

109TH CONGRESS
1ST SESSION

H. R. 3893

To expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2005

Mr. BARTON of Texas introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, Armed Services, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Gasoline for America’s Security Act of 2005”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—INCREASING REFINERY CAPACITY

- Sec. 101. State participation and presidential designation.
- Sec. 102. Process coordination and rules of procedure.
- Sec. 103. Refinery revitalization repeal.
- Sec. 104. Standby support for refineries.
- Sec. 105. Military use refinery.
- Sec. 106. New source review under Clean Air Act.
- Sec. 107. Waiver authority for extreme fuel supply emergencies.
- Sec. 108. List of fuel blends.
- Sec. 109. Attainment dates for downwind ozone nonattainment areas.
- Sec. 110. Northwest crude oil supply.
- Sec. 111. Discounted sales of royalty-in-kind oil to qualified small refineries.
- Sec. 112. Study and Report Relating to Streamlining Paperwork Requirements.

TITLE II—INCREASING DELIVERY INFRASTRUCTURE

- Sec. 201. Process coordination; hearings; rules of procedure.
- Sec. 202. Issuance of Commission order.
- Sec. 203. Backup power capacity.
- Sec. 204. Sunset of loan guarantees.
- Sec. 205. Offshore gathering pipelines.
- Sec. 206. Savings clause.

TITLE III—CONSERVATION

- Sec. 301. Department of Energy carpooling and vanpooling program.
- Sec. 302. Evaluation and assessment of carpool and vanpool projects.
- Sec. 303. Internet utilization.
- Sec. 304. Fuel consumption education campaign.

TITLE IV—GASOLINE PRICE REFORM

- Sec. 401. FTC investigation on price-gouging.
- Sec. 402. FTC study of petroleum prices on exchange.

TITLE V—STRATEGIC PETROLEUM RESERVE

- Sec. 501. Strategic Petroleum Reserve capacity.
- Sec. 502. Strategic petroleum reserve sale.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

- 3 (1) No new refinery has been constructed in the
 4 United States since 1976. There are 148 operating
 5 refineries in the United States, down from 324 in
 6 1981. Refined petroleum product imports are cur-

1 rently projected to grow from 7.9 percent to 10.7
2 percent of total refined product by 2025 to satisfy
3 increasing demand.

4 (2) While the number of American refineries in
5 operation has reduced over the last 20 years, much
6 of the resulting lost capacity has been replaced by
7 gains from more efficient refineries.

8 (3) Hurricanes Katrina and Rita substantially
9 disrupted petroleum production, refining, and pipe-
10 line systems in the Gulf Coast region, impacting en-
11 ergy prices and supply nationwide. In the immediate
12 aftermath of Katrina alone, United States refining
13 capacity was reduced by more than 2,000,000 bar-
14 rels per day. However, before Hurricanes Katrina
15 and Rita, United States refining capacity was al-
16 ready significantly strained by increased levels of
17 production, with industry average utilization rates of
18 95 percent of capacity or higher.

19 (4) It serves the national interest to increase
20 refinery capacity for gasoline, heating oil, diesel fuel,
21 and jet fuel wherever located within the United
22 States, to bring more reliable and economic supply
23 to the American people.

24 (5) According to economic analysis, households
25 are conservatively estimated to spend an average of

1 \$1,948 this year on gasoline, up 45 percent from 3
2 years ago, and households with incomes under
3 \$15,000 ($\frac{1}{5}$ of all households) this year will spend,
4 on average, more than $\frac{1}{10}$ of their income just on
5 gasoline.

6 (6) According to economic analysis, rural Amer-
7 icans will spend \$2,087 on gasoline this year. Rural
8 Americans are paying an estimated 22 percent more
9 for gasoline than their urban counterparts because
10 they must drive longer distances.

11 (7) A growing reliance on foreign sources of re-
12 fined petroleum products impairs our national secu-
13 rity interests and global competitiveness.

14 (8) Refiners are subject to significant environ-
15 mental and other regulations and face several new
16 Clean Air Act requirements over the next decade.
17 New Clean Air Act requirements will benefit the en-
18 vironment but will also require substantial capital
19 investment and additional government permits.
20 These new requirements increase business uncer-
21 tainty and dissuade investment in new refinery ca-
22 pacity.

23 (9) There is currently a lack of coordination in
24 permitting requirements and other regulations af-
25 fecting refineries at the Federal, State, and local lev-

1 els. There is no consistent national permitting pro-
2 gram for refineries, compared with the Federal En-
3 ergy Regulatory Commission’s lead agency role over
4 interstate natural gas pipelines, liquefied natural
5 gas, and hydroelectric power and the Nuclear Regu-
6 latory Commission’s role over nuclear plant licens-
7 ing. More regulatory certainty and coordination is
8 needed for refinery owners to stimulate investment
9 in increased refinery capacity.

10 **SEC. 3. DEFINITIONS.**

11 For purposes of this Act—

12 (1) the term “Administrator” means the Ad-
13 ministrator of the Environmental Protection Agency;

14 (2) the term “refinery” means a facility de-
15 signed and operated to receive, load, unload, store,
16 transport, process, and refine crude oil by any chem-
17 ical or physical process, including distillation, fluid
18 catalytic cracking, hydrocracking, coking, alkylation,
19 etherification, polymerization, catalytic reforming,
20 isomerization, hydrotreating, blending, and any com-
21 bination thereof, in order to produce gasoline or
22 other fuel; and

23 (3) the term “Secretary” means the Secretary
24 of Energy.

1 **TITLE I—INCREASING REFINERY**
2 **CAPACITY**

3 **SEC. 101. STATE PARTICIPATION AND PRESIDENTIAL DES-**
4 **IGNATION.**

5 (a) **FEDERAL-STATE REGULATORY COORDINATION**
6 **AND ASSISTANCE.—**

7 (1) **GOVERNOR’S REQUEST.—**The governor of a
8 State may submit a request to the Secretary for the
9 application of process coordination and rules of pro-
10 cedure under section 102 to the siting, construction,
11 expansion, or operation of any refinery in that State.

12 (2) **STATE ASSISTANCE.—**The Secretary and
13 the Administrator are authorized to provide financial
14 assistance to State governments to facilitate the hir-
15 ing of additional personnel with expertise in fields
16 relevant to consideration of applications to site, con-
17 struct, expand, or operate any refinery in that State.

18 (3) **OTHER ASSISTANCE.—**The Secretary and
19 the Administrator shall provide technical, legal, or
20 other assistance to State governments to facilitate
21 their review of applications to site, construct, ex-
22 pand, or operate any refinery in that State.

23 (b) **PRESIDENTIAL DESIGNATION.—**

24 (1) **REQUIREMENT.—**Not later than 90 days
25 after the date of enactment of this Act, the Presi-

1 dent shall designate sites on Federal lands, including
2 closed military installations, that are appropriate for
3 the purposes of siting a refinery. Any such designa-
4 tion may be based on an analysis of—

5 (A) the availability of crude oil supplies to
6 the site, including supplies from domestic pro-
7 duction of shale oil and tar sands and other
8 strategic unconventional fuels;

9 (B) the distribution of the Nation’s refined
10 petroleum product demand;

11 (C) whether such sites are in close prox-
12 imity to substantial pipeline infrastructure, in-
13 cluding both crude and refined petroleum prod-
14 uct pipelines, and potential infrastructure feasi-
15 bility;

16 (D) the need to diversify the geographical
17 location of the Nation’s domestic refining ca-
18 pacity;

19 (E) the effect that increased refined petro-
20 leum products from a refinery on that site may
21 have on the price and supply of gasoline to con-
22 sumers;

23 (F) national defense; and

24 (G) such other factors as the President
25 considers appropriate.

1 (2) MILITARY INSTALLATIONS.—Among the
2 sites designated pursuant to this subsection, the
3 President shall designate no less than 3 military in-
4 stallations closed pursuant to a base closure law (as
5 defined in section 101(a)(17) of title 10, United
6 States Code), as suitable for the construction of a
7 refinery. Until the expiration of 2 years after the
8 date of enactment of this Act, the Federal Govern-
9 ment shall not sell or otherwise dispose of the mili-
10 tary installations designated pursuant to this sub-
11 section.

12 (c) APPLICABILITY.—Section 102 shall only apply to
13 refineries sited or proposed to be sited or expanded or pro-
14 posed to be expanded—

15 (1) in a State whose governor has requested ap-
16 plicability of such section pursuant to subsection (a)
17 of this section; or

18 (2) on a site designated by the President under
19 subsection (b).

20 (d) DEFINITION.—For purposes of this section—

21 (1) the term “Federal lands” means all land
22 owned by the United States, except that such term
23 does not include land—

24 (A) within the National Park System;

1 (B) within the National Wilderness Preser-
2 vation System; and

3 (C) designated as a National Monument;
4 and

5 (2) the term “State” means a State, the Dis-
6 trict of Columbia, the Commonwealth of Puerto
7 Rico, and any other territory or possession of the
8 United States.

9 **SEC. 102. PROCESS COORDINATION AND RULES OF PROCE-**
10 **DURE.**

11 (a) DEFINITION.—For purposes of this section and
12 section 105, the term “Federal refinery authorization”—

13 (1) means any authorization required under
14 Federal law, whether administered by a Federal or
15 State administrative agency or official, with respect
16 to siting, construction, expansion, or operation of a
17 refinery; and

18 (2) includes any permits, special use authoriza-
19 tions, certifications, opinions, or other approvals re-
20 quired under Federal law with respect to siting, con-
21 struction, expansion, or operation of a refinery.

22 (b) DESIGNATION AS LEAD AGENCY.—

23 (1) IN GENERAL.—The Department of Energy
24 shall act as the lead agency for the purposes of co-
25 ordinating all applicable Federal refinery authoriza-

1 tions and related environmental reviews with respect
2 to a refinery.

3 (2) OTHER AGENCIES.—Each Federal and
4 State agency or official required to provide a Fed-
5 eral refinery authorization shall cooperate with the
6 Secretary and comply with the deadlines established
7 by the Secretary.

8 (c) SCHEDULE.—

9 (1) SECRETARY'S AUTHORITY TO SET SCHED-
10 ULE.—The Secretary shall establish a schedule for
11 all Federal refinery authorizations with respect to a
12 refinery. In establishing the schedule, the Secretary
13 shall—

14 (A) ensure expeditious completion of all
15 such proceedings; and

16 (B) accommodate the applicable schedules
17 established by Federal law for such proceedings.

18 (2) FAILURE TO MEET SCHEDULE.—If a Fed-
19 eral or State administrative agency or official does
20 not complete a proceeding for an approval that is re-
21 quired for a Federal refinery authorization in ac-
22 cordance with the schedule established by the Sec-
23 retary under this subsection, the applicant may pur-
24 sue remedies under subsection (e).

1 (d) CONSOLIDATED RECORD.—The Secretary shall,
2 with the cooperation of Federal and State administrative
3 agencies and officials, maintain a complete consolidated
4 record of all decisions made or actions taken by the Sec-
5 retary or by a Federal administrative agency or officer (or
6 State administrative agency or officer acting under dele-
7 gated Federal authority) with respect to any Federal re-
8 finery authorization. Such record shall be the record for
9 judicial review under subsection (e) of decisions made or
10 actions taken by Federal and State administrative agen-
11 cies and officials, except that, if the Court determines that
12 the record does not contain sufficient information, the
13 Court may remand the proceeding to the Secretary for fur-
14 ther development of the consolidated record.

15 (e) JUDICIAL REVIEW.—

16 (1) IN GENERAL.—The United States Court of
17 Appeals for the District of Columbia shall have
18 original and exclusive jurisdiction over any civil ac-
19 tion for the review of—

20 (A) an order or action, related to a Federal
21 refinery authorization, by a Federal or State
22 administrative agency or official; and

23 (B) an alleged failure to act by a Federal
24 or State administrative agency or official acting
25 pursuant to a Federal refinery authorization.

1 The failure of an agency or official to act on a Fed-
2 eral refinery authorization in accordance with the
3 Secretary's schedule established pursuant to sub-
4 section (c) shall be considered inconsistent with Fed-
5 eral law for the purposes of paragraph (2) of this
6 subsection.

7 (2) COURT ACTION.—If the Court finds that an
8 order or action described in paragraph (1)(A) is in-
9 consistent with the Federal law governing such Fed-
10 eral refinery authorization, or that a failure to act
11 as described in paragraph (1)(B) has occurred, and
12 the order, action, or failure to act would prevent the
13 siting, construction, expansion, or operation of the
14 refinery, the Court shall remand the proceeding to
15 the agency or official to take appropriate action con-
16 sistent with the order of the Court. If the Court re-
17 mands the order, action, or failure to act to the Fed-
18 eral or State administrative agency or official, the
19 Court shall set a reasonable schedule and deadline
20 for the agency or official to act on remand.

21 (3) SECRETARY'S ACTION.—For any civil action
22 brought under this subsection, the Secretary shall
23 promptly file with the Court the consolidated record
24 compiled by the Secretary pursuant to subsection
25 (d).

1 (4) EXPEDITED REVIEW.—The Court shall set
2 any civil action brought under this subsection for ex-
3 pedited consideration.

4 (5) ATTORNEY’S FEES.—In any action chal-
5 lenging a Federal refinery authorization that has
6 been granted, reasonable attorney’s fees and other
7 expenses of litigation shall be awarded to the pre-
8 vailing party. This paragraph shall not apply to any
9 action seeking remedies for denial of a Federal refin-
10 ery authorization or failure to act on an application
11 for a Federal refinery authorization.

12 **SEC. 103. REFINERY REVITALIZATION REPEAL.**

13 Subtitle H of title III of the Energy Policy Act of
14 2005 and the items relating thereto in the table of con-
15 tents of such Act are repealed.

16 **SEC. 104. STANDBY SUPPORT FOR REFINERIES.**

17 (a) DEFINITION.—For purposes of this section, the
18 term “authorization” means any authorization or permit
19 required under State or Federal law.

20 (b) CONTRACT AUTHORITY.—

21 (1) IN GENERAL.—The Secretary may enter
22 into contracts under this section with non-Federal
23 entities that the Secretary determines, at the sole
24 discretion of the Secretary, to be the first non-Fed-
25 eral entities to enter into firm contracts after the

1 date of enactment of this Act to construct new refin-
2 eries in the United States or refurbish and return to
3 commercial operation existing but nonoperating re-
4 fineries in the United States. The Secretary may
5 enter into contracts under this section with respect
6 to new refineries or refurbished refineries that add
7 a total of no more than 2,000,000 barrels per day
8 of refining capacity to the refining capacity of the
9 United States as in existence on the date of enact-
10 ment of this Act.

11 (2) CONDITIONS.—Except as provided in para-
12 graphs (4) and (5), under a contract authorized
13 under paragraph (1), the Secretary shall pay to the
14 non-Federal entity the costs specified in paragraph
15 (3), using funds deposited in the Standby Refinery
16 Support Account established under subsection (c),
17 if—

18 (A) the non-Federal entity has substan-
19 tially completed construction of the new refinery
20 or the refurbished refinery and the initial com-
21 mercial operation of the new refinery or of the
22 refurbished refinery is delayed because of—

23 (i) litigation that could not have been
24 reasonably foreseen by the non-Federal en-
25 tity at the time the non-Federal entity en-

1 tered into the firm contract to construct;
2 or

3 (ii) a failure of an agency of the Fed-
4 eral Government or of a State government
5 to grant an authorization within a period
6 specified in the contract authorized by this
7 section; or

8 (B) the throughput level of commercial op-
9 eration of the new or refurbished refinery is
10 substantially reduced due to—

11 (i) State or Federal law or regulations
12 enacted or implemented after the firm con-
13 tract was entered into; or

14 (ii) litigation, that could not have
15 been reasonably foreseen by the non-Fed-
16 eral entity, disputing actions taken by the
17 non-Federal entity to conform with and
18 satisfy Federal law or regulations enacted
19 or implemented after the firm contract was
20 entered into.

21 (3) COVERED COSTS.—Under a contract au-
22 thorized under this section, the Secretary shall
23 pay—

24 (A) in the case of a delay described in
25 paragraph (2)(A), all costs of the delay in the

1 initial commercial operation of a new refining
2 or a refurbished refinery, including the prin-
3 cipal or interest due on any debt obligation of
4 the new refinery or of the refurbished refinery
5 during the delay, and any consequential dam-
6 ages; and

7 (B) in the case of a substantial reduction
8 described in paragraph (2)(B), all costs nec-
9 essary to offset the costs of the reduced
10 throughput and the costs of complying with the
11 new State or Federal law or regulations.

12 (4) COSTS NOT COVERED.—The Secretary shall
13 not enter into a contract under this section that
14 would obligate the Secretary to pay any costs result-
15 ing from—

16 (A) except as provided in paragraph
17 (3)(B), a failure of the non-Federal entity to
18 take any action required by law or regulation;
19 or

20 (B) events within the control of the non-
21 Federal entity.

22 (5) DEPOSIT.—The Secretary shall not enter
23 into a contract authorized under this section until
24 the Secretary has deposited into the Standby Refin-

1 ery Support Account amounts sufficient to cover the
2 costs specified in paragraph (3).

3 (c) STANDBY REFINERY SUPPORT ACCOUNT.—There
4 is established in the Treasury an account known as the
5 Standby Refinery Support Account. The Secretary shall
6 deposit into this account amounts appropriated, in ad-
7 vance of entering into a contract authorized by this sec-
8 tion, to the Secretary for the purpose of carrying out this
9 section and payments paid to the Secretary by any non-
10 Federal source for the purpose of carrying out this section.
11 The Secretary may receive and accept payments from any
12 non-Federal source, and amounts deposited into the ac-
13 count, whether appropriated or received from a non-Fed-
14 eral source, shall be available to the Secretary, without
15 further appropriation, for the payment of the costs speci-
16 fied in subsection (b)(3).

17 (d) REGULATIONS.—The Secretary may issue regula-
18 tions necessary or appropriate to carry out this section.

19 (e) REPORTS.—The Secretary shall file with Con-
20 gress annually a report of the Secretary's activities under
21 this section and the activities of the non-Federal entity
22 under any contract entered into under this section.

23 (f) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Secretary such
25 sums as are necessary to carry out this section.

1 (g) APPLICABILITY.—This section shall only apply to
2 refineries sited or proposed to be sited—

3 (1) in a State whose governor has requested ap-
4 plicability of this section; or

5 (2) on a site designated by the President under
6 section 101(a).

7 **SEC. 105. MILITARY USE REFINERY.**

8 (a) AUTHORIZATION.—The President may authorize
9 the design of, obtain all necessary Federal refinery author-
10 izations for, acquire an appropriate site for, and authorize
11 the construction and operation of a refinery for the pur-
12 pose of manufacturing petroleum products for consump-
13 tion by the Armed Forces of the United States. A refinery
14 constructed under this section shall be located at a site
15 designated by the President under section 101(b).

16 (b) SOLICITATION FOR DESIGN AND CONSTRU-
17 TION.—The President shall solicit proposals for the design
18 and construction of a refinery under this section. In select-
19 ing a proposal under this subsection, the President shall
20 consider—

21 (1) the ability of the applicant to undertake and
22 complete the project;

23 (2) the extent to which the applicant's proposal
24 serves the purposes of the project; and

1 (3) the ability of the applicant to best satisfy
2 the criteria set forth in subsection (c).

3 (c) REFINERY CRITERIA.—A refinery constructed
4 under this section shall meet or exceed the industry aver-
5 age for—

6 (1) construction efficiencies; and

7 (2) operational efficiencies, including cost effi-
8 ciencies.

9 (d) OPERATION.—When all design, Federal refinery
10 authorization, acquisition, and construction activities are
11 completed with respect to a refinery under this section,
12 the President shall offer for sale or lease the rights to op-
13 erate such refinery. If the President is unable to sell or
14 lease the right to operate the refinery, it shall be operated
15 by the Federal Government.

16 (e) USE OF PRODUCTS.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), all petroleum products manufactured at a
19 refinery constructed under this section shall be for
20 use by the Armed Forces of the United States.

21 (2) EXCEPTION.—The Secretary of Energy, at
22 the direction of the President, may sell any portion
23 of the petroleum products manufactured at the re-
24 finery that are not needed for the purposes described

1 in paragraph (1) in private markets at the products'
2 fair market value.

3 **SEC. 106. NEW SOURCE REVIEW UNDER CLEAN AIR ACT.**

4 (a) RULEMAKING.—Considering the devastation
5 brought about by the recent natural disasters, and the ad-
6 verse impact of such disasters on the United States energy
7 markets, including both the availability and the price of
8 energy, the Administrator shall initiate a rulemaking, to
9 issue guidance, and to take all other appropriate steps to
10 reform, as expeditiously as practicable, the New Source
11 Review programs under title I, parts C and D of the Clean
12 Air Act. Taking into account the urgent need to increase
13 the efficiency and availability and to improve the reliability
14 of the energy supply to consumers and industrial sources,
15 and to secure a decrease in energy prices, the Adminis-
16 trator, in undertaking these reform efforts, should utilize
17 and draw upon the maximum legal flexibility available
18 under existing law, in order to enable energy industry fa-
19 cilities, including, but not limited to, refineries, electric
20 power generating stations, and compressor stations, to un-
21 dertake without hindrance, promptly and in the least-cost
22 manner, projects to maintain, to restore, and to improve
23 the efficiency, the reliability, or the availability of such fa-
24 cilities.

1 (b) DEFINITION.—Section 302 of the Clean Air Act
2 (42 U.S.C. 7602) is amended by adding the following new
3 subsection at the end thereof:

4 “(aa) PHYSICAL CHANGE, OR CHANGE IN THE
5 METHOD OF OPERATION OF EXISTING EMISSIONS
6 UNIT.—For purposes of parts C and D of this title, the
7 term ‘physical change, or change in the method of oper-
8 ation of,’ as applied to an existing emissions unit, means
9 a ‘modification’ as defined in paragraphs (a), (b), (c), (e),
10 and (h) of title 40 of the Code of Federal Regulations,
11 section 60.14 (as in effect on September 22, 2005), except
12 that paragraph (h) shall apply to all industrial categories
13 and paragraph (e)(1) shall include all repairs and replace-
14 ments covered by section 51.166(y) of title 40 of the Code
15 of Federal Regulations (as in effect on December 31,
16 2004).”.

17 **SEC. 107. WAIVER AUTHORITY FOR EXTREME FUEL SUPPLY**
18 **EMERGENCIES.**

19 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
20 7545) is amended—

21 (1) by redesignating the second clause (v) as
22 clause (viii);

23 (2) by redesignating clause (v) as clause (vii);

24 (3) by inserting after clause (iv) the following:

1 “(v)(I) For the purpose of alleviating an extreme and
2 unusual fuel or fuel additive supply emergency resulting
3 from a natural disaster, the President, in consultation
4 with the Administrator of the Environmental Protection
5 Agency and the Secretary of Energy—

6 “(aa) may temporarily waive any control or pro-
7 hibition respecting the use of a fuel or fuel additive
8 required by this section; and

9 “(bb) may preempt and temporarily waive any
10 related or equivalent control or prohibition respect-
11 ing the use of a fuel or fuel additive prescribed by
12 a State or local statute or regulation, including any
13 such requirement in a State implementation plan.

14 “(II) The effective period of a waiver under this
15 clause shall be the time period necessary to permit the
16 correction of the extreme and unusual fuel or fuel additive
17 supply emergency caused by the natural disaster.”; and

18 (4) by inserting after clause (v) (as inserted by
19 paragraph (3)) the following:

20 “(vi) A State shall not be subject to any finding, dis-
21 approval, or determination by the Administrator under
22 section 179, no person may bring an action against a
23 State or the Administrator under section 304, and the Ad-
24 ministrator shall not take any action under section 110(c)
25 to require the revision of an applicable implementation

1 plan, because of any emissions attributable to a waiver
2 granted by the Administrator under clause (ii) or by the
3 President under clause (v).”.

4 **SEC. 108. LIST OF FUEL BLENDS.**

5 (a) LIST OF BLENDS.—Section 211(c)(4)(C)(viii) of
6 the Clean Air Act (42 U.S.C. 7545(c)(4)(C)(viii)), as so
7 redesignated by section 107(1) of this Act, is amended—

8 (1) by striking subclauses (I) through (V);

9 (2) by redesignating subclause (VI) as sub-
10 clause (V); and

11 (3) by inserting the following before subclause
12 (V), as so redesignated by paragraph (2) of this sub-
13 section:

14 “(I) The Administrator, in coordination with the Sec-
15 retary of Energy (hereinafter in this clause referred to as
16 the ‘Secretary’), shall identify and publish in the Federal
17 Register, within 12 months after the enactment of this
18 subclause and after notice and opportunity for public com-
19 ment, a list of 6 gasoline and diesel fuel blends to be used
20 in States that have not received a waiver under section
21 209(b) of this Act or any State dependent on refineries
22 in such State for gasoline or diesel fuel supplies. The list
23 shall be referred to as the ‘Federal Fuels List’ and shall
24 include one Federal diesel fuel, one alternative diesel fuel
25 blend approved under this subparagraph before enactment

1 of this subclause, one conventional gasoline for ozone at-
2 tainment areas, one reformulated gasoline (RFG) meeting
3 the requirements of subsection (k), and 2 additional gaso-
4 line blends with Reid vapor pressure (RVP) controls for
5 use in ozone nonattainment areas of varying degrees of
6 severity. None of the fuel blends identified under this sub-
7 clause shall control fuel sulfur or toxics levels beyond lev-
8 els required by regulations of the Administrator.

9 “(II) Gasoline and diesel fuel blends shall be included
10 on the Federal Fuels List based on the Administrator’s
11 analysis of their ability to reduce ozone emissions to assist
12 States in attaining established ozone standards under this
13 Act, and on an analysis by the Secretary that the adoption
14 of the Federal Fuels List will not result in a reduction
15 in supply or in producibility, including that caused by a
16 reduction in domestic refining capacity triggered by this
17 clause. In the event the Secretary concludes that adoption
18 of the Federal Fuels List will result in a reduction in sup-
19 ply or in producibility, the Administrator and the Sec-
20 retary shall report that conclusion to Congress, and sus-
21 pend implementation of this clause. The Administrator
22 and the Secretary shall conduct the study required under
23 section 1541(c) of the Energy Policy Act of 2005 on the
24 timetable required in that section to provide Congress with
25 legislative recommendations for modifications to the pro-

1 posed Federal Fuels List only if the Secretary concludes
2 that adoption of the Federal Fuels List will result in a
3 reduction in supply or in producibility.

4 “(III) Upon publication of the Federal Fuels List,
5 the Administrator shall have no authority, when consid-
6 ering a State implementation plan or State implementa-
7 tion plan revision, to approve under this subparagraph any
8 fuel included in such plan or plan revision if the fuel pro-
9 posed is not one of the fuels included on the Federal Fuels
10 List; or to approve such plan or revision unless, after con-
11 sultation with the Secretary, the Administrator publishes
12 in the Federal Register, after notice and opportunity for
13 public comment, a finding that, in the Administrator’s
14 judgment, such revisions to newly adopt one of the fuels
15 included on the Federal Fuels List will not cause fuel sup-
16 ply or distribution interruptions or have a significant ad-
17 verse impact on fuel producibility in the affected area or
18 contiguous area. The Administrator’s findings shall in-
19 clude an assessment of reasonably foreseeable supply dis-
20 tribution emergencies that could occur in the affected area
21 or contiguous area and how adoption of the particular fuel
22 revision would effect supply opportunities during reason-
23 ably foreseeable supply distribution emergencies.

24 “(IV) The Administrator, in consultation with the
25 Secretary, shall develop a plan to harmonize the currently

1 approved fuel blends in State implementation plans with
2 the blends included on the Federal Fuels List and shall
3 promulgate implementing regulations for this plan not
4 later than 18 months after enactment of this subclause.
5 This harmonization shall be fully implemented by the
6 States by December 31, 2008.”.

7 (b) STUDY.—Section 1541(c)(2) of the Energy Policy
8 Act of 2005 is amended to read as follows:

9 “(2) FOCUS OF STUDY.—The primary focus of
10 the study required under paragraph (1) shall be to
11 determine how to develop a Federal fuels system
12 that maximizes motor fuel fungibility and supply,
13 preserves air quality standards, and reduces motor
14 fuel price volatility that results from the prolifera-
15 tion of boutique fuels, and to recommend to Con-
16 gress such legislative changes as are necessary to
17 implement such a system. The study should include
18 the impacts on overall energy supply, distribution,
19 and use as a result of the legislative changes rec-
20 ommended. The study should include an analysis of
21 the impact on ozone emissions and supply of a man-
22 datory reduction in the number of fuel blends to 6,
23 including one Federal diesel fuel, one alternative die-
24 sel fuel blend, one conventional gasoline for ozone
25 attainment areas, one reformulated gasoline (RFG)

1 meeting the requirements of subsection (k), and 2
2 additional gasoline blends with Reid vapor pressure
3 (RVP) controls for use in ozone nonattainment areas
4 of varying degrees of severity.”.

5 **SEC. 109. ATTAINMENT DATES FOR DOWNWIND OZONE**
6 **NONATTAINMENT AREAS.**

7 Section 181 of the Clean Air Act (42 U.S.C.7511)
8 is amended by adding the following new subsection at the
9 end thereof:

10 “(d) EXTENDED ATTAINMENT DATE FOR CERTAIN
11 DOWNWIND AREAS.—

12 “(1) DEFINITIONS.—

13 “(A) The term ‘upwind area’ means an
14 area that—

15 “(i) affects nonattainment in another
16 area, hereinafter referred to as a downwind
17 area; and

18 “(ii) is either—

19 “(I) a nonattainment area with a
20 later attainment date than the down-
21 wind area, or

22 “(II) an area in another State
23 that the Administrator has found to
24 be significantly contributing to non-
25 attainment in the downwind area in

1 violation of section 110(a)(2)(D) and
2 for which the Administrator has es-
3 tablished requirements through notice
4 and comment rulemaking to eliminate
5 the emissions causing such significant
6 contribution.

7 “(B) The term ‘current classification’
8 means the classification of a downwind area
9 under this section at the time of the determina-
10 tion under paragraph.

11 “(2) EXTENSION.—Notwithstanding the provi-
12 sions of subsection (b)(2) of this section, a down-
13 wind area that is not in attainment within 18
14 months of the attainment deadline required under
15 this section may seek an extension of time to come
16 into attainment by petitioning the Administrator for
17 such an extension. If the Administrator—

18 “(A) determines that any area is a down-
19 wind area with respect to a particular national
20 ambient air quality standard for ozone;

21 “(B) approves a plan revision for such
22 area as provided in paragraph (3) prior to a re-
23 classification under subsection (b)(2)(A); and

24 “(C) determines that the petitioning down-
25 wind area has demonstrated that it is affected

1 by transport from an upwind area to a degree
2 that affects the area’s ability to attain,
3 the Administrator, in lieu of such reclassification,
4 may extend the attainment date for such downwind
5 area for such standard in accordance with paragraph
6 (5).

7 “(3) APPROVAL.—In order to extend the attain-
8 ment date for a downwind area under this sub-
9 section, the Administrator may approve a revision of
10 the applicable implementation plan for the downwind
11 area for such standard that—

12 “(A) complies with all requirements of this
13 Act applicable under the current classification
14 of the downwind area, including any require-
15 ments applicable to the area under section
16 172(c) for such standard;

17 “(B) includes any additional measures
18 needed to demonstrate attainment by the ex-
19 tended attainment date provided under this
20 subsection, and provides for implementation of
21 those measures as expeditiously as practicable;
22 and

23 “(C) provides appropriate measures to en-
24 sure that no area downwind of the area receiv-
25 ing the extended attainment date will be af-

1 fected by transport to a degree that affects the
2 area’s ability to attain, from the area receiving
3 the extension.

4 “(4) PRIOR RECLASSIFICATION DETERMINA-
5 TION.—If, after April 1, 2003, and prior to the time
6 the 1-hour ozone standard no longer applies to a
7 downwind area, the Administrator made a reclassi-
8 fication determination under subsection (b)(2)(A)
9 for such downwind area, and the Administrator ap-
10 proves a plan consistent with subparagraphs (A) and
11 (B) for such area, the reclassification shall be with-
12 drawn and, for purposes of implementing the 8-hour
13 ozone national ambient air quality standard, the
14 area shall be treated as if the reclassification never
15 occurred. Such plan must be submitted no later than
16 12 months following enactment of this subsection—

17 “(A) the plan revision for the downwind
18 area complies with all control and planning re-
19 quirements of this Act applicable under the
20 classification that applied immediately prior to
21 reclassification, including any requirements ap-
22 plicable to the area under section 172(c) for
23 such standard; and

24 “(B) the plan includes any additional
25 measures needed to demonstrate attainment no

1 later than the date on which the last reductions
2 in pollution transport that have been found by
3 the Administrator to significantly contribute to
4 nonattainment are required to be achieved by
5 the upwind area or areas.

6 The attainment date extended under this paragraph
7 shall provide for attainment of such national ambi-
8 ent air quality standard for ozone in the downwind
9 area as expeditiously as practicable but no later than
10 the end of the first complete ozone season following
11 the date on which the last reductions in pollution
12 transport that have been found by the Administrator
13 to significantly contribute to nonattainment are re-
14 quired to be achieved by the upwind area or areas.

15 “(5) EXTENDED DATE.—The attainment date
16 extended under this subsection shall provide for at-
17 tainment of such national ambient air quality stand-
18 ard for ozone in the downwind area as expeditiously
19 as practicable but no later than the new date that
20 the area would have been subject to had it been re-
21 classified under subsection (b)(2).

22 “(6) RULEMAKING.—Within 12 months after
23 the enactment of this subsection, the Administrator
24 shall, through notice and comment, promulgate rules
25 to define the term ‘affected by transport to a degree

1 that affects an areas ability to attain' in order to en-
2 sure that downwind areas are not unjustly penalized,
3 and for purposes of paragraphs (2) and (3) of this
4 subsection.”.

5 **SEC. 110. NORTHWEST CRUDE OIL SUPPLY.**

6 Section 5(b) of the Act entitled “An Act to authorize
7 appropriations for fiscal year 1978 to carry out the Marine
8 Mammal Protection Act of 1972”, enacted October 18,
9 1977 (Public Law 95–136) is amended by striking “for
10 consumption in the State of Washington”.

11 **SEC. 111. DISCOUNTED SALES OF ROYALTY-IN-KIND OIL TO**
12 **QUALIFIED SMALL REFINERIES.**

13 (a) REQUIREMENT.—The Secretary of the Interior
14 shall issue and begin implementing regulations by not
15 later than 60 days after the date of the enactment of this
16 Act, under which the Secretary of the Interior shall charge
17 a discounted price in any sale to a qualified small refinery
18 of crude oil obtained by the United States as royalty-in-
19 kind.

20 (b) AMOUNT OF DISCOUNT.—The regulations shall
21 provide that the amount of any discount applied pursuant
22 to this section in any sale of crude oil to a qualified small
23 refinery—

1 (1) shall reflect the actual costs of transporting
2 such oil from the point of origin to the qualified
3 small refinery; and

4 (2) shall not exceed \$4.50 per barrel of oil sold.

5 (c) **TERMINATION OF DISCOUNT.**—This section and
6 any regulations issued under this section shall not apply
7 on and after any date on which the Secretary of Energy
8 determines that United States domestic refining capacity
9 is sufficient.

10 (d) **QUALIFIED SMALL REFINERY.**—In this section
11 the term “qualified small refinery” means a refinery of
12 a small business refiner (as that term is defined in section
13 45H(c)(1) of the Internal Revenue Code of 1986) that
14 demonstrates to the Secretary of the Interior that it had
15 unused crude oil processing capacity in 2004.

16 **SEC. 112. STUDY AND REPORT RELATING TO STREAM-**
17 **LINING PAPERWORK REQUIREMENTS.**

18 (a) **STUDY.**—The Administrator of the Environ-
19 mental Protection Agency shall study ways to streamline
20 the paperwork requirements associated with title V of the
21 Clean Air Act and corresponding requirements under
22 State laws, particularly with regard to States that have
23 more stringent requirements than the Federal Govern-
24 ment in this area.

1 (b) REPORT.—Not later than one year after the date
2 of the enactment of this Act, the Administrator shall re-
3 port to Congress the results of the study made under sub-
4 section (a), together with recommendations on how to
5 streamline those paperwork requirements.

6 **TITLE II—INCREASING**
7 **DELIVERY INFRASTRUCTURE**

8 **SEC. 201. PROCESS COORDINATION; HEARINGS; RULES OF**
9 **PROCEDURE.**

10 (a) DEFINITIONS.—For purposes of this title—

11 (1) the term “Commission” means the Federal
12 Energy Regulatory Commission; and

13 (2) the term “Federal pipeline authorization”—

14 (A) means any authorization required
15 under Federal law, whether administered by a
16 Federal or State administrative agency or offi-
17 cial, with respect to siting, construction, expan-
18 sion, or operation of a crude oil or refined pe-
19 troleum product pipeline facility in interstate
20 commerce; and

21 (B) includes any permits, special use au-
22 thorizations, certifications, opinions, or other
23 approvals required under Federal law with re-
24 spect to siting, construction, expansion, or oper-

1 ation of a crude oil or refined petroleum prod-
2 uct pipeline facility in interstate commerce.

3 (b) COMMISSION AUTHORIZATION REQUIRED.—

4 (1) REQUIREMENT.—No person shall site, con-
5 struct, expand, or operate a crude oil or refined pe-
6 troleum product pipeline facility in interstate com-
7 merce without an order from the Commission au-
8 thorizing such action.

9 (2) NOTICE AND HEARING.—Upon the filing of
10 an application to site, construct, expand, or operate
11 a crude oil or refined petroleum product pipeline fa-
12 cility in interstate commerce, the Commission
13 shall—

14 (A) set the matter for hearing;

15 (B) give reasonable notice of the hearing
16 to all interested persons;

17 (C) decide the matter in accordance with
18 this title; and

19 (D) issue or deny the appropriate order ac-
20 cordingly.

21 (c) DESIGNATION AS LEAD AGENCY.—

22 (1) IN GENERAL.—The Commission shall act as
23 the lead agency for the purposes of coordinating all
24 applicable Federal pipeline authorizations and for
25 the purposes of complying with the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.) with respect to a crude oil or refined petroleum
3 product pipeline facility.

4 (2) OTHER AGENCIES.—Each Federal and
5 State agency or official required to provide Federal
6 pipeline authorization shall cooperate with the Com-
7 mission and comply with the deadlines established by
8 the Commission.

9 (d) SCHEDULE.—

10 (1) COMMISSION’S AUTHORITY TO SET SCHED-
11 ULE.—The Commission shall establish a schedule
12 for all Federal pipeline authorizations with respect
13 to a crude oil or refined petroleum product pipeline
14 facility. In establishing the schedule, the Commission
15 shall—

16 (A) ensure expeditious completion of all
17 such proceedings; and

18 (B) accommodate the applicable schedules
19 established by Federal law for such proceedings.

20 (2) FAILURE TO MEET SCHEDULE.—If a Fed-
21 eral or State administrative agency or official does
22 not complete a proceeding for an approval that is re-
23 quired for a Federal pipeline authorization in ac-
24 cordance with the schedule established by the Com-

1 mission under this subsection, the applicant may
2 pursue remedies under subsection (f).

3 (e) CONSOLIDATED RECORD.—The Commission
4 shall, with the cooperation of Federal and State adminis-
5 trative agencies and officials, maintain a complete consoli-
6 dated record of all decisions made or actions taken by the
7 Commission or by a Federal administrative agency or offi-
8 cer (or State administrative agency or officer acting under
9 delegated Federal authority) with respect to any Federal
10 pipeline authorization. Such record shall be the record for
11 judicial review under subsection (f) of decisions made or
12 actions taken by Federal and State administrative agen-
13 cies and officials, except that, if the Court determines that
14 the record does not contain sufficient information, the
15 Court may remand the proceeding to the Commission for
16 further development of the consolidated record.

17 (f) JUDICIAL REVIEW.—

18 (1) IN GENERAL.—The United States Court of
19 Appeals for the District of Columbia shall have
20 original and exclusive jurisdiction over any civil ac-
21 tion for the review of—

22 (A) an order or action related to a Federal
23 pipeline authorization by a Federal or State ad-
24 ministrative agency or official; and

1 (B) an alleged failure to act by a Federal
2 or State administrative agency or official acting
3 pursuant to a Federal pipeline authorization.

4 The failure of an agency or official to act on a Fed-
5 eral pipeline authorization in accordance with the
6 Commission's schedule established pursuant to sub-
7 section (d) shall be considered inconsistent with Fed-
8 eral law for the purposes of paragraph (2) of this
9 subsection.

10 (2) COURT ACTION.—If the Court finds that an
11 order or action described in paragraph (1)(A) is in-
12 consistent with the Federal law governing such Fed-
13 eral pipeline authorization, or that a failure to act
14 as described in paragraph (1)(B) has occurred, and
15 the order, action, or failure to act would prevent the
16 siting, construction, expansion, or operation of the
17 crude oil or refined petroleum product pipeline facil-
18 ity, the Court shall remand the proceeding to the
19 agency or official to take appropriate action con-
20 sistent with the order of the Court. If the Court re-
21 mands the order, action, or failure to act to the Fed-
22 eral or State administrative agency or official, the
23 Court shall set a reasonable schedule and deadline
24 for the agency or official to act on remand.

1 (3) COMMISSION'S ACTION.—For any civil ac-
2 tion brought under this subsection, the Commission
3 shall promptly file with the Court the consolidated
4 record compiled by the Commission pursuant to sub-
5 section (e).

6 (4) EXPEDITED REVIEW.—The Court shall set
7 any civil action brought under this subsection for ex-
8 pedited consideration.

9 (5) ATTORNEY'S FEES.—In any action chal-
10 lenging a Federal pipeline authorization that has
11 been granted, reasonable attorney's fees and other
12 expenses of litigation shall be awarded to the pre-
13 vailing party. This paragraph shall not apply to any
14 action seeking remedies for denial of a Federal pipe-
15 line authorization or failure to act on an application
16 for a Federal pipeline authorization.

17 **SEC. 202. ISSUANCE OF COMMISSION ORDER.**

18 (a) CRITERIA.—Upon application by a qualified ap-
19 plicant, the Commission shall issue an order authorizing,
20 in whole or in part, the siting, construction, expansion,
21 or operation of a crude oil or refined petroleum product
22 pipeline facility in interstate commerce—

23 (1) unless the Commission finds that such ac-
24 tions or operations will not be consistent with the
25 public interest; and

1 (2) if the Commission has found that the appli-
2 cant is—

3 (A) able and willing to carry out the ac-
4 tions and operations proposed; and

5 (B) willing to conform to any terms, condi-
6 tions, or other requirements of the Commission
7 under this section.

8 (b) TERMS AND CONDITIONS.—The Commission may
9 by its order grant an application, in whole or in part, with
10 such modification and upon such terms and conditions as
11 the Commission may find necessary or appropriate.

12 (c) RIGHTS-OF-WAY.—When any holder of an order
13 from the Commission under this section cannot acquire
14 by contract, or is unable to agree with the owner of prop-
15 erty to the compensation to be paid for—

16 (1) the necessary right-of-way to site, construct,
17 operate, and maintain a pipeline or pipelines for the
18 transportation of crude oil or refined petroleum
19 products; and

20 (2) the necessary land or other property for the
21 location of compressor stations, pressure apparatus,
22 or other stations or equipment necessary to the
23 proper operation of such pipeline or pipelines,

24 the holder of the order may acquire such property by the
25 exercise of the right of eminent domain in the district

1 court of the United States for the district in which such
2 property may be located, or in the State courts. The prac-
3 tice and procedure in any action or proceeding under this
4 subsection in the district court of the United States shall
5 conform as nearly as may be with the practice and proce-
6 dure in similar action or proceeding in the courts of the
7 State where the property is situated.

8 **SEC. 203. BACKUP POWER CAPACITY.**

9 (a) **REQUIREMENT.**—Not later than 1 year after the
10 date of enactment of this Act, the Secretary shall issue
11 regulations requiring the owners or operators of crude oil
12 or refined petroleum product pipeline facilities that the
13 Secretary finds to be significant to the Nation’s supply
14 needs to ensure the availability of sufficient backup power
15 capacity, in areas that have historically been subject to
16 higher incidents of natural disasters such as hurricanes,
17 earthquakes, and tornados, to provide for the continued
18 operation of the pipeline facilities in the event of any rea-
19 sonably foreseeable emergency situation.

20 (b) **SUSPENSION OF CERTAIN REQUIREMENTS.**—The
21 Administrator shall promulgate regulations providing for
22 the temporary suspension, for the duration of an emer-
23 gency described in subsection (a), of all or part of any
24 requirement (including any Federal or State permitting
25 requirement, emissions limit, or operations limit) in effect

1 under the Clean Air Act or under any implementation plan
2 in effect under that Act to the extent that such require-
3 ment applies to the process or equipment necessary to pro-
4 vide backup power capacity under subsection (a).

5 **SEC. 204. SUNSET OF LOAN GUARANTEES.**

6 Section 116(a) of the Alaska Natural Gas Pipeline
7 Act is amended by adding at the end the following new
8 paragraph:

9 “(4) The Secretary shall not enter into an agreement
10 under paragraph (1) or (2) after the date that is 60 days
11 after the date of enactment of the Gasoline for America’s
12 Security Act of 2005 if the State of Alaska and all inter-
13 ested parties have not entered into an agreement pursuant
14 to Alaska Stranded Gas Development Act which contrac-
15 tually binds the parties to deliver North Slope natural gas
16 to markets via the proposed Alaska Natural Gas Pipe-
17 line.”.

18 **SEC. 205. OFFSHORE GATHERING PIPELINES.**

19 Section 1(b) of the Natural Gas Act (15 U.S.C.
20 717(b)) is amended—

21 (1) by striking “and to natural gas companies”
22 and inserting “to natural gas companies”;

23 (2) by inserting “, gathering in Federal wa-
24 ters,” after “such transportation or sale”; and

1 (3) by striking “the production or gathering of
2 natural gas” and inserting “the production of nat-
3 ural gas or to the gathering onshore or in State wa-
4 ters of natural gas”.

5 **SEC. 206. SAVINGS CLAUSE.**

6 Nothing in this title shall be construed to amend,
7 alter, or in any way affect the jurisdiction or responsibil-
8 ities of the Department of Transportation with respect to
9 pipeline safety issues under chapter 601 of title 49, United
10 States Code, or any other law.

11 **TITLE III—CONSERVATION**

12 **SEC. 301. DEPARTMENT OF ENERGY CARPOOLING AND**
13 **VANPOOLING PROGRAM.**

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

15 (1) Metropolitan transit organizations have re-
16 ported heightened interest in carpooling and van-
17 pooling projects in light of recent increases in gaso-
18 line prices.

19 (2) The National Transportation Database re-
20 ports that, in 2003, American commuters traveled
21 over 440,000 miles using public transportation van-
22 pools, an increase of 60 percent since 1996.

23 (3) According to the Natural Resource Defense
24 Council, if each commuter car carried just one more

1 passenger once a week, American gasoline consump-
2 tion would be reduced by about 2 percent.

3 (b) ESTABLISHMENT OF PROGRAM.—The Secretary
4 shall establish and carry out a program to encourage the
5 use of carpooling and vanpooling to reduce the consump-
6 tion of gasoline. The program shall focus on carpool and
7 vanpool operations, outreach activities, and marketing
8 programs, including utilization of the Internet for mar-
9 keting and outreach.

10 (c) GRANTS TO STATE AND LOCAL GOVERNMENTS.—
11 As part of the program established under subsection (b),
12 the Secretary may make grants to State and local govern-
13 ments for carpooling or vanpooling projects. The Secretary
14 may make such a grant only if at least 50 percent of the
15 costs of the project will be provided by the State or local
16 government. If a private sector entity provides vehicles for
17 use in a carpooling or vanpooling project supported under
18 this subsection, the value of those vehicles may be counted
19 as part of the State or local contribution to the project.

20 **SEC. 302. EVALUATION AND ASSESSMENT OF CARPOOL AND**
21 **VANPOOL PROJECTS.**

22 (a) IN GENERAL.—The Administrator, in consulta-
23 tion with the Secretary, shall evaluate and assess carpool
24 and van pool projects funded under the congestion mitiga-

1 tion and air quality program established under section 149
2 of title 23, United States Code, to—

3 (1) reduce consumption of gasoline;

4 (2) determine the direct and indirect impact of
5 the projects on air quality and congestion levels; and

6 (3) ensure the effective implementation of the
7 projects under such program.

8 (b) REPORT.—Not later than 180 days after the date
9 of enactment of this Act, the Administrator, in consulta-
10 tion with the Secretary, shall submit to Congress a report
11 including recommendations and findings that would im-
12 prove the operation and evaluation of carpool and vanpool
13 projects funded under the congestion mitigation and air
14 quality improvement program and shall make such report
15 available to all State and local metropolitan planning orga-
16 nizations.

17 **SEC. 303. INTERNET UTILIZATION.**

18 The program established under section 301 shall in-
19 clude outreach activities and marketing programs, includ-
20 ing the utilization of the Internet for marketing and out-
21 reach, to encourage, facilitate, provide incentives for, and
22 maintain carpools and vanpools without regard to any lim-
23 itation on operating costs.

1 **SEC. 304. FUEL CONSUMPTION EDUCATION CAMPAIGN.**

2 (a) PARTNERSHIP.—The Secretary shall enter into a
3 partnership with interested industry groups to create an
4 education campaign that provides information to United
5 States drivers about measures that may be taken to con-
6 serve gasoline.

7 (b) ACCESSIBILITY.—The public information cam-
8 paign shall be designed to reach the widest audience pos-
9 sible. The education campaign may include television,
10 print, Internet website, or any method designed to maxi-
11 mize the dissemination of gasoline savings information to
12 drivers.

13 (c) COST SHARING.—The Secretary shall provide no
14 more than 50 percent of the cost of the campaign created
15 under this section.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary
18 \$2,500,000 for carrying out this section.

19 **TITLE IV—GASOLINE PRICE**
20 **REFORM**

21 **SEC. 401. FTC INVESTIGATION ON PRICE-GOUGING.**

22 (a) STUDY.—The Federal Trade Commission shall
23 conduct an investigation into nationwide gasoline prices
24 in the aftermath of Hurricane Katrina, including any evi-
25 dence of price-gouging by subject companies described in
26 subsection (b). Such investigation shall include—

1 (1) a comparison of, and analysis of the reasons
2 for changes in, profit levels of subject companies
3 during the 12-month period ending on August 31,
4 2005, and their profit levels for the month of Sep-
5 tember, 2005, including information for particular
6 companies on a basis that does not permit the iden-
7 tification of any company to which the information
8 relates;

9 (2) a summary of tax expenditures (as defined
10 in section 3(3) of the Congressional Budget and Im-
11 poundment Control Act of 1974 (2 U.S.C. 622(3))
12 for such companies;

13 (3) an examination of the effects of increased
14 gasoline prices and gasoline price-gouging on eco-
15 nomic activity in the United States; and

16 (4) an analysis of the overall cost of increased
17 gasoline prices and gasoline price-gouging to the
18 economy, including the impact on consumers' pur-
19 chasing power in both declared State and National
20 disaster areas and elsewhere.

21 Chapter 35 of title 44, United States Code, does not apply
22 to the collection of information for the investigation re-
23 quired by this section.

24 (b) SUBJECT COMPANIES.—The companies subject to
25 the investigation required by this section shall be—

1 (1) any company with total United States
2 wholesale sales of gasoline and petroleum distillates
3 for calendar year 2004 in excess of \$500,000; and

4 (2) any retail distributor of gasoline and petro-
5 leum distillates against which multiple formal com-
6 plaints (that identify the location of the particular
7 retail distributor and provide contact information for
8 the complainant) of price-gouging were filed in Au-
9 gust or September 2005, with a Federal or State
10 consumer protection agency.

11 (c) EVIDENCE OF PRICE-GOUGING.—In conducting
12 its investigation, the Commission shall treat as evidence
13 of price-gouging any finding that the average price of gas-
14 oline available for sale to the public in September, 2005,
15 or thereafter in a market area located in an area des-
16 ignated as a State or National disaster area because of
17 Hurricane Katrina, or in any other area where price-
18 gouging complaints have been filed because of Hurricane
19 Katrina with a Federal or State consumer protection
20 agency, exceeded the average price of such gasoline in that
21 area for the month of August, 2005, unless the Commis-
22 sion finds substantial evidence that the increase is sub-
23 stantially attributable to additional costs in connection
24 with the production, transportation, delivery, and sale of

1 gasoline in that area or to national or international market
2 trends.

3 (d) REPORTS.—

4 (1) NOTIFICATION TO STATE AGENCIES.—In
5 any areas of markets in which the Commission de-
6 termines price increases are due to factors other
7 than the additional costs, it shall also notify the ap-
8 propriate State agency of its findings.

9 (2) PROGRESS AND FINAL REPORTS TO CON-
10 GRESS.—The Commission shall provide information
11 on the progress of the investigation to the Appro-
12 priations Committees of the House of Representa-
13 tives and the Senate, the Committee on Energy and
14 Commerce of the House of Representatives, and the
15 Committee on Commerce, Science, and Transpor-
16 tation of the Senate, every 30 days after the date of
17 enactment of this Act. The Commission shall provide
18 those Committees a written interim report 90 days
19 after such date, and shall transmit a final report to
20 those Committees, together with its findings and
21 recommendations, no later than 180 days after the
22 date of enactment of this Act. Such reports shall in-
23 clude recommendations, based on its findings, to for
24 any legislation necessary to protect consumers from

1 gasoline price-gouging in both State and National
2 disaster areas and elsewhere.

3 (e) EVIDENCE OF CRIMINAL MISCONDUCT.—If, dur-
4 ing the investigation required by this section, the Commis-
5 sion obtains evidence that a person may have violated a
6 criminal law, the Commission may transmit that evidence
7 to appropriate Federal or State authorities.

8 **SEC. 402. FTC STUDY OF PETROLEUM PRICES ON EX-**
9 **CHANGE.**

10 Not later than 180 days after the date of enactment
11 of this Act, the Federal Trade Commission shall transmit
12 to Congress a report on the price of refined petroleum
13 products on the New York Mercantile Exchange and the
14 effects on such price, if any, of the following:

15 (1) The geographic size of the delivery market
16 and the number of delivery points.

17 (2) The proximity of energy futures markets in
18 relation to the source of supply.

19 (3) The specified grade of gasoline deliverable
20 on the exchange.

21 (4) The control of the storage and delivery mar-
22 ket infrastructure.

23 (5) The effectiveness of temporary trading halts
24 and the monetary threshold for such temporary
25 trading halts.

1 **TITLE V—STRATEGIC**
2 **PETROLEUM RESERVE**

3 **SEC. 501. STRATEGIC PETROLEUM RESERVE CAPACITY.**

4 (a) **AUTHORITY TO DRAWDOWN AND SELL PETRO-**
5 **LEUM PRODUCTS FOR EXPANSION OF RESERVE.**—Not-
6 withstanding any other provision of law, the Secretary
7 may drawdown and sell petroleum products from the Stra-
8 tegic Petroleum Reserve to construct, purchase, lease, or
9 otherwise acquire additional capacity sufficient to permit
10 filling the Strategic Petroleum Reserve to its maximum
11 authorized level.

12 (b) **ESTABLISHMENT OF SPR EXPANSION FUND.**—
13 The Secretary of the Treasury shall establish in the Treas-
14 ury of the United States an account to be known as the
15 “SPR Expansion Fund” (in this section referred to as the
16 “Fund”) and the proceeds from any sale pursuant to sub-
17 section (a) shall be deposited into the Fund.

18 (c) **OBLIGATION OF FUNDS FOR EXPANSION.**—
19 Amounts in the Fund may be obligated by the Secretary
20 to carry out the purposes in subsection (a) to the extent
21 and in such aggregate amounts as may be appropriated
22 in advance in appropriations Acts for such purposes.

23 (d) **OFFSETTING COLLECTIONS.**—The proceeds from
24 any sale pursuant to subsection (a) shall be credited to

1 the Fund as offsetting collections in amounts not to exceed
2 the amounts annually appropriated from the Fund.

3 **SEC. 502. STRATEGIC PETROLEUM RESERVE SALE.**

4 Section 161(e) of the Energy Policy and Conservation
5 Act (42 U.S.C. 6241(e)) is amended by inserting after
6 paragraph (2) a new paragraph as follows:

7 “(3) Any contract under which petroleum products
8 are sold under this section shall include a requirement that
9 the person or entity that acquires the petroleum products
10 agrees—

11 “(A) not to resell the petroleum products before
12 the products are refined; and

13 “(B) to refine the petroleum products primarily
14 for consumption in the United States.”.

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