

# 2003 ENERGY BILL

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The 2003 energy bill is available on the web at: <http://energy.senate.gov/legislation/energybill2003/energybill2003.cfm>

## Summary of provisions that are harmful to public health and the environment, public lands and coastal areas, consumers and taxpayers, and energy and national security.

### Public Health

- Allows more smog pollution for longer than the current Clean Air Act authorizes. Under the existing Act, areas that have unhealthy air are required to reduce ozone-forming smog pollution by strict statutory deadlines. If these areas fail to meet these deadlines, they are given more time to clean up, but must adopt more rigorous air pollution control measures. The bill attempts to allow polluted areas to have more time to cleanup but *without* having to implement stronger air pollution controls, placing a significant burden on states and communities down-wind of the urban areas subject to this provision. **Title XIV Sec. 1443 p. 43.**
- Exempts all oil and gas construction activities, including roads, drill pads, pipeline corridors, refineries, compressor stations, etc., from having to obtain a permit controlling polluted stormwater runoff, as is currently required under the Clean Water Act. **Title III Sec. 328 p. 55.**
- Delays air pollution clean up in southwestern Michigan for two years while the EPA conducts a study. **Title IX, Section 970.**
- Dramatically increases air pollution and global warming with huge new incentives for burning coal, oil and gas. **Titles III, IV, VIII.**
- Claims to promote “clean coal” but inhibits its deployment by disqualifying federally-funded clean coal projects as “best available control technologies” that must be adopted by other coal-powered industrial facilities. **Title IV Sec. 402(f) p. 7 and Title XXXI.**
- Threatens drinking water sources by exempting from Safe Drinking Water Act regulation the underground injection of chemicals during oil and gas development. **Title III Sec. 327 p. 54-55.**
- Lets polluters off the hook for contaminating groundwater with the gasoline additive MTBE and other fuel additives. Nullifies lawsuits by cities, states and others filed on or after September 5, 2003 seeking compensation for contamination of groundwater by MTBE, a probably human carcinogen. **Title XV Sec. 1502 p. 21.**
- Encourages the mixture of hazardous wastes in cement and concrete products as an alternative to safe disposal in permitted hazardous waste landfills. Benefits one Oklahoma mine in particular. **Title I Sec. 110 p. 26, Title XIV Sec. 1445 p. 48.**
- Fails to include standards for providing clean, renewable energy sources that would save consumers money on their utility bills, benefit farmers, create jobs, spur economic development, and reduce air pollution and global warming emissions. **Title XII.**
- Begins to establish a system whereby electric utilities can escape emission reduction obligations by purchasing emissions “credits” from mobile sources such as cars and trucks,

even though this type of "cross-sector" trading scheme has proved unworkable in several states where it has been tried. **Title VII Sec. 752 p. 43**

- Fails to do anything to address global warming.
- Provides millions in taxpayer funds to uranium companies for polluting mining practices that threaten drinking water aquifers. The provision contains a red herring exclusion for New Mexico; one company with operations in New Mexico and other states could receive bail out money for mines in other states, freeing up company dollars for proposed mines in Navajo communities in New Mexico that would threaten the sole source of drinking water for 15,000 Native Americans. **Title VI Section 631.**
- Reclassifies radioactive waste from a former uranium extraction plant in Fernald, Ohio, so that it may be disposed in a Utah dump not equipped to properly contain the waste's radioactivity, setting dangerous precedent for arbitrarily reclassifying radioactive waste. **Title VI Sec. 634.**

### **Public Lands**

- Attempts to allow the Interior Secretary via "Secretarial Order" to designate utility and pipeline corridors across public lands without seeking public input through a land use planning process. **Title III Sec. 350 p.83.**
- Authorizes the leasing of the entire National Petroleum Reserve Alaska for oil and gas production without protection for wildlife, native subsistence hunting and fishing, and sensitive areas. Also gives away taxpayer dollars to the industry by allowing the Secretary to waive royalties from any other production that occurs on this land. **Title III Sec. 317.**
- Establishes a new process for siting electricity transmission lines on federal lands implemented by the Secretary of Energy, including components of the National Wilderness Preservation System, the National Wild and Scenic Rivers System, and the National Park system (including National Monuments). **Title XII Sec. 1221 p. 20.**
- Authorizes Alaska's "Denali Commission" to spend \$1 billion on hydroelectric and other energy projects on Alaska Federal Lands, including National Parks and National Wildlife Refuges, "notwithstanding any other provision of law." **Title XIV, Sec. 1401, p. 1.**
- Allows applicants for federal drilling permits to take up to two years to comply with application requirements, but requires the BLM only ten days to make decisions on drilling permit applications. **Title III Sec. 348 p. 79.**
- Establishes an "Office of Federal Project Coordination" within the White House intended to expedite the permitting and completion of energy projects on federal lands, and overrides environmental safeguards. **Title III Sec. 341 p. 66.**
- Requires the United States Geological Survey to identify various "restrictions and impediments" to the development of federal oil and gas deposits. These "restrictions and impediments" include policies and regulations designed to protect fish and wildlife, wild lands, and cultural and historical values on the public lands. **Title III Sec. 345 p. 72.**
- Establishes a perpetual "pilot program" for expediting the approval of energy projects in the Rocky Mountain region. **Title III Sec. 347 p. 75.**

- Lifts the 240,060-acre limitation on the amount of federal oil and gas acreage one entity can control, encouraging monopolization of the use of federal oil and gas resources. **Title III Sec. 323 p. 47.**
- Mandates the siting of a high voltage electricity transmission line through the Cleveland National Forest and other public lands, overriding a decision by the State of California rejecting such siting. **Title III Sec. 353 p. 96.**
- Encourages oil and gas development under Padres Island National Seashore, notwithstanding its status as a National Park. **Title III Sec. 354 p. 98.**
- Waives existing National Environmental Policy Act (NEPA) environmental review and public participation process for all types of energy development projects on Indian lands in favor of an unspecified new process. **Title V.**
- Grants the hydropower industry unprecedented rights to appeal environmental conditions designed to protect affected public lands or ensure safe fish passage while denying those procedures to tribes, states, or members of the public. **Title III Sec. 231 p. 59.**
- Authorizes \$550 million (\$50 million for 11 years) for timber companies to log trees in our national forests, including old growth forests and large fire-resistant trees important for forest health, and burn them for energy. **Title II Sec. 206.**
- Permits an energy cable that is running the length of the Long Island Sound and that is in violation of both state and federal permits, to be activated. This cable is currently subject to a federal lawsuit by the Attorney General of the State of Connecticut and has faced strong bipartisan opposition due to the navigational, environmental, agricultural, and economic impacts caused by the installation and utilization of the cable. **Title XIV Sec. 1441 p. 42.**

### **Coastal Areas**

- Seeks to create unprecedented streamlined authority for the Department of Interior to permit new energy projects in the Outer Continental Shelf (OCS) without adequate oversight or standards. **Title III Sec. 321 p. 37.**
- Attempts to weaken states' ability under the Coastal Zone Management Act to have a say in projects and federal activities that affect their coasts including limiting appeals related to pipeline construction or offshore mineral development. **Title III Sec. 325 p. 50, Section 330 p. 57.**
- Circumvents and expedites the environmental review process for construction of "storage" facilities on the Outer Continental Shelf (OCS) for Liquefied Natural Gas (LNG), oil, and other substances, and construction and expansion of Liquefied Natural Gas (LNG) terminals, both onshore or offshore. **Title III Sec. 320 p. 36, Sec. 329 p. 55.**
- Creates incentives for expanded offshore oil and gas drilling. Under the terms of this provision, coastal states utilizing congressional or presidential moratorium protections would be ineligible for revenues from this section, while coastal states allowing more offshore drilling closer to their shorelines would be rewarded. **Title XIV Subtitle B p. 6 Sec. 1411 and Sec. 1412.**
- Bribes coastal states to accept coastal drilling through increased revenue sharing provisions, while targeting the revenue towards further industrialization of the coastal zone instead of

channeling funding towards needed environmental mitigation of oil and gas impacts on coastal resources. **Title XIV Sec. 1412 pp. 6-29.**

- Gives away taxpayer owned oil and gas to the petroleum industry in fragile Alaskan waters, through royalty suspensions. **Title III Sec. 316 p. 18.**
- Continues to promote development of all OCS lands, including sensitive moratoria protected lands and potentially national marine sanctuaries, through two ill-defined studies. **Title III Sec. 352 pp. 94-95, and Title XVI Sec. 1601.**
- Grants the hydropower industry unprecedented rights to appeal environmental conditions designed protect affected public lands or ensure safe fish passage while denying those procedures to tribes, states, or members of the public. **Title III, Section 231 p. 59.**

### **Consumers & Taxpayers**

- Gives tax breaks and subsidies to big energy companies. According to the Congressional Budget Office, the bill's price tag exceeds \$50 billion over the next decade. These tax breaks and subsidies would add \$18 billion to the deficit.
- Tax breaks are even provided for technologies that will increase pollution. Some of the most egregious subsidies include:
  - creating a \$2 billion program to assist and encourage companies to develop "ultra deepwater and unconventional" gas reserves, including coalbed methane, an existing profitable industry. **Title IX, Subtitle E part II;**
  - mandating royalty exemptions for offshore wells deeper than 400 meters; **Title III Section 315**
  - allowing the Secretary of the Interior to reimburse oil and gas companies when they pay for environmental review of their projects; **Title III Sec. 326 p. 52.**
  - creating a new first-ever \$6 billion tax break for operating new nuclear reactors, **Title XIII Section 45L;**
  - creating a new, first-ever \$1.5 billion tax break for burning coal, **Title XIII Sections 1351-1353.**
- Requires taxpayers, rather than polluters, to pay up to \$2 billion to clean up leaking underground storage tanks containing gasoline and other toxic chemicals even at sites where viable responsible parties are identifiable. **Title XV, Subtitle B.**
- Forces state and local taxpayers, rather than responsible companies, to assume an estimated \$29 billion in cleanup costs from at least 150,000 sites contaminated with the gasoline additive MTBE. **Title XV Sec. 1502 p. 21.**
- Allows the federal government to give private utilities the right to take private land by eminent domain to site transmission lines if the state has not acted within one year. First-time-ever sweeping federal preemption of state authority to site transmission lines, based on very vague criteria, **FOR EVERY STATE BUT TEXAS**, which is specifically exempted from such preemption. **Title XII, Subtitle B (TX exemption Sec. 1221, subsection k p. 18).**
- Extends for 20 years the Price Anderson Act's limits on liability for nuclear plant operators, which would guarantee limited liability for the nuclear industry in case of a catastrophic accident. **Title VI Sections 601-609.**

- Repeals the Public Utility Holding Company Act, the main law to protect consumers from market manipulation, fraud, and abuse in the electricity sector even while evidence of corrupt industry behavior is still front page news and ratepayers are owed billions to compensate for the industry's illegal activities. **Title XII Sec. 1263 p. 92.**
- Authorizes a \$1.1 billion nuclear reactor in Idaho, with a potential exemption from normal Federal project management rules, to demonstrate hydrogen production technologies that are not projected to be economic. **Title VI Sec. 651 p. 40.**
- Leaves landowners, ranchers and others affected by oil and gas development under their property powerless to protect their land and water from irresponsible development activities.
- Waives existing law and mandates expeditious oil and gas leasing throughout the National Petroleum Reserve Alaska, and allows for waivers of all royalties due the taxpayers as a result of leasing of these lands. **Title III Sec. 317 p. 18**
- Spends \$3.7 billion for polluting coal-based technologies, and add pork-barrel loan guarantees for the first time in the 17-year history of program **Title IV.**
- Reimburses industry for the cost of environmental analysis required under the National Environmental Policy Act. **Title III Sec. 326 p. 53.**
- Reverses the Federal Power Act's consumer protection requirements by allowing parties to enter into contracts for electricity or natural gas that cannot be reviewed or challenged by the Federal Regulatory Commission except prospectively, with the burden on FERC, under a "public interest" standard so high that it has rarely been met. **Title XII Sec. 1286.**
- Limits the Bureau of Land Management's ability to receive fair market value for utility corridors crossing public lands.
- Appears to increase the burden of proof on the Commodity Futures Trading Commission in cases of investigations of market manipulation and/or reports to investors. The existing statutory language forbids reports containing "false or misleading or knowingly inaccurate reports." The new language replaces that phrasing with "knowingly false or knowingly misleading or knowingly inaccurate reports." **Title III Sec. 332 p 59.**

### **Energy & National Security**

- Reverses a long-standing U.S. nuclear non-proliferation policy against reprocessing waste from commercial nuclear reactors and against using plutonium to generate energy for commercial use. **Title IX, Section 926**
- Fails to take any step whatsoever to require that the nation reduce its dependence on oil or improve the fuel economy of our cars, trucks and SUVs. **Title VII**
- Extends the Dual-Fueled Vehicles loophole that allows automakers to get corporate average fuel economy (CAFE) credit for producing vehicles that can run on gasoline or alternative fuels. Because these vehicles currently run on alternative fuels less than 1 percent of the time according to the Department of Transportation, extending this loophole would allow excess

gasoline consumption attributable to this program to reach as much as 155,000 barrels of oil daily by 2008. **Title VII Sec. 773 p. 61.**

- Makes it more difficult to update fuel economy standards by adding new requirements for redundant studies to the National Highway Traffic Safety Administration's CAFE standards setting process, thus creating new opportunities for litigation to prevent NHTSA from undertaking oil-saving increases in automobile fuel efficiency standards. **Title VII Sec. 772 p. 60.**
- Fails to include a provision to require the President to develop and implement a plan to reduce oil consumption by at least one million barrels per day by 2013. **Titles I, VII.**
- Fails to ensure deployment of hydrogen fuel cell vehicles by authorizing appropriations of \$2.19 billion over the next five years with no accountability for achieving oil savings or pollution reductions. There are no production and deployment requirements, or even goals, to ensure that a meaningful number of hydrogen vehicles will be delivered to consumers. **Title VIII Secs. 803 & 809 pp. 3 & 18.**
- Reverses 10-year policy of restricting the export of bomb-grade uranium for the benefit of one company. **Title VI Sec. 633 p. 20.**
- Reclassifies undefined "residual" amounts of depleted uranium as "low-level" radioactive waste, thereby making it subject to far less secure handling and disposal protections than are required for depleted uranium generally. **Title VI Sec. 637(a)(5)(B) p. 37.**