described in subparagraph (A)
8 if the Secretary determines that a target
9 cannot be met.

10 “(E) SMALL BUSINESS.—When estab-
11 lishing targets under this paragraph through
12 rulemaking, the Secretary shall ensure compli-
13 ance with the Small Business Regulatory En-
14 forcement Fairness Act of 1996 (5 U.S.C. 601
15 note; Public Law 104–121) for any indirect eco-
16 nomic effect on small entities that is reasonably
17 foreseeable and a result of such rule.

18 “(3) APPLIANCE STANDARDS AND OTHER FAC-
19 TORS AFFECTING BUILDING ENERGY USE.—In es-
20 tablishing energy savings targets under paragraph
21 (2), the Secretary shall develop and adjust the tar-
22 gets in recognition of potential savings and costs re-
23 lating to—

1 “(A) efficiency gains made in appliances,
2 lighting, windows, insulation, and building enve-
3 lope sealing;

4 “(B) advancement of distributed genera-
5 tion and on-site renewable power generation
6 technologies;

7 “(C) equipment improvements for heating,
8 cooling, and ventilation systems and water heat-
9 ing systems;

10 “(D) building management systems and
11 smart grid technologies to reduce energy use;
12 and

13 “(E) other technologies, practices, and
14 building systems regarding building plug load
15 and other energy uses.

16 In developing and adjusting the targets, the Sec-
17 retary shall use climate zone weighted averages for
18 equipment efficiency for heating, cooling, ventilation,
19 and water heating systems, using equipment that is
20 actually installed.

21 “(4) ECONOMIC CONSIDERATIONS.—In estab-
22 lishing and revising energy savings targets under
23 paragraph (2), the Secretary shall consider the eco-
24 nomic feasibility of achieving the proposed targets
25 established under this section and the potential costs

1 and savings for consumers and building owners, by
2 conducting a return on investment analysis, using a
3 simple payback methodology over a 3-, 5-, and 7-
4 year period. The Secretary shall not propose or pro-
5 vide technical or financial assistance for any code,
6 provision in the code, or energy target, or amend-
7 ment thereto, that has a payback greater than 10
8 years.

9 “(c) TECHNICAL ASSISTANCE TO MODEL BUILDING
10 ENERGY CODE-SETTING AND STANDARD DEVELOPMENT
11 ORGANIZATIONS.—

12 “(1) IN GENERAL.—The Secretary shall, on a
13 timely basis, provide technical assistance to model
14 building energy code-setting and standard develop-
15 ment organizations consistent with the goals of this
16 section.

17 “(2) TECHNICAL ASSISTANCE.—The assistance
18 shall include, as requested by the organizations,
19 technical assistance in—

20 “(A) evaluating the energy savings of
21 building energy codes;

22 “(B) assessing the economic consider-
23 ations, under subsection (b)(4), of code or
24 standards proposals or revisions;

1 “(C) building energy analysis and design
2 tools;

3 “(D) energy simulation models;

4 “(E) building demonstrations;

5 “(F) developing definitions of energy use
6 intensity and building types for use in model
7 building energy codes to evaluate the efficiency
8 impacts of the model building energy codes;

9 “(G) developing a performance-based path-
10 way for compliance;

11 “(H) developing model building energy
12 codes by Indian tribes in accordance with tribal
13 law; and

14 “(I) code development meetings, including
15 through direct Federal employee participation
16 in committee meetings, hearings and online
17 communication, voting, and presenting research
18 and technical or economic analyses during such
19 meetings.

20 “(3) EXCLUSION.—Except as provided in para-
21 graph (2)(I), for purposes of this section, ‘technical
22 assistance’ shall not include actions that promote or
23 discourage the adoption of a particular building en-
24 ergy code, code provision, or energy savings target.

1 “(4) INFORMATION QUALITY AND TRANS-
2 PARENCY.—For purposes of this section, information
3 provided by the Secretary, attendant to development
4 of any energy savings targets, is influential informa-
5 tion and shall satisfy the guidelines established by
6 the Office of Management and Budget and published
7 at 67 Federal Register 8,452 (February 22, 2002).

8 “(d) AMENDMENT PROPOSALS.—

9 “(1) IN GENERAL.—The Secretary may submit
10 timely model building energy code amendment pro-
11 posals that are technically feasible, cost-effective,
12 and technology-neutral to the model building energy
13 code-setting and standard development organiza-
14 tions, with supporting evidence, sufficient to enable
15 the model building energy codes to meet the targets
16 established under subsection (b)(2).

17 “(2) PROCESS AND FACTORS.—All amendment
18 proposals submitted by the Secretary shall be pub-
19 lished in the Federal Register and made available on
20 the Department of Energy website 90 days prior to
21 any submittal to a code development body, and shall
22 be subject to a public comment period of not less
23 than 60 days. Information provided by the Sec-
24 retary, attendant to submission of any amendment
25 proposals, is influential information and shall satisfy

1 the guidelines established by the Office of Manage-
2 ment and Budget and published at 67 Federal Reg-
3 ister 8,452 (February 22, 2002). When calculating
4 the costs and benefits of an amendment, the Sec-
5 retary shall use climate zone weighted averages for
6 equipment efficiency for heating, cooling, ventilation,
7 and water heating systems, using equipment that is
8 actually installed.

9 “(e) ANALYSIS METHODOLOGY.—The Secretary shall
10 make publicly available the entire calculation methodology
11 (including input assumptions and data) used by the Sec-
12 retary to estimate the energy savings of code or standard
13 proposals and revisions.

14 “(f) METHODOLOGY DEVELOPMENT.—The Secretary
15 shall establish a methodology for evaluating cost effective-
16 ness of energy code changes in multifamily buildings that
17 incorporates economic parameters representative of typical
18 multifamily buildings.

19 “(g) DETERMINATION.—

20 “(1) REVISION OF MODEL BUILDING ENERGY
21 CODES.—If the provisions of the IECC or ASHRAE
22 Standard 90.1 regarding building energy use are re-
23 vised, the Secretary shall make a preliminary deter-
24 mination not later than 90 days after the date of the
25 revision, and a final determination not later than 15

1 months after the date of the revision, on whether or
2 not the revision—

3 “(A) improves energy efficiency in build-
4 ings compared to the existing IECC or
5 ASHRAE Standard 90.1, as applicable;

6 “(B) meets the applicable targets under
7 subsection (b)(2); and

8 “(C) is technically feasible and cost-effec-
9 tive.

10 “(2) CODES OR STANDARDS NOT MEETING CRI-
11 TERIA.—

12 “(A) IN GENERAL.—If the Secretary
13 makes a preliminary determination under para-
14 graph (1)(B) that a revised IECC or ASHRAE
15 Standard 90.1 does not meet the targets estab-
16 lished under subsection (b)(2), is not technically
17 feasible, or is not cost-effective, the Secretary
18 may at the same time provide technical assist-
19 ance, as described in subsection (c), to the
20 International Code Council or ASHRAE, as ap-
21 plicable, with proposed changes that would re-
22 sult in a model building energy code or stand-
23 ard that meets the criteria, and with supporting
24 evidence. Proposed changes submitted by the
25 Secretary shall be published in the Federal

1 Register and made available on the Department
2 of Energy website 90 days prior to any sub-
3 mittal to a code development body, and shall be
4 subject to a public comment period of not less
5 than 60 days. Information provided by the Sec-
6 retary, attendant to submission of any amend-
7 ment proposals, is influential information and
8 shall satisfy the guidelines established by the
9 Office of Management and Budget and pub-
10 lished at 67 Federal Register 8,452 (February
11 22, 2002).

12 “(B) INCORPORATION OF CHANGES.—

13 “(i) IN GENERAL.—On receipt of the
14 technical assistance, as described in sub-
15 section (c), the International Code Council
16 or ASHRAE, as applicable, shall, prior to
17 the Secretary making a final determination
18 under paragraph (1), have an additional
19 270 days to accept or reject the proposed
20 changes made by the Secretary to the
21 model building energy code or standard.

22 “(ii) FINAL DETERMINATION.—A
23 final determination under paragraph (1)
24 shall be on the final revised model building
25 energy code or standard.

1 “(h) ADMINISTRATION.—In carrying out this section,
2 the Secretary shall—

3 “(1) publish notice of targets, amendment pro-
4 posals and supporting analysis and determinations
5 under this section in the Federal Register to provide
6 an explanation of and the basis for such actions, in-
7 cluding any supporting modeling, data, assumptions,
8 protocols, and cost-benefit analysis, including return
9 on investment;

10 “(2) provide an opportunity for public comment
11 on targets and supporting analysis and determina-
12 tions under this section, in accordance with section
13 553 of title 5, United States Code; and

14 “(3) provide an opportunity for public comment
15 on amendment proposals.

16 “(i) VOLUNTARY CODES AND STANDARDS.—Not
17 withstanding any other provision of this section, any
18 model building code or standard established under this
19 section shall not be binding on a State, local government,
20 or Indian tribe as a matter of Federal law.”.

21 (2) CONFORMING AMENDMENT.—The item re-
22 lating to section 307 in the table of contents for the
23 Energy Conservation and Production Act is amend-
24 ed to read as follows:

“Sec. 307. Support for model building energy codes.”.

1 **SEC. 3142. VOLUNTARY NATURE OF BUILDING ASSET RAT-**
2 **ING PROGRAM.**

3 (a) IN GENERAL.—Any program of the Secretary of
4 Energy that may enable the owner of a commercial build-
5 ing or a residential building to obtain a rating, score, or
6 label regarding the actual or anticipated energy usage or
7 performance of a building shall be made available on a
8 voluntary, optional, and market-driven basis.

9 (b) DISCLAIMER AS TO REGULATORY INTENT.—In-
10 formation disseminated by the Secretary of Energy re-
11 garding the program described in subsection (a), including
12 any information made available by the Secretary on a
13 website, shall include language plainly stating that such
14 program is not developed or intended to be the basis for
15 a regulatory program by a Federal, State, local, or munic-
16 ipal government body.

17 **CHAPTER 5—EPCA TECHNICAL**
18 **CORRECTIONS AND CLARIFICATIONS**

19 **SEC. 3151. MODIFYING PRODUCT DEFINITIONS.**

20 (a) AUTHORITY TO MODIFY DEFINITIONS.—

21 (1) COVERED PRODUCTS.—Section 322 of the
22 Energy Policy and Conservation Act (42 U.S.C.
23 6292) is amended by adding at the end the fol-
24 lowing:

25 “(c) MODIFYING DEFINITIONS OF COVERED PROD-
26 UCTS.—

1 “(1) IN GENERAL.—For any covered product
2 for which a definition is provided in section 321, the
3 Secretary may, by rule, unless prohibited herein,
4 modify such definition in order to—

5 “(A) address significant changes in the
6 product or the market occurring since the defi-
7 nition was established; and

8 “(B) better enable improvements in the en-
9 ergy efficiency of the product as part of an en-
10 ergy using system.

11 “(2) ANTIBACKSLIDING EXEMPTION.—Section
12 325(o)(1) shall not apply to adjustments to covered
13 product definitions made pursuant to this sub-
14 section.

15 “(3) PROCEDURE FOR MODIFYING DEFINI-
16 TION.—

17 “(A) IN GENERAL.—Notice of any adjust-
18 ment to the definition of a covered product and
19 an explanation of the reasons therefor shall be
20 published in the Federal Register and oppor-
21 tunity provided for public comment.

22 “(B) CONSENSUS REQUIRED.—Any
23 amendment to the definition of a covered prod-
24 uct under this subsection must have consensus
25 support, as reflected in—

1 “(i) the outcome of negotiations con-
2 ducted in accordance with the subchapter
3 III of chapter 5 of title 5, United States
4 Code (commonly known as the ‘Negotiated
5 Rulemaking Act of 1990’); or

6 “(ii) the Secretary’s receipt of a state-
7 ment that is submitted jointly by inter-
8 ested persons that are fairly representative
9 of relevant points of view (including rep-
10 resentatives of manufacturers of covered
11 products, States, and efficiency advocates),
12 as determined by the Secretary, which con-
13 tains a recommended modified definition
14 for a covered product.

15 “(4) EFFECT OF A MODIFIED DEFINITION.—

16 “(A) IN GENERAL.—For any type or class
17 of consumer product which becomes a covered
18 product pursuant to this subsection—

19 “(i) the Secretary may establish test
20 procedures for such type or class of cov-
21 ered product pursuant to section 323 and
22 energy conservation standards pursuant to
23 section 325(l);

24 “(ii) the Commission may prescribe
25 labeling rules pursuant to section 324 if

1 the Commission determines that labeling in
2 accordance with that section is techno-
3 logically and economically feasible and like-
4 ly to assist consumers in making pur-
5 chasing decisions;

6 “(iii) section 327 shall begin to apply
7 to such type or class of covered product in
8 accordance with section 325(ii)(1); and

9 “(iv) standards previously promul-
10 gated under section 325 shall not apply to
11 such type or class of product.

12 “(B) APPLICABILITY.—For any type or
13 class of consumer product which ceases to be a
14 covered product pursuant to this subsection, the
15 provisions of this part shall no longer apply to
16 the type or class of consumer product.”.

17 (2) COVERED EQUIPMENT.—Section 341 of the
18 Energy Policy and Conservation Act (42 U.S.C.
19 6312) is amended by adding at the end the fol-
20 lowing:

21 “(d) MODIFYING DEFINITIONS OF COVERED EQUIP-
22 MENT.—

23 “(1) IN GENERAL.—For any covered equipment
24 for which a definition is provided in section 340, the

1 Secretary may, by rule, unless prohibited herein,
2 modify such definition in order to—

3 “(A) address significant changes in the
4 product or the market occurring since the defi-
5 nition was established; and

6 “(B) better enable improvements in the en-
7 ergy efficiency of the equipment as part of an
8 energy using system.

9 “(2) ANTIBACKSLIDING EXEMPTION.—Section
10 325(o)(1) shall not apply to adjustments to covered
11 equipment definitions made pursuant to this sub-
12 section.

13 “(3) PROCEDURE FOR MODIFYING DEFINI-
14 TION.—

15 “(A) IN GENERAL.—Notice of any adjust-
16 ment to the definition of a type of covered
17 equipment and an explanation of the reasons
18 therefor shall be published in the Federal Reg-
19 ister and opportunity provided for public com-
20 ment.

21 “(B) CONSENSUS REQUIRED.—Any
22 amendment to the definition of a type of cov-
23 ered equipment under this subsection must have
24 consensus support, as reflected in—

1 “(i) the outcome of negotiations con-
2 ducted in accordance with the subchapter
3 III of chapter 5 of title 5, United States
4 Code (commonly known as the ‘Negotiated
5 Rulemaking Act of 1990’); or

6 “(ii) the Secretary’s receipt of a state-
7 ment that is submitted jointly by inter-
8 ested persons that are fairly representative
9 of relevant points of view (including rep-
10 resentatives of manufacturers of covered
11 equipment, States, and efficiency advo-
12 cates), as determined by the Secretary,
13 which contains a recommended modified
14 definition for a type of covered equipment.

15 “(4) EFFECT OF A MODIFIED DEFINITION.—

16 “(A) For any type or class of equipment
17 which becomes covered equipment pursuant to
18 this subsection—

19 “(i) the Secretary may establish test
20 procedures for such type or class of cov-
21 ered equipment pursuant to section 343
22 and energy conservation standards pursu-
23 ant to section 325(l);

24 “(ii) the Secretary may prescribe la-
25 beling rules pursuant to section 344 if the

1 Secretary determines that labeling in ac-
2 cordance with that section is techno-
3 logically and economically feasible and like-
4 ly to assist purchasers in making pur-
5 chasing decisions;

6 “(iii) section 327 shall begin to apply
7 to such type or class of covered equipment
8 in accordance with section 325(ii)(1); and

9 “(iv) standards previously promul-
10 gated under section 325, 342, or 346 shall
11 not apply to such type or class of covered
12 equipment.

13 “(B) For any type or class of equipment
14 which ceases to be covered equipment pursuant
15 to this subsection the provisions of this part
16 shall no longer apply to the type or class of
17 equipment.”.

18 (b) CONFORMING AMENDMENTS PROVIDING FOR JU-
19 DICIAL REVIEW.—

20 (1) Section 336 of the Energy Policy and Con-
21 servation Act (42 U.S.C. 6306) is amended by strik-
22 ing “section 323,” each place it appears and insert-
23 ing “section 322, 323,”; and

1 (2) Section 345(a)(1) of the Energy Policy and
2 Conservation Act (42 U.S.C. 6316(a)(1)) is amend-
3 ed to read as follows:

4 “(1) the references to sections 322, 323, 324,
5 and 325 of this Act shall be considered as references
6 to sections 341, 343, 344, and 342 of this Act, re-
7 spectively;”.

8 **SEC. 3152. CLARIFYING RULEMAKING PROCEDURES.**

9 (a) COVERED PRODUCTS.—Section 325(p) of the En-
10 ergy Policy and Conservation Act (42 U.S.C. 6295(p)) is
11 amended—

12 (1) by redesignating paragraphs (1), (2), (3),
13 and (4) as paragraphs (2), (3), (5), and (6), respec-
14 tively;

15 (2) by inserting before paragraph (2) (as so re-
16 designated by paragraph (1) of this subsection) the
17 following:

18 “(1) The Secretary shall provide an opportunity
19 for public input prior to the issuance of a proposed
20 rule, seeking information—

21 “(A) identifying and commenting on design
22 options;

23 “(B) on the existence of and opportunities
24 for voluntary nonregulatory actions; and

1 “(C) identifying significant subgroups of
2 consumers and manufacturers that merit anal-
3 ysis.”;

4 (3) in paragraph (3) (as so redesignated by
5 paragraph (1) of this subsection)—

6 (A) in subparagraph (C), by striking
7 “and” after “adequate;”;

8 (B) in subparagraph (D), by striking
9 “standard.” and inserting “standard;” and

10 (C) by adding at the end the following new
11 subparagraphs:

12 “(E) whether the technical and economic
13 analytical assumptions, methods, and models
14 used to justify the standard to be prescribed
15 are—

16 “(i) justified; and

17 “(ii) available and accessible for pub-
18 lic review, analysis, and use; and

19 “(F) the cumulative regulatory impacts on
20 the manufacturers of the product, taking into
21 account—

22 “(i) other government standards af-
23 fecting energy use; and

1 “(ii) other energy conservation stand-
2 ards affecting the same manufacturers.”;
3 and

4 (4) by inserting after paragraph (3) (as so re-
5 designated by paragraph (1) of this subsection) the
6 following:

7 “(4) RESTRICTION ON TEST PROCEDURE
8 AMENDMENTS.—

9 “(A) IN GENERAL.—Any proposed energy
10 conservation standards rule shall be based on
11 the final test procedure which shall be used to
12 determine compliance, and the public comment
13 period on the proposed standards shall conclude
14 no sooner than 180 days after the date of publi-
15 cation of a final rule revising the test proce-
16 dure.

17 “(B) EXCEPTION.—The Secretary may
18 propose or prescribe an amendment to the test
19 procedures issued pursuant to section 323 for
20 any type or class of covered product after the
21 issuance of a notice of proposed rulemaking to
22 prescribe an amended or new energy conserva-
23 tion standard for that type or class of covered
24 product, but before the issuance of a final rule
25 prescribing any such standard, if—

1 “(i) the amendments to the test pro-
2 cedure have consensus support achieved
3 through a rulemaking conducted in accord-
4 ance with the subchapter III of chapter 5
5 of title 5, United States Code (commonly
6 known as the ‘Negotiated Rulemaking Act
7 of 1990’); or

8 “(ii) the Secretary receives a state-
9 ment that is submitted jointly by inter-
10 ested persons that are fairly representative
11 of relevant points of view (including rep-
12 resentatives of manufacturers of the type
13 or class of covered product, States, and ef-
14 ficiency advocates), as determined by the
15 Secretary, which contains a recommenda-
16 tion that a supplemental notice of proposed
17 rulemaking is not necessary for the type or
18 class of covered product.”.

19 (b) CONFORMING AMENDMENT.—Section 345(b)(1)
20 of the Energy Policy and Conservation Act (42 U.S.C.
21 6316(b)(1)) is amended by striking “section 325(p)(4),”
22 and inserting “section 325(p)(3), (4), and (6),”.

1 **CHAPTER 6—ENERGY AND WATER**
2 **EFFICIENCY**

3 **SEC. 3161. SMART ENERGY AND WATER EFFICIENCY PILOT**
4 **PROGRAM.**

5 (a) DEFINITIONS.—In this section:

6 (1) ELIGIBLE ENTITY.—The term “eligible enti-
7 ty” means—

8 (A) a utility;

9 (B) a municipality;

10 (C) a water district; and

11 (D) any other authority that provides
12 water, wastewater, or water reuse services.

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

15 (3) SMART ENERGY AND WATER EFFICIENCY
16 PILOT PROGRAM.—The term “smart energy and
17 water efficiency pilot program” or “pilot program”
18 means the pilot program established under sub-
19 section (b).

20 (b) SMART ENERGY AND WATER EFFICIENCY PILOT
21 PROGRAM.—

22 (1) IN GENERAL.—The Secretary shall establish
23 and carry out a smart energy and water efficiency
24 management pilot program in accordance with this
25 section.

1 (2) PURPOSE.—The purpose of the smart en-
2 ergy and water efficiency pilot program is to award
3 grants to eligible entities to demonstrate advanced
4 and innovative technology-based solutions that will—

5 (A) increase and improve the energy effi-
6 ciency of water, wastewater, and water reuse
7 systems to help communities across the United
8 States make significant progress in conserving
9 water, saving energy, and reducing costs;

10 (B) support the implementation of innova-
11 tive processes and the installation of advanced
12 automated systems that provide real-time data
13 on energy and water; and

14 (C) improve energy and water conserva-
15 tion, water quality, and predictive maintenance
16 of energy and water systems, through the use
17 of Internet-connected technologies, including
18 sensors, intelligent gateways, and security em-
19 bedded in hardware.

20 (3) PROJECT SELECTION.—

21 (A) IN GENERAL.—The Secretary shall
22 make competitive, merit-reviewed grants under
23 the pilot program to not less than 3, but not
24 more than 5, eligible entities.

1 (B) SELECTION CRITERIA.—In selecting an
2 eligible entity to receive a grant under the pilot
3 program, the Secretary shall consider—

4 (i) energy and cost savings anticipated
5 to result from the project;

6 (ii) the innovative nature, commercial
7 viability, and reliability of the technology
8 to be used;

9 (iii) the degree to which the project
10 integrates next-generation sensors, soft-
11 ware, hardware, analytics, and manage-
12 ment tools;

13 (iv) the anticipated cost effectiveness
14 of the pilot project in terms of energy effi-
15 ciency savings, water savings or reuse, and
16 infrastructure costs averted;

17 (v) whether the technology can be de-
18 ployed in a variety of geographic regions
19 and the degree to which the technology can
20 be implemented on a smaller or larger
21 scale, including whether the technology can
22 be implemented by each type of eligible en-
23 tity;

24 (vi) whether the technology has been
25 successfully deployed elsewhere;

1 (vii) whether the technology is sourced
2 from a manufacturer based in the United
3 States; and

4 (viii) whether the project will be com-
5 pleted in 5 years or less.

6 (C) APPLICATIONS.—

7 (i) IN GENERAL.—Subject to clause
8 (ii), an eligible entity seeking a grant
9 under the pilot program shall submit to
10 the Secretary an application at such time,
11 in such manner, and containing such infor-
12 mation as the Secretary determines to be
13 necessary.

14 (ii) CONTENTS.—An application under
15 clause (i) shall, at a minimum, include—

16 (I) a description of the project;

17 (II) a description of the tech-
18 nology to be used in the project;

19 (III) the anticipated results, in-
20 cluding energy and water savings, of
21 the project;

22 (IV) a comprehensive budget for
23 the project;

24 (V) the names of the project lead
25 organization and any partners;

1 (VI) the number of users to be
2 served by the project; and

3 (VII) any other information that
4 the Secretary determines to be nec-
5 essary to complete the review and se-
6 lection of a grant recipient.

7 (4) ADMINISTRATION.—

8 (A) IN GENERAL.—Not later than 300
9 days after the date of enactment of this Act,
10 the Secretary shall select grant recipients under
11 this section.

12 (B) EVALUATIONS.—The Secretary shall
13 annually carry out an evaluation of each project
14 for which a grant is provided under this section
15 that—

16 (i) evaluates the progress and impact
17 of the project; and

18 (ii) assesses the degree to which the
19 project is meeting the goals of the pilot
20 program.

21 (C) TECHNICAL AND POLICY ASSIST-
22 ANCE.—On the request of a grant recipient, the
23 Secretary shall provide technical and policy as-
24 sistance to the grant recipient to carry out the
25 project.

1 (D) BEST PRACTICES.—The Secretary
2 shall make available to the public—

3 (i) a copy of each evaluation carried
4 out under subparagraph (B); and

5 (ii) a description of any best practices
6 identified by the Secretary as a result of
7 those evaluations.

8 (E) REPORT TO CONGRESS.—The Sec-
9 retary shall submit to Congress a report con-
10 taining the results of each evaluation carried
11 out under subparagraph (B).

12 (c) FUNDING.—To carry out this section, the Sec-
13 retary is authorized to use not more than \$15,000,000,
14 to the extent provided in advance in appropriation Acts.

15 **SEC. 3162. WATERSENSE.**

16 (a) IN GENERAL.—The Energy Policy and Conserva-
17 tion Act (42 U.S.C. 6201 et seq.) is amended by adding
18 after section 324A the following:

19 **“SEC. 324B. WATERSENSE.**

20 **“(a) WATERSENSE.—**

21 **“(1) IN GENERAL.—**There is established within
22 the Environmental Protection Agency a voluntary
23 program, to be entitled ‘WaterSense’, to identify
24 water efficient products, buildings, landscapes, facili-
25 ties, processes, and services that sensibly—

1 “(A) reduce water use;

2 “(B) reduce the strain on public and com-
3 munity water systems and wastewater and
4 stormwater infrastructure;

5 “(C) conserve energy used to pump, heat,
6 transport, and treat water; and

7 “(D) preserve water resources for future
8 generations, through voluntary labeling of, or
9 other forms of communications about, products,
10 buildings, landscapes, facilities, processes, and
11 services while still meeting strict performance
12 criteria.

13 “(2) DUTIES.—The Administrator, coordinating
14 as appropriate with the Secretary of Energy, shall—

15 “(A) establish—

16 “(i) a WaterSense label to be used for
17 items meeting the certification criteria es-
18 tablished in this section; and

19 “(ii) the procedure, including the
20 methods and means, by which an item may
21 be certified to display the WaterSense
22 label;

23 “(B) conduct a public awareness education
24 campaign regarding the WaterSense label;

1 “(C) preserve the integrity of the
2 WaterSense label by—

3 “(i) establishing and maintaining fea-
4 sible performance criteria so that products,
5 buildings, landscapes, facilities, processes,
6 and services labeled with the WaterSense
7 label perform as well or better than less
8 water-efficient counterparts;

9 “(ii) overseeing WaterSense certifi-
10 cations made by third parties;

11 “(iii) using testing protocols, from the
12 appropriate, applicable, and relevant con-
13 sensus standards, for the purpose of deter-
14 mining standards compliance; and

15 “(iv) auditing the use of the
16 WaterSense label in the marketplace and
17 preventing cases of misuse; and

18 “(D) not more often than every six years,
19 review and, if appropriate, update WaterSense
20 criteria for the defined categories of water-effi-
21 cient product, building, landscape, process, or
22 service, including—

23 “(i) providing reasonable notice to in-
24 terested parties and the public of any such

1 changes, including effective dates, and an
2 explanation of the changes;

3 “(ii) soliciting comments from inter-
4 ested parties and the public prior to any
5 such changes;

6 “(iii) as appropriate, responding to
7 comments submitted by interested parties
8 and the public; and

9 “(iv) providing an appropriate transi-
10 tion time prior to the applicable effective
11 date of any such changes, taking into ac-
12 count the timing necessary for the manu-
13 facture, marketing, training, and distribu-
14 tion of the specific water-efficient product,
15 building, landscape, process, or service cat-
16 egory being addressed.

17 “(b) USE OF SCIENCE.—In carrying out this section,
18 and, to the degree that an agency action is based on
19 science, the Administrator shall use—

20 “(1) the best available peer-reviewed science
21 and supporting studies conducted in accordance with
22 sound and objective scientific practices; and

23 “(2) data collected by accepted methods or best
24 available methods (if the reliability of the method

1 and the nature of the decision justify use of the
2 data).

3 “(c) DISTINCTION OF AUTHORITIES.—In setting or
4 maintaining standards for Energy Star pursuant to sec-
5 tion 324A, and WaterSense under this section, the Sec-
6 retary and Administrator shall coordinate to prevent du-
7 plicative or conflicting requirements among the respective
8 programs.

9 “(d) DEFINITIONS.—In this section:

10 “(1) ADMINISTRATOR.—The term ‘Adminis-
11 trator’ means the Administrator of the Environ-
12 mental Protection Agency.

13 “(2) FEASIBLE.—The term ‘feasible’ means
14 feasible with the use of the best technology, treat-
15 ment techniques, and other means that the Adminis-
16 trator finds, after examination for efficacy under
17 field conditions and not solely under laboratory con-
18 ditions, are available (taking cost into consider-
19 ation).

20 “(3) SECRETARY.—The term ‘Secretary’ means
21 the Secretary of Energy.

22 “(4) WATER-EFFICIENT PRODUCT, BUILDING,
23 LANDSCAPE, PROCESS, OR SERVICE.—The term
24 ‘water-efficient product, building, landscape, process,
25 or service’ means a product, building, landscape,

1 process, or service for a residence or a commercial
2 or institutional building, or its landscape, that is
3 rated for water efficiency and performance, the cov-
4 ered categories of which are—

5 “(A) irrigation technologies and services;

6 “(B) point-of-use water treatment devices;

7 “(C) plumbing products;

8 “(D) reuse and recycling technologies;

9 “(E) landscaping and gardening products,
10 including moisture control or water enhancing
11 technologies;

12 “(F) xeriscaping and other landscape con-
13 versions that reduce water use; and

14 “(G) new water efficient homes certified
15 under the WaterSense program.”.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents for the Energy Policy and Conservation Act (Public
18 Law 94–163; 42 U.S.C. 6201 et seq.) is amended by in-
19 serting after the item relating to section 324A the fol-
20 lowing new item:

“Sec. 324B. WaterSense.”.

1 **Subtitle B—Accountability**
2 **CHAPTER 1—MARKET MANIPULATION,**
3 **ENFORCEMENT, AND COMPLIANCE**
4 **SEC. 3211. FERC OFFICE OF COMPLIANCE ASSISTANCE AND**
5 **PUBLIC PARTICIPATION.**

6 Section 319 of the Federal Power Act (16 U.S.C.
7 825q-1) is amended to read as follows:

8 **“SEC. 319. OFFICE OF COMPLIANCE ASSISTANCE AND PUB-**
9 **LIC PARTICIPATION.**

10 “(a) **ESTABLISHMENT.**—There is established within
11 the Commission an Office of Compliance Assistance and
12 Public Participation (referred to in this section as the ‘Of-
13 fice’). The Office shall be headed by a Director.

14 “(b) **DUTIES OF DIRECTOR.**—

15 “(1) **IN GENERAL.**—The Director of the Office
16 shall promote improved compliance with Commission
17 rules and orders by—

18 “(A) making recommendations to the Com-
19 mission regarding—

20 “(i) the protection of consumers;

21 “(ii) market integrity and support for
22 the development of responsible market be-
23 havior;

1 “(iii) the application of Commission
2 rules and orders in a manner that ensures
3 that—

4 “(I) rates and charges for, or in
5 connection with, the transmission or
6 sale of electric energy subject to the
7 jurisdiction of the Commission shall
8 be just and reasonable and not unduly
9 discriminatory or preferential; and

10 “(II) markets for such trans-
11 mission and sale of electric energy are
12 not impaired and consumers are not
13 damaged; and

14 “(iv) the impact of existing and pro-
15 posed Commission rules and orders on
16 small entities, as defined in section 601 of
17 title 5, United States Code (commonly
18 known as the Regulatory Flexibility Act);

19 “(B) providing entities subject to regula-
20 tion by the Commission the opportunity to ob-
21 tain timely guidance for compliance with Com-
22 mission rules and orders; and

23 “(C) providing information to the Commis-
24 sion and Congress to inform policy with respect

1 to energy issues under the jurisdiction of the
2 Commission.

3 “(2) REPORTS AND GUIDANCE.—The Director
4 shall, as the Director determines appropriate, issue
5 reports and guidance to the Commission and to enti-
6 ties subject to regulation by the Commission, regard-
7 ing market practices, proposing improvements in
8 Commission monitoring of market practices, and ad-
9 dressing potential improvements to both industry
10 and Commission practices.

11 “(3) OUTREACH.—The Director shall promote
12 improved compliance with Commission rules and or-
13 ders through outreach, publications, and, where ap-
14 propriate, direct communication with entities regu-
15 lated by the Commission.”.

16 **CHAPTER 2—MARKET REFORMS**

17 **SEC. 3221. GAO STUDY ON WHOLESALE ELECTRICITY MAR-** 18 **KETS.**

19 (a) STUDY AND REPORT.—Not later than 1 year
20 after the date of enactment of this Act, the Comptroller
21 General shall submit to the Committee on Energy and
22 Commerce of the House of Representatives and the Com-
23 mittee on Energy and Natural Resources of the Senate
24 a report describing the results of a study of whether and
25 how the current market rules, practices, and structures

1 of each regional transmission entity produce rates that are
2 just and reasonable by—

3 (1) facilitating fuel diversity, the availability of
4 generation resources during emergency and severe
5 weather conditions, resource adequacy, and reli-
6 ability, including the cost-effective retention and de-
7 velopment of needed generation;

8 (2) promoting the equitable treatment of busi-
9 ness models, including different utility types, the in-
10 tegration of diverse generation resources, and ad-
11 vanced grid technologies;

12 (3) identifying and addressing regulatory bar-
13 riers to entry, market-distorting incentives, and arti-
14 ficial constraints on competition;

15 (4) providing transparency regarding dispatch
16 decisions, including the need for out-of-market ac-
17 tions and payments, and the accuracy of day-ahead
18 unit commitments;

19 (5) facilitating the development of necessary
20 natural gas pipeline and electric transmission infra-
21 structure;

22 (6) ensuring fairness and transparency in gov-
23 ernance structures and stakeholder processes, in-
24 cluding meaningful participation by both voting and
25 nonvoting stakeholder representatives;

1 ties or any part thereof” and inserting “such facilities, or
2 any part thereof, of a value in excess of \$10,000,000”.

3 **CHAPTER 3—CODE MAINTENANCE**

4 **SEC. 3231. REPEAL OF OFF-HIGHWAY MOTOR VEHICLES**
5 **STUDY.**

6 (a) REPEAL.—Part I of title III of the Energy Policy
7 and Conservation Act (42 U.S.C. 6373) is repealed.

8 (b) CONFORMING AMENDMENT.—The table of con-
9 tents for the Energy Policy and Conservation Act (Public
10 Law 94–163; 89 Stat. 871) is amended—

11 (1) by striking the item relating to part I of
12 title III; and

13 (2) by striking the item relating to section 385.

14 **SEC. 3232. REPEAL OF METHANOL STUDY.**

15 Section 400EE of the Energy Policy and Conserva-
16 tion Act (42 U.S.C. 6374d) is amended—

17 (1) by striking subsection (a); and

18 (2) by redesignating subsections (b) and (c) as
19 subsections (a) and (b), respectively.

20 **SEC. 3233. REPEAL OF RESIDENTIAL ENERGY EFFICIENCY**
21 **STANDARDS STUDY.**

22 (a) REPEAL.—Section 253 of the National Energy
23 Conservation Policy Act (42 U.S.C. 8232) is repealed.

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents for the National Energy Conservation Policy Act

1 (Public Law 95–619; 92 Stat. 3206) is amended by strik-
2 ing the item relating to section 253.

3 **SEC. 3234. REPEAL OF WEATHERIZATION STUDY.**

4 (a) REPEAL.—Section 254 of the National Energy
5 Conservation Policy Act (42 U.S.C. 8233) is repealed.

6 (b) CONFORMING AMENDMENT.—The table of con-
7 tents for the National Energy Conservation Policy Act
8 (Public Law 95–619; 92 Stat. 3206) is amended by strik-
9 ing the item relating to section 254.

10 **SEC. 3235. REPEAL OF REPORT TO CONGRESS.**

11 (a) REPEAL.—Section 273 of the National Energy
12 Conservation Policy Act (42 U.S.C. 8236b) is repealed.

13 (b) CONFORMING AMENDMENT.—The table of con-
14 tents for the National Energy Conservation Policy Act
15 (Public Law 95–619; 92 Stat. 3206) is amended by strik-
16 ing the item relating to section 273.

17 **SEC. 3236. REPEAL OF REPORT BY GENERAL SERVICES AD-
18 MINISTRATION.**

19 (a) REPEAL.—Section 154 of the Energy Policy Act
20 of 1992 (42 U.S.C. 8262a) is repealed.

21 (b) CONFORMING AMENDMENTS.—

22 (1) The table of contents for the Energy Policy
23 Act of 1992 (Public Law 102–486; 106 Stat. 2776)
24 is amended by striking the item relating to section
25 154.

1 (2) Section 159 of the Energy Policy Act of
2 1992 (42 U.S.C. 8262e) is amended by striking sub-
3 section (c).

4 **SEC. 3237. REPEAL OF INTERGOVERNMENTAL ENERGY**
5 **MANAGEMENT PLANNING AND COORDINA-**
6 **TION WORKSHOPS.**

7 (a) REPEAL.—Section 156 of the Energy Policy Act
8 of 1992 (42 U.S.C. 8262b) is repealed.

9 (b) CONFORMING AMENDMENT.—The table of con-
10 tents for the Energy Policy Act of 1992 (Public Law 102–
11 486; 106 Stat. 2776) is amended by striking the item re-
12 lating to section 156.

13 **SEC. 3238. REPEAL OF INSPECTOR GENERAL AUDIT SUR-**
14 **VEY AND PRESIDENT’S COUNCIL ON INTEG-**
15 **RITY AND EFFICIENCY REPORT TO CON-**
16 **GRESS.**

17 (a) REPEAL.—Section 160 of the Energy Policy Act
18 of 1992 (42 U.S.C. 8262f) is amended by striking the sec-
19 tion designation and heading and all that follows through
20 “(c) INSPECTOR GENERAL REVIEW.—Each Inspector
21 General” and inserting the following:

22 **“SEC. 160. INSPECTOR GENERAL REVIEW.**

23 “Each Inspector General”.

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents for the Energy Policy Act of 1992 (Public Law 102–

1 **SEC. 3241. REPEAL OF NATIONAL COAL POLICY STUDY.**

2 (a) REPEAL.—Section 741 of the Powerplant and In-
3 dustrial Fuel Use Act of 1978 (42 U.S.C. 8451) is re-
4 pealed.

5 (b) CONFORMING AMENDMENT.—The table of con-
6 tents for the Powerplant and Industrial Fuel Use Act of
7 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
8 striking the item relating to section 741.

9 **SEC. 3242. REPEAL OF STUDY ON COMPLIANCE PROBLEM**
10 **OF SMALL ELECTRIC UTILITY SYSTEMS.**

11 (a) REPEAL.—Section 744 of the Powerplant and In-
12 dustrial Fuel Use Act of 1978 (42 U.S.C. 8454) is re-
13 pealed.

14 (b) CONFORMING AMENDMENT.—The table of con-
15 tents for the Powerplant and Industrial Fuel Use Act of
16 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
17 striking the item relating to section 744.

18 **SEC. 3243. REPEAL OF STUDY OF SOCIOECONOMIC IM-**
19 **PACTS OF INCREASED COAL PRODUCTION**
20 **AND OTHER ENERGY DEVELOPMENT.**

21 (a) REPEAL.—Section 746 of the Powerplant and In-
22 dustrial Fuel Use Act of 1978 (42 U.S.C. 8456) is re-
23 pealed.

24 (b) CONFORMING AMENDMENT.—The table of con-
25 tents for the Powerplant and Industrial Fuel Use Act of

1 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
2 striking the item relating to section 746.

3 **SEC. 3244. REPEAL OF STUDY OF THE USE OF PETROLEUM**
4 **AND NATURAL GAS IN COMBUSTORS.**

5 (a) REPEAL.—Section 747 of the Powerplant and In-
6 dustrial Fuel Use Act of 1978 (42 U.S.C. 8457) is re-
7 pealed.

8 (b) CONFORMING AMENDMENT.—The table of con-
9 tents for the Powerplant and Industrial Fuel Use Act of
10 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
11 striking the item relating to section 747.

12 **SEC. 3245. REPEAL OF SUBMISSION OF REPORTS.**

13 (a) REPEAL.—Section 807 of the Powerplant and In-
14 dustrial Fuel Use Act of 1978 (42 U.S.C. 8483) is re-
15 pealed.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents for the Powerplant and Industrial Fuel Use Act of
18 1978 (Public Law 95–620; 92 Stat. 3289) is amended by
19 striking the item relating to section 807.

20 **SEC. 3246. REPEAL OF ELECTRIC UTILITY CONSERVATION**
21 **PLAN.**

22 (a) REPEAL.—Section 808 of the Powerplant and In-
23 dustrial Fuel Use Act of 1978 (42 U.S.C. 8484) is re-
24 pealed.

25 (b) CONFORMING AMENDMENTS.—

1 (1) TABLE OF CONTENTS.—The table of con-
2 tents for the Powerplant and Industrial Fuel Use
3 Act of 1978 (Public Law 95–620; 92 Stat. 3289) is
4 amended by striking the item relating to section
5 808.

6 (2) REPORT ON IMPLEMENTATION.—Section
7 712 of the Powerplant and Industrial Fuel Use Act
8 of 1978 (42 U.S.C. 8422) is amended—

9 (A) by striking “(a) GENERALLY.—”; and

10 (B) by striking subsection (b).

11 **SEC. 3247. TECHNICAL AMENDMENT TO POWERPLANT AND**
12 **INDUSTRIAL FUEL USE ACT OF 1978.**

13 The table of contents for the Powerplant and Indus-
14 trial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat.
15 3289) is amended by striking the item relating to section
16 742.

17 **SEC. 3248. EMERGENCY ENERGY CONSERVATION REPEALS.**

18 (a) REPEALS.—

19 (1) Section 201 of the Emergency Energy Con-
20 servation Act of 1979 (42 U.S.C. 8501) is amend-
21 ed—

22 (A) in the section heading, by striking
23 “**FINDINGS AND**”;

24 (B) by striking subsection (a); and

25 (C) by striking “(b) PURPOSES.—”.

1 (2) Section 221 of the Emergency Energy Con-
2 servation Act of 1979 (42 U.S.C. 8521) is repealed.

3 (3) Section 222 of the Emergency Energy Con-
4 servation Act of 1979 (42 U.S.C. 8522) is repealed.

5 (4) Section 241 of the Emergency Energy Con-
6 servation Act of 1979 (42 U.S.C. 8531) is repealed.

7 (b) CONFORMING AMENDMENT.—The table of con-
8 tents for the Emergency Energy Conservation Act of 1979
9 (Public Law 96–102; 93 Stat. 749) is amended—

10 (1) by striking the item relating to section 201
11 and inserting the following:

“Sec. 201. Purposes.”;

12 and

13 (2) by striking the items relating to sections
14 221, 222, and 241.

15 **SEC. 3249. REPEAL OF STATE UTILITY REGULATORY AS-**
16 **SISTANCE.**

17 (a) REPEAL.—Section 207 of the Energy Conserva-
18 tion and Production Act (42 U.S.C. 6807) is repealed.

19 (b) CONFORMING AMENDMENT.—The table of con-
20 tents for the Energy Conservation and Production Act
21 (Public Law 94–385; 90 Stat. 1125) is amended by strik-
22 ing the item relating to section 207.

1 **SEC. 3250. REPEAL OF SURVEY OF ENERGY SAVING POTEN-**
2 **TIAL.**

3 (a) REPEAL.—Section 550 of the National Energy
4 Conservation Policy Act (42 U.S.C. 8258b) is repealed.

5 (b) CONFORMING AMENDMENTS.—

6 (1) The table of contents for the National En-
7 ergy Conservation Policy Act (Public Law 95–619;
8 92 Stat. 3206; 106 Stat. 2851) is amended by strik-
9 ing the item relating to section 550.

10 (2) Section 543(d)(2) of the National Energy
11 Conservation Policy Act (42 U.S.C. 8253(d)(2)) is
12 amended by striking “, incorporating any relevant
13 information obtained from the survey conducted pur-
14 suant to section 550”.

15 **SEC. 3251. REPEAL OF PHOTOVOLTAIC ENERGY PROGRAM.**

16 (a) REPEAL.—Part 4 of title V of the National En-
17 ergy Conservation Policy Act (42 U.S.C. 8271 et seq.) is
18 repealed.

19 (b) CONFORMING AMENDMENTS.—The table of con-
20 tents for the National Energy Conservation Policy Act
21 (Public Law 95–619; 92 Stat. 3206) is amended—

22 (1) by striking the item relating to part 4 of
23 title V; and

24 (2) by striking the items relating to sections
25 561 through 570.

1 **SEC. 3252. REPEAL OF ENERGY AUDITOR TRAINING AND**
2 **CERTIFICATION.**

3 (a) REPEAL.—Subtitle F of title V of the Energy Se-
4 curity Act (42 U.S.C. 8285 et seq.) is repealed.

5 (b) CONFORMING AMENDMENT.—The table of con-
6 tents for the Energy Security Act (Public Law 96–294;
7 94 Stat. 611) is amended by striking the items relating
8 to subtitle F of title V.

9 **CHAPTER 4—AUTHORIZATION**

10 **SEC. 3261 AUTHORIZATION.**

11 There are authorized to be appropriated, out of funds
12 authorized under previously enacted laws, amounts re-
13 quired for carrying out this Act and the amendments
14 made by this Act.

15 **TITLE IV—CHANGING CRUDE**
16 **OIL MARKET CONDITIONS**

17 **SEC. 4001. FINDINGS.**

18 The Congress finds the following:

19 (1) The United States has enjoyed a renaiss-
20 sance in energy production, establishing the United
21 States as the world’s leading oil producer.

22 (2) By authorizing crude oil exports, the Con-
23 gress can spur domestic energy production, create
24 and preserve jobs, help maintain and strengthen our
25 independent shipping fleet that is essential to na-

1 tional defense, and generate State and Federal reve-
2 nues.

3 (3) An energy-secure United States that is a
4 net exporter of energy has the potential to transform
5 the security environment around the world, notably
6 in Europe and the Middle East.

7 (4) For our European allies and Israel, the
8 presence of more United States oil in the market
9 will offer more secure supply options, which will
10 strengthen United States strategic alliances and help
11 curtail the use of energy as a political weapon.

12 (5) The 60-ship Maritime Security Fleet is a
13 vital element of our military's strategic sealift and
14 global response capability. It assures United States-
15 flag ships and United States crews will be available
16 to support the United States military when it needs
17 to mobilize to protect our allies, and is the most pru-
18 dent and economical solution to meet current and
19 projected sealift requirements for the United States.

20 (6) The Maritime Security Fleet program pro-
21 vides a labor base of skilled American mariners who
22 are available to crew the United States Government-
23 owned strategic sealift fleet, as well as the United
24 States commercial fleet, in both peace and war.

1 (7) The United States has reduced its oil con-
2 sumption over the past decade, and increasing in-
3 vestment in clean energy technology and energy effi-
4 ciency will lower energy prices, reduce greenhouse
5 gas emissions, and increase national security.

6 **SEC. 4002. REPEAL.**

7 Section 103 of the Energy Policy and Conservation
8 Act (42 U.S.C. 6212) and the item relating thereto in the
9 table of contents of that Act are repealed.

10 **SEC. 4003. NATIONAL POLICY ON OIL EXPORT RESTRIC-**
11 **TIONS.**

12 Notwithstanding any other provision of law, to pro-
13 mote the efficient exploration, production, storage, supply,
14 marketing, pricing, and regulation of energy resources, in-
15 cluding fossil fuels, no official of the Federal Government
16 shall impose or enforce any restriction on the export of
17 crude oil.

18 **SEC. 4004. STUDIES.**

19 (a) GREENHOUSE GAS EMISSIONS.—Not later than
20 120 days after the date of enactment of this Act, the Sec-
21 retary of Energy shall conduct, and transmit to the Com-
22 mittee on Energy and Commerce of the House of Rep-
23 resentatives and the Committee on Energy and Natural
24 Resources of the Senate the results of, a study on the net

1 greenhouse gas emissions that will result from the repeal
2 of the crude oil export ban under section 4002.

3 (b) CRUDE OIL EXPORT STUDY.—

4 (1) IN GENERAL.—The Department of Com-
5 merce, in consultation with the Department of En-
6 ergy, and other departments as appropriate, shall
7 conduct a study of the State and national implica-
8 tions of lifting the crude oil export ban with respect
9 to consumers and the economy.

10 (2) CONTENTS.—The study conducted under
11 paragraph (1) shall include an analysis of—

12 (A) the economic impact that exporting
13 crude oil will have on the economy of the
14 United States;

15 (B) the economic impact that exporting
16 crude oil will have on consumers, taking into
17 account impacts on energy prices;

18 (C) the economic impact that exporting
19 crude oil will have on domestic manufacturing,
20 taking into account impacts on employment;
21 and

22 (D) the economic impact that exporting
23 crude oil will have on the refining sector, taking
24 into account impacts on employment.

1 sities (HBCUs) in the areas of oil and gas exploration,
2 production, midstream, and refining.

3 (b) PUBLIC-PRIVATE PARTNERSHIPS.—The Depart-
4 ment of Energy shall encourage public-private partner-
5 ships between the energy sector and minority serving insti-
6 tutions, including Hispanic Serving Institutions and His-
7 torically Black Colleges and Universities.

8 **SEC. 4007. REPORT.**

9 Not later than 10 years after the date of enactment
10 of this Act, the Secretary of Energy and the Secretary
11 of Commerce shall jointly transmit to Congress a report
12 that reviews the impact of lifting the oil export ban under
13 this title as it relates to promoting United States energy
14 and national security.

15 **SEC. 4008. REPORT TO CONGRESS.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary of Energy and the Secretary
18 of Commerce shall jointly transmit to Congress a report
19 analyzing how lifting the ban on crude oil exports will help
20 create opportunities for veterans and women in the United
21 States, while promoting energy and national security.

1 **SEC. 4009. PROHIBITION ON EXPORTS OF CRUDE OIL, RE-**
2 **FINED PETROLEUM PRODUCTS, AND PETRO-**
3 **CHEMICAL PRODUCTS TO THE ISLAMIC RE-**
4 **PUBLIC OF IRAN.**

5 Nothing in this title shall be construed to authorize
6 the export of crude oil, refined petroleum products, and
7 petrochemical products by or through any entity or per-
8 son, wherever located, subject to the jurisdiction of the
9 United States to any entity or person located in, subject
10 to the jurisdiction of, or sponsored by the Islamic Republic
11 of Iran.

12 **TITLE V—OTHER MATTERS**

13 **SEC. 5001. ASSESSMENT OF REGULATORY REQUIREMENTS.**

14 (a) **IN GENERAL.**—Not later than 30 days after the
15 date of enactment of this Act, the Administrator of the
16 Environmental Protection Agency shall ensure that the re-
17 quirements described in subsection (b) are satisfied.

18 (b) **REQUIREMENTS.**—The Administrator shall sat-
19 isfy—

20 (1) section 4 of Executive Order No. 12866 (5
21 U.S.C. 601 note) (relating to regulatory planning
22 and review) and Executive Order No. 13563 (5
23 U.S.C. 601 note) (relating to improving regulation
24 and regulatory review) (or any successor Executive
25 order establishing requirements applicable to the

1 uniform reporting of regulatory and deregulatory
2 agendas);

3 (2) section 602 of title 5, United States Code;

4 (3) section 8 of Executive Order No. 13132 (5
5 U.S.C. 601 note) (relating to federalism); and

6 (4) section 202(a) of the Unfunded Mandates
7 Reform Act of 1995 (2 U.S.C. 1532(a)).

8 **SEC. 5002. DEFINITIONS.**

9 In this title:

10 (1) COVERED CIVIL ACTION.—The term “cov-
11 ered civil action” means a civil action containing a
12 claim under section 702 of title 5, United States
13 Code, regarding agency action (as defined for the
14 purposes of that section) affecting a covered energy
15 project on Federal land.

16 (2) COVERED ENERGY PROJECT.—

17 (A) IN GENERAL.—The term “covered en-
18 ergy project” means—

19 (i) the leasing of Federal land for the
20 exploration, development, production, proc-
21 essing, or transmission of oil, natural gas,
22 coal, geothermal, hydroelectric, biomass,
23 solar, or any other source of energy; and

24 (ii) any action under the lease.

1 (B) EXCLUSION.—The term “covered en-
2 ergy project” does not include any dispute be-
3 tween the parties to a lease regarding the obli-
4 gations under the lease, including any alleged
5 breach of the lease.

6 **SEC. 5003. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS**
7 **RELATING TO COVERED ENERGY PROJECTS.**

8 Venue for any covered civil action shall lie in the
9 United States district court in which the covered energy
10 project or lease exists or is proposed.

11 **SEC. 5004. TIMELY FILING.**

12 To ensure timely redress by the courts, a covered civil
13 action shall be filed not later than the end of the 90-day
14 period beginning on the date of the final Federal agency
15 action to which the covered civil action relates.

16 **SEC. 5005. EXPEDITION IN HEARING AND DETERMINING**
17 **THE ACTION.**

18 The court shall endeavor to hear and determine any
19 covered civil action as expeditiously as practicable.

20 **SEC. 5006. LIMITATION ON INJUNCTION AND PROSPECTIVE**
21 **RELIEF.**

22 (a) IN GENERAL.—In a covered civil action, a court
23 shall not grant or approve any prospective relief unless
24 the court finds that the relief—

25 (1) is narrowly drawn;

1 (2) extends no further than necessary to correct
2 the violation of a legal requirement; and

3 (3) is the least intrusive means necessary to
4 correct the violation.

5 (b) DURATION.—

6 (1) IN GENERAL.—A court shall limit the dura-
7 tion of preliminary injunctions to halt covered en-
8 ergy projects to not more than 60 days, unless the
9 court finds clear reasons to extend the injunction.

10 (2) ADMINISTRATION.—In the case of an exten-
11 sion, the extension shall—

12 (A) only be in 30-day increments; and

13 (B) require action by the court to renew
14 the injunction.

15 (c) IN GENERAL.—Sections 504 of title 5 and 2412
16 of title 28, United States Code (commonly known as the
17 “Equal Access to Justice Act”), shall not apply to a cov-
18 ered civil action.

19 (d) COURT COSTS.—A party to a covered civil action
20 shall not receive payment from the Federal Government
21 for the attorneys’ fees, expenses, or other court costs in-
22 curred by the party.

23 **SEC. 5007. LEGAL STANDING.**

24 A challenger that files an appeal with the Department
25 of the Interior Board of Land Appeals shall meet the same

1 standing requirements as a challenger before a United
2 States district court.

3 **SEC. 5008. STUDY TO IDENTIFY LEGAL AND REGULATORY**
4 **BARRIERS THAT DELAY, PROHIBIT, OR IM-**
5 **PEDE THE EXPORT OF NATURAL ENERGY RE-**
6 **SOURCES.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Secretary of Energy and the Secretary
9 of Commerce shall jointly transmit to the Committee on
10 Energy and Commerce and the Committee on Natural Re-
11 sources of the House of Representatives, and the Com-
12 mittee on Commerce, Science, and Transportation and the
13 Committee on Energy and Natural Resources of the Sen-
14 ate, the results of a study to—

15 (1) identify legal and regulatory barriers that
16 delay, prohibit, or impede the export of natural en-
17 ergy resources, including government and technical
18 (physical or market) barriers that hinder coal, nat-
19 ural gas, oil, and other energy exports; and

20 (2) estimate the economic impacts of such bar-
21 riers.

22 **SEC. 5009. STUDY OF VOLATILITY OF CRUDE OIL.**

23 Not later than 1 year after the date of enactment
24 of this Act, the Secretary of Energy shall transmit to Con-
25 gress the results of a study to determine the maximum

1 level of volatility that is consistent with the safest prac-
2 ticable shipment of crude oil by rail.

3 **SEC. 5010. SMART METER PRIVACY RIGHTS.**

4 (a) ELECTRICAL CORPORATION OR GAS CORPORA-
5 TIONS.—

6 (1) For purposes of this section, “electrical or
7 gas consumption data” means data about a cus-
8 tomer’s electrical or natural gas usage that is made
9 available as part of an advanced metering infrastruc-
10 ture, and includes the name, account number, or
11 residence of the customer.

12 (2)(A) An electrical corporation or gas corpora-
13 tion shall not share, disclose, or otherwise make ac-
14 cessible to any third party a customer’s electrical or
15 gas consumption data, except as provided in sub-
16 section (a)(5) or upon the consent of the customer.

17 (B) An electrical corporation or gas corporation
18 shall not sell a customer’s electrical or gas consump-
19 tion data or any other personally identifiable infor-
20 mation for any purpose.

21 (C) The electrical corporation or gas corpora-
22 tion or its contractors shall not provide an incentive
23 or discount to the customer for accessing the cus-
24 tomer’s electrical or gas consumption data without
25 the prior consent of the customer.

1 (D) An electrical or gas corporation that uti-
2 lizes an advanced metering infrastructure that al-
3 lows a customer to access the customer's electrical
4 and gas consumption data shall ensure that the cus-
5 tomer has an option to access that data without
6 being required to agree to the sharing of his or her
7 personally identifiable information, including elec-
8 trical or gas consumption data, with a third party.

9 (3) If an electrical corporation or gas corpora-
10 tion contracts with a third party for a service that
11 allows a customer to monitor his or her electricity or
12 gas usage, and that third party uses the data for a
13 secondary commercial purpose, the contract between
14 the electrical corporation or gas corporation and the
15 third party shall provide that the third party promi-
16 nently discloses that secondary commercial purpose
17 to the customer.

18 (4) An electrical corporation or gas corporation
19 shall use reasonable security procedures and prac-
20 tices to protect a customer's unencrypted electrical
21 or gas consumption data from unauthorized access,
22 destruction, use, modification, or disclosure.

23 (5)(A) Nothing in this section shall preclude an
24 electrical corporation or gas corporation from using
25 customer aggregate electrical or gas consumption

1 data for analysis, reporting, or program manage-
2 ment if all information has been removed regarding
3 the individual identity of a customer.

4 (B) Nothing in this section shall preclude an
5 electrical corporation or gas corporation from dis-
6 closing a customer's electrical or gas consumption
7 data to a third party for system, grid, or operational
8 needs, or the implementation of demand response,
9 energy management, or energy efficiency programs,
10 provided that, for contracts entered into after Janu-
11 ary 1, 2016, the utility has required by contract that
12 the third party implement and maintain reasonable
13 security procedures and practices appropriate to the
14 nature of the information, to protect the personal in-
15 formation from unauthorized access, destruction,
16 use, modification, or disclosure, and prohibits the
17 use of the data for a secondary commercial purpose
18 not related to the primary purpose of the contract
19 without the customer's consent.

20 (C) Nothing in this section shall preclude an
21 electrical corporation or gas corporation from dis-
22 closing electrical or gas consumption data as re-
23 quired or permitted under State or Federal law or
24 by an order of a State public utility commission.

1 (6) If a customer chooses to disclose his or her
2 electrical or gas consumption data to a third party
3 that is unaffiliated with, and has no other business
4 relationship with, the electrical or gas corporation,
5 the electrical or gas corporation shall not be respon-
6 sible for the security of that data, or its use or mis-
7 use.

8 (b) LOCAL PUBLICLY OWNED ELECTRIC UTILI-
9 TIES.—

10 (1) For purposes of this section, “electrical con-
11 sumption data” means data about a customer’s elec-
12 trical usage that is made available as part of an ad-
13 vanced metering infrastructure, and includes the
14 name, account number, or residence of the customer.

15 (2)(A) A local publicly owned electric utility
16 shall not share, disclose, or otherwise make acces-
17 sible to any third party a customer’s electrical con-
18 sumption data, except as provided in subsection (b)
19 (5) or upon the consent of the customer.

20 (B) A local publicly owned electric utility shall
21 not sell a customer’s electrical consumption data or
22 any other personally identifiable information for any
23 purpose.

24 (C) The local publicly owned electric utility or
25 its contractors shall not provide an incentive or dis-

1 count to the customer for accessing the customer's
2 electrical consumption data without the prior con-
3 sent of the customer.

4 (D) A local publicly owned electric utility that
5 utilizes an advanced metering infrastructure that al-
6 lows a customer to access the customer's electrical
7 consumption data shall ensure that the customer has
8 an option to access that data without being required
9 to agree to the sharing of his or her personally iden-
10 tifiable information, including electrical consumption
11 data, with a third party.

12 (3) If a local publicly owned electric utility con-
13 tracts with a third party for a service that allows a
14 customer to monitor his or her electricity usage, and
15 that third party uses the data for a secondary com-
16 mercial purpose, the contract between the local pub-
17 licly owned electric utility and the third party shall
18 provide that the third party prominently discloses
19 that secondary commercial purpose to the customer.

20 (4) A local publicly owned electric utility shall
21 use reasonable security procedures and practices to
22 protect a customer's unencrypted electrical consump-
23 tion data from unauthorized access, destruction, use,
24 modification, or disclosure, and prohibits the use of
25 the data for a secondary commercial purpose not re-

1 lated to the primary purpose of the contract without
2 the customer's consent.

3 (5)(A) Nothing in this section shall preclude a
4 local publicly owned electric utility from using cus-
5 tomer aggregate electrical consumption data for
6 analysis, reporting, or program management if all
7 information has been removed regarding the indi-
8 vidual identity of a customer.

9 (B) Nothing in this section shall preclude a
10 local publicly owned electric utility from disclosing a
11 customer's electrical consumption data to a third
12 party for system, grid, or operational needs, or the
13 implementation of demand response, energy manage-
14 ment, or energy efficiency programs, provided, for
15 contracts entered into after January 1, 2016, that
16 the utility has required by contract that the third
17 party implement and maintain reasonable security
18 procedures and practices appropriate to the nature
19 of the information, to protect the personal informa-
20 tion from unauthorized access, destruction, use,
21 modification, or disclosure.

22 (C) Nothing in this section shall preclude a
23 local publicly owned electric utility from disclosing
24 electrical consumption data as required under State
25 or Federal law.

1 (6) If a customer chooses to disclose his or her
2 electrical consumption data to a third party that is
3 unaffiliated with, and has no other business relation-
4 ship with, the local publicly owned electric utility,
5 the utility shall not be responsible for the security of
6 that data, or its use or misuse.

7 **SEC. 5011. YOUTH ENERGY ENTERPRISE COMPETITION.**

8 The Secretaries of Energy and Commerce shall joint-
9 ly establish an energy enterprise competition to encourage
10 youth to propose solutions to the energy challenges of the
11 United States and to promote youth interest in careers
12 in science, technology, engineering, and math, especially
13 as those fields relate to energy.

14 **SEC. 5012. MODERNIZATION OF TERMS RELATING TO MI-**
15 **NORITIES.**

16 (a) OFFICE OF MINORITY ECONOMIC IMPACT.—Sec-
17 tion 211(f)(1) of the Department of Energy Organization
18 Act (42 U.S.C. 7141(f)(1)) is amended by striking “a
19 Negro, Puerto Rican, American Indian, Eskimo, Oriental,
20 or Aleut or is a Spanish speaking individual of Spanish
21 descent” and inserting “Asian American, African Amer-
22 ican, Hispanic, Puerto Rican, Native American, or an
23 Alaska Native”.

24 (b) MINORITY BUSINESS ENTERPRISES.—Section
25 106(f)(2) of the Local Public Works Capital Development

1 and Investment Act of 1976 (42 U.S.C. 6705(f)(2)) is
2 amended by striking “Negroes, Spanish-speaking, Ori-
3 entals, Indians, Eskimos, and Aleuts” and inserting
4 “Asian American, African American, Hispanic, Native
5 American, or Alaska Natives”.

6 **SEC. 5013. VOLUNTARY VEGETATION MANAGEMENT OUT-**
7 **SIDE RIGHTS-OF-WAY.**

8 (a) **AUTHORIZATION.**—The Secretary of the Interior
9 or the Secretary of Agriculture may authorize an owner
10 or operator of an electric transmission or distribution fa-
11 cility to manage vegetation selectively within 150 feet of
12 the exterior boundary of the right-of-way near structures
13 for selective thinning and fuel reduction.

14 (b) **STATUS OF REMOVED VEGETATION.**—Any vege-
15 tation removed pursuant to this section shall be the prop-
16 erty of the United States and not available for sale by
17 the owner or operator.

18 (c) **LIMITATION ON LIABILITY.**—An owner or oper-
19 ator of an electric transmission or distribution facility
20 shall not be held liable for wildlife damage, loss, or injury,
21 including the cost of fire suppression, resulting from ac-
22 tivities carried out pursuant to subsection (a) except in
23 the case of harm resulting from the owner or operator’s
24 gross negligence or criminal misconduct.

1 **SEC. 5014. REPEAL OF RULE FOR NEW RESIDENTIAL WOOD**
 2 **HEATERS.**

3 The final rule entitled “Standards of Performance for
 4 New Residential Wood Heaters, New Residential Hydronic
 5 Heaters and Forced-Air Furnaces” published at 80 Fed.
 6 Reg. 13672 (March 16, 2015) shall have no force or effect
 7 and shall be treated as if such rule had never been issued.

8 **TITLE VI—PROMOTING RENEW-**
 9 **ABLE ENERGY WITH SHARED**
 10 **SOLAR**

11 **SEC. 6001. SHORT TITLE.**

12 This title may be cited as the “Promoting Renewable
 13 Energy with Shared Solar Act of 2015”.

14 **SEC. 6002. PROVISION OF INTERCONNECTION SERVICE AND**
 15 **NET BILLING SERVICE FOR COMMUNITY**
 16 **SOLAR FACILITIES.**

17 (a) IN GENERAL.—Section 111(d) of the Public Util-
 18 ity Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))
 19 is amended by adding at the end the following:

20 “(20) COMMUNITY SOLAR FACILITIES.—

21 “(A) DEFINITIONS.—In this paragraph:

22 “(i) COMMUNITY SOLAR FACILITY.—

23 The term ‘community solar facility’ means
 24 a solar photovoltaic system that—

1 “(I) allocates electricity to mul-
2 tiple individual electric consumers of
3 an electric utility;

4 “(II) has a nameplate rating of 2
5 megawatts or less; and

6 “(III) is—

7 “(aa) owned by the electric
8 utility, jointly owned, or third-
9 party-owned;

10 “(bb) connected to a local
11 distribution facility of the electric
12 utility; and

13 “(cc) located on or off the
14 property of a consumer of the
15 electricity.

16 “(ii) INTERCONNECTION SERVICE.—

17 The term ‘interconnection service’ means a
18 service provided by an electric utility to an
19 electric consumer, in accordance with the
20 standards described in paragraph (15),
21 through which a community solar facility is
22 connected to an applicable local distribu-
23 tion facility.

24 “(iii) NET BILLING SERVICE.—The
25 term ‘net billing service’ means a service

1 provided by an electric utility to an electric
2 consumer through which electric energy
3 generated for that electric consumer from
4 a community solar facility may be used to
5 offset electric energy provided by the elec-
6 tric utility to the electric consumer during
7 the applicable billing period.

8 “(B) REQUIREMENT.—On receipt of a re-
9 quest of an electric consumer served by the
10 electric utility, each electric utility shall make
11 available to the electric consumer interconnec-
12 tion service and net billing service for a commu-
13 nity solar facility.”.

14 (b) COMPLIANCE.—

15 (1) TIME LIMITATIONS.—Section 112(b) of the
16 Public Utility Regulatory Policies Act of 1978 (16
17 U.S.C. 2622(b)) is amended by adding at the end
18 the following:

19 “(7)(A) Not later than 1 year after the date of
20 enactment of this paragraph, each State regulatory
21 authority (with respect to each electric utility for
22 which the State has ratemaking authority) and each
23 nonregulated utility shall commence consideration
24 under section 111, or set a hearing date for consid-

1 eration, with respect to the standard established by
2 paragraph (20) of section 111(d).

3 “(B) Not later than 2 years after the date of
4 enactment of this paragraph, each State regulatory
5 authority (with respect to each electric utility for
6 which the State has ratemaking authority), and each
7 nonregulated electric utility shall complete the con-
8 sideration and make the determination under section
9 111 with respect to the standard established by
10 paragraph (20) of section 111(d).”.

11 (2) FAILURE TO COMPLY.—

12 (A) IN GENERAL.—Section 112(c) of the
13 Public Utility Regulatory Policies Act of 1978
14 (16 U.S.C. 2622(c)) is amended—

15 (i) by striking “such paragraph (14)”
16 and all that follows through “paragraphs
17 (16)” and inserting “such paragraph (14).
18 In the case of the standard established by
19 paragraph (15) of section 111(d), the ref-
20 erence contained in this subsection to the
21 date of enactment of this Act shall be
22 deemed to be a reference to the date of en-
23 actment of that paragraph (15). In the
24 case of the standards established by para-
25 graphs (16)”;

1 (ii) by adding at the end the fol-
2 lowing: “In the case of the standard estab-
3 lished by paragraph (20) of section 111(d),
4 the reference contained in this subsection
5 to the date of enactment of this Act shall
6 be deemed to be a reference to the date of
7 enactment of that paragraph (20).”.

8 (B) TECHNICAL CORRECTION.—

9 (i) IN GENERAL.—Section 1254(b) of
10 the Energy Policy Act of 2005 (Public
11 Law 109–58; 119 Stat. 971) is amended
12 by striking paragraph (2).

13 (ii) TREATMENT.—The amendment
14 made by paragraph (2) of section 1254(b)
15 of the Energy Policy Act of 2005 (Public
16 Law 109–58; 119 Stat. 971) (as in effect
17 on the day before the date of enactment of
18 this Act) is void, and section 112(d) of the
19 Public Utility Regulatory Policies Act of
20 1978 (16 U.S.C. 2622(d)) shall be in ef-
21 fect as if those amendments had not been
22 enacted.

23 (3) PRIOR STATE ACTIONS.—

24 (A) IN GENERAL.—Section 112 of the
25 Public Utility Regulatory Policies Act of 1978

1 (16 U.S.C. 2622) is amended by adding at the
2 end the following:

3 “(g) PRIOR STATE ACTIONS.—Subsections (b) and
4 (c) shall not apply to the standard established by para-
5 graph (20) of section 111(d) in the case of any electric
6 utility in a State if, before the date of enactment of this
7 subsection—

8 “(1) the State has implemented for the electric
9 utility the standard (or a comparable standard);

10 “(2) the State regulatory authority for the
11 State or the relevant nonregulated electric utility has
12 conducted a proceeding to consider implementation
13 of the standard (or a comparable standard) for the
14 electric utility; or

15 “(3) the State legislature has voted on the im-
16 plementation of the standard (or a comparable
17 standard) for the electric utility.”.

18 (B) CROSS-REFERENCE.—Section 124 of
19 the Public Utility Regulatory Policy Act of
20 1978 (16 U.S.C. 2634) is amended by adding
21 at the end the following: “In the case of the
22 standard established by paragraph (20) of sec-
23 tion 111(d), the reference contained in this sub-
24 section to the date of enactment of this Act

1 shall be deemed to be a reference to the date
2 of enactment of that paragraph (20).”.

3 **TITLE VII—MARINE**
4 **HYDROKINETIC**

5 **SEC. 7001. DEFINITION OF MARINE AND HYDROKINETIC RE-**
6 **NEWABLE ENERGY.**

7 Section 632 of the Energy Independence and Security
8 Act of 2007 (42 U.S.C. 17211) is amended in the matter
9 preceding paragraph (1) by striking “electrical”.

10 **SEC. 7002. MARINE AND HYDROKINETIC RENEWABLE EN-**
11 **ERGY RESEARCH AND DEVELOPMENT.**

12 Section 633 of the Energy Independence and Security
13 Act of 2007 (42 U.S.C. 17212) is amended to read as
14 follows:

15 **“SEC. 633. MARINE AND HYDROKINETIC RENEWABLE EN-**
16 **ERGY RESEARCH AND DEVELOPMENT.**

17 “The Secretary, in consultation with the Secretary of
18 the Interior, the Secretary of Commerce, and the Federal
19 Energy Regulatory Commission, shall carry out a program
20 of research, development, demonstration, and commercial
21 application to accelerate the introduction of marine and
22 hydrokinetic renewable energy production into the United
23 States energy supply, giving priority to fostering acceler-
24 ated research, development, and commercialization of
25 technology, including—

1 “(1) to assist technology development to im-
2 prove the components, processes, and systems used
3 for power generation from marine and hydrokinetic
4 renewable energy resources;

5 “(2) to establish critical testing infrastructure
6 necessary—

7 “(A) to cost effectively and efficiently test
8 and prove the efficacy of marine and
9 hydrokinetic renewable energy devices; and

10 “(B) to accelerate the technological readi-
11 ness and commercialization of those devices;

12 “(3) to support efforts to increase the efficiency
13 of energy conversion, lower the cost, increase the
14 use, improve the reliability, and demonstrate the ap-
15 plicability of marine and hydrokinetic renewable en-
16 ergy technologies by participating in demonstration
17 projects;

18 “(4) to investigate variability issues and the ef-
19 ficient and reliable integration of marine and
20 hydrokinetic renewable energy with the utility grid;

21 “(5) to identify and study critical short- and
22 long-term needs to create a sustainable marine and
23 hydrokinetic renewable energy supply chain based in
24 the United States;

1 “(6) to increase the reliability and survivability
2 of marine and hydrokinetic renewable energy tech-
3 nologies;

4 “(7) to verify the performance, reliability, main-
5 tainability, and cost of new marine and hydrokinetic
6 renewable energy device designs and system compo-
7 nents in an operating environment;

8 “(8) to coordinate and avoid duplication of ac-
9 tivities across programs of the Department and
10 other applicable Federal agencies, including National
11 Laboratories, and to coordinate public-private col-
12 laboration in all programs under this section;

13 “(9) to identify opportunities for joint research
14 and development programs and development of
15 economies of scale between—

16 “(A) marine and hydrokinetic renewable
17 energy technologies; and

18 “(B) other renewable energy and fossil en-
19 ergy programs, offshore oil and gas production
20 activities, and activities of the Department of
21 Defense; and

22 “(10) to support in-water technology develop-
23 ment with international partners using existing co-
24 operative procedures (including memoranda of un-
25 derstanding)—

1 “(A) to allow cooperative funding and
2 other support of value to be exchanged and le-
3 veraged; and

4 “(B) to encourage international research
5 centers and international companies to partici-
6 pate in the development of water technology in
7 the United States and to encourage United
8 States research centers and United States com-
9 panies to participate in water technology
10 projects abroad.”.

11 **SEC. 7003. NATIONAL MARINE RENEWABLE ENERGY RE-**
12 **SEARCH, DEVELOPMENT, AND DEMONSTRA-**
13 **TION CENTERS.**

14 Section 634(b) of the Energy Independence and Se-
15 curity Act of 2007 (42 U.S.C. 17213(b)) is amended to
16 read as follows:

17 “(b) PURPOSES.—A Center (in coordination with the
18 Department and National Laboratories) shall—

19 “(1) advance research, development, demonstra-
20 tion, and commercial application of marine and
21 hydrokinetic renewable energy technologies;

22 “(2) support in-water testing and demonstra-
23 tion of marine and hydrokinetic renewable energy
24 technologies, including facilities capable of testing—

1 “(A) marine and hydrokinetic renewable
2 energy systems of various technology readiness
3 levels and scales;

4 “(B) a variety of technologies in multiple
5 test berths at a single location; and

6 “(C) arrays of technology devices; and

7 “(3) serve as information clearinghouses for the
8 marine and hydrokinetic renewable energy industry
9 by collecting and disseminating information on best
10 practices in all areas relating to developing and
11 managing marine and hydrokinetic renewable energy
12 resources and energy systems.”.

13 **SEC. 7004. AUTHORIZATION OF APPROPRIATIONS.**

14 Section 636 of the Energy Independence and Security
15 Act of 2007 (42 U.S.C. 17215) is amended by striking
16 “2008 through 2012” and inserting “2016 through
17 2019”.

 Passed the House of Representatives December 3,
2015.

Attest:

KAREN L. HAAS,

Clerk.