A BILL

To amend the Commodity Exchange Act to prevent excessive price speculation with respect to energy commodities, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

3 (a) Short Title.—This Act may be cited as the “Stop Excessive Energy Speculation Act of 2008”.

4
Sec. 2. Definition of energy commodity:
Sec. 3. Speculative limits and transparency of off-shore trading.
Sec. 4. Authority of Commodity Futures Trading Commission with respect to certain traders.
Sec. 5. Working group of international regulators.
Sec. 6. Elimination of manipulation and excessive speculation as cause of high oil, gas, and energy prices.
Sec. 7. Large over-the-counter transactions.
Sec. 8. Index traders and swap dealers.
Sec. 9. Disaggregation of index funds and other data in energy markets.
Sec. 10. Additional Commodity Futures Trading Commission employees for improved enforcement.
Sec. 12. Study of regulatory framework for energy markets.
Sec. 13. Collection and analysis of information on energy commodities.
Sec. 15. Studies; reports.
Sec. 16. Expedited procedures.

SEC. 2. DEFINITION OF ENERGY COMMODITY.

(a) Definition of Energy Commodity.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (13) through (34) as paragraphs (14) through (35), respectively; and

(2) by inserting after paragraph (12) the following:

“(13) Energy commodity.—The term ‘energy commodity’ means—

“(A) a petroleum product; and

“(B) natural gas.”.

(b) Conforming Amendments.—

(1) Section 2(c)(2)(B)(i)(II)(cc) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)(cc)) is amended—
(A) in subitem (AA), by striking “section 1a(20)” and inserting “section 1a(21)”; and

(B) in subitem (BB), by striking “section 1a(20)” and inserting “section 1a(21)”.

(2) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking “section 1a(32)” and inserting “section 1a”.

(3) Section 402 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27) is amended—

(A) in subsection (a)(7), by striking “section 1a(20)” and inserting “section 1a”; and

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking “section 1a(33)” and inserting “section 1a”; and

(ii) in paragraph (2)(D), by striking “section 1a(13)” and inserting “section 1a”.

SEC. 3. SPECULATIVE LIMITS AND TRANSPARENCY OF OFF-SHORE TRADING.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

“(e) FOREIGN BOARDS OF TRADE.—
“(1) In general.—The Commission may not permit a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States, or otherwise subject to the jurisdiction of the Commission, direct access to the electronic trading and order matching system of the foreign board of trade with respect to an agreement, contract, or transaction in an energy commodity that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless—

“(A) the foreign board of trade—

“(i) makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the foreign board of trade settles; and

“(ii) promptly notifies the Commission of any change regarding—

“(I) the information that the foreign board of trade will make publicly available;
“(II) the position limits, speculation limits, and position accountability provisions that the foreign board of trade will adopt and enforce;

“(III) the position reductions required to prevent manipulation; and

“(IV) any other area of interest expressed by the Commission to the foreign board of trade; and

“(B) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

“(i) adopts position limits (including related hedge exemption provisions), speculation limits, or position accountability provisions for speculators for the agreement, contract, or transaction that are comparable to the position limits (including related hedge exemption provisions), speculation limits, or position accountability provisions adopted by the registered entity for the 1 or more contracts against which the foreign board of trade settles;

“(ii) has the authority to require or direct market participants to limit, reduce,
or liquidate any position the foreign board
of trade (or the foreign futures authority
that oversees the foreign board of trade)
determines to be necessary to prevent or
reduce the threat of price manipulation,
excessive speculation, price distortion, or
disruption of delivery or the cash settle-
ment process; and

“(iii) provides information to the
Commission regarding the extent of legiti-
mate and nonlegitimate hedge trading in
the agreement, contract, or transaction
that is comparable to the information that
the Commission determines to be necessary
to publish the commitments of traders re-
port of the Commission for the 1 or more
contracts against which the foreign board
of trade settles.

“(2) EXISTING FOREIGN BOARDS OF TRADE.—
Paragraph (1) shall not be effective with respect to
any agreement, contract, or transaction in an energy
commodity executed on a foreign board of trade to
which the Commission had granted direct access
permission prior to the date of enactment of this
subsection until the date that is 180 days after the
date of enactment of this subsection.”.

SEC. 4. AUTHORITY OF COMMODITY FUTURES TRADING
COMMISSION WITH RESPECT TO CERTAIN
TRADERS.

(a) In General.—

(1) Restriction of Futures Trading to
Contract Markets or Derivatives Transaction
Execution Facilities.—Section 4(b) of the Com-
modity Exchange Act (7 U.S.C. 6(b)) is amended by
inserting after the first sentence the following: “The
Commission may adopt rules and regulations requir-
ing the maintenance of books and records by any
person that is located within the United States (in-
cluding the territories and possessions of the United
States) or that enters trades directly into the trade
matching system of a foreign board of trade from
the United States (including the territories and pos-
sessions of the United States).”

(2) Excessive Speculation as a Burden on
Interstate Commerce.—Section 4a of the Com-
modity Exchange Act (7 U.S.C. 6a) is amended—

(A) in subsection (e), in the second sen-
tence—
(i) by striking “this Act for any person” and inserting “this Act for (1) any person”; and

(ii) by inserting after “to section 5c(c)(1)” the following: “, and (2) any person that is located within the United States (including the territories and possessions of the United States) or that enters trades directly into the trade matching system of a foreign board of trade from the United States (including the territories and possessions of the United States) to violate any bylaw, rule, regulation, or resolution of any foreign board of trade or foreign futures authority fixing limits on the amount of trading that may be carried out or positions that may be held under any contract of sale of an energy commodity for future delivery or under any option on such contract or energy commodity, that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity”; and

(B) by adding at the end the following:
“(f) CONSULTATION.—Before taking any action under subsection (e), the Commission shall consult with the appropriate—

“(1) foreign board of trade; and

“(2) foreign futures authority.”.

(3) VIOLATIONS.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13(a)) is amended by inserting “(including any person trading on a foreign board of trade)” after “Any person” each place it appears.

(4) EFFECT.—No amendment made by this subsection limits any of the otherwise applicable authorities of the Commodity Futures Trading Commission.

SEC. 5. WORKING GROUP OF INTERNATIONAL REGULATORS.

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) (as amended by section 4(a)(2)(B)) is amended by adding at the end the following:

“(g) WORKING GROUP OF INTERNATIONAL REGULATORS.—Not later than 90 days after the date of enactment of this subsection, the Commission shall convene a working group of international regulators to develop uniform international reporting and regulatory standards to ensure the protection of the energy futures markets from
nonlegitimate hedge trading, excessive speculation, manipulation, location shopping, and lowest common dominator regulation, each of which pose systemic risks to all energy futures markets, countries, and consumers.”

SEC. 6. ELIMINATION OF MANIPULATION AND EXCESSIVE SPECULATION AS CAUSE OF HIGH OIL, GAS, AND ENERGY PRICES.

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) (as amended by section 5) is amended by adding at the end the following:

“(h) ELIMINATION OF EXCESSIVE SPECULATION AND NONLEGITIMATE HEDGE TRADING AS A CAUSE OF HIGH OIL, GAS, AND ENERGY PRICES.—

“(1) DEFINITION OF LEGITIMATE HEDGE TRADING.—

“(A) IN GENERAL.—The term ‘legitimate hedge trading’ means the conduct of trading that involves transactions by commercial producers and purchasers of actual physical petroleum and energy commodities for future delivery and the direct counterparties to such trades (regardless of whether the counterparties are commercial producers or purchasers).

“(B) INCLUSION.—To the extent a commercial producer or purchaser of an actual
physical energy commodity for future delivery trades with an intermediary (referred to in this subparagraph as an ‘initial trade’), each subsequent trade by the intermediary arising solely due to the initial trade and that directly results from such initial trade (referred to in this subparagraph as a ‘follow-on trade’) shall be considered to be the conduct of ‘legitimate hedge trading’ if each follow-on trade executed by the intermediary is—

“(i) done proximate to the initial trade; and

“(ii) in the aggregate, economically the same in size and substance as the initial trade.

“(2) Identification of legitimate hedge trading.—In carrying out this Act, the Commission shall distinguish between—

“(A) legitimate hedge trading; and

“(B) all other trading in energy commodities.

“(3) Type of trading.—Notwithstanding any other provision of this Act, the Commission shall modify (or delegate any appropriate entity to modify) such definitions, classifications, and data collec-
tion under this Act as are necessary to ensure that
all direct and indirect parties and counterparties to
all trades in the energy commodities market are
clearly identified for all purposes as engaging in—
“(A) legitimate hedge trading; or
“(B) any other type of trading.
“(4) Elimination of Excessive Speculation.—
“(A) In General.—Notwithstanding any
other provision of this Act, the Commission
shall review all regulations, rules, exemptions,
exclusions, guidance, no action letters, orders,
and other actions taken by or on behalf of the
Commission (including any action or inaction
taken pursuant to delegated authority by an ex-
change, self-regulatory organization, or any
other entity) regarding all energy futures mar-
ket participants or market activity (referred to
in this subsection individually as a ‘prior ac-
tion’) to ensure that—
“(i) legitimate hedge trading is pro-
tected and promoted; and
“(ii) excessive speculation is elimi-
nated.
“(B) Prior Action.—
“(i) IN GENERAL.—The Commission shall consider modifying or revoking the application after the date of enactment of this subsection of any prior action taken by the Commission (including any prior action taken pursuant to delegated authority by any other entity) with respect to any trade on any market, exchange, foreign board of trade, swap or swap transaction, index or index market participant or trade, hedge fund, pension fund, and any other transaction, trade, trader, or petroleum or energy futures market activity unless the Commission affirmatively determines that such prior action will protect and promote legitimate hedge trading and does not permit or encourage excessive speculation.

“(ii) REVOCATION.—In carrying out this subparagraph, the Commission shall consider modifying or revoking the results of each prior action that, in whole or in part, has the direct or indirect affect of limiting, reducing, or eliminating the filing of any report or data regarding any direct
or indirect trade or trader, including the
filing of large trader reports.

“(C) Speculative position limits ap-
pllicable to nonlegitimate hedge trading
in energy commodities and derivatives.—

“(i) Speculative position lim-
its.—

“(I) In general.—Not later
than 30 days after the date of enact-
ment of this subsection, the Commis-
sion shall impose, by rule, regulation,
or order, speculative position limits on
trading that is not legitimate hedge
trading.

“(II) Application.—The Com-
mmission shall apply the limits imposed
under subclause (I) to any person who
executes accounts, agreements, or
transactions involving an energy com-
modity for the own account of the
person and to any person for whom
an agent in fact or substance executes
accounts, agreements, or transactions
involving an energy commodity, on a
registered entity or in covered over-
the-counter trading.

“(ii) ADVISORY GROUP.—

“(I) IN GENERAL.—Not later
than 30 days after the date of enact-
ment of this subsection, the Commis-
sion shall convene an advisory group
primarily consisting of commercial
producers and purchasers of actual
physical energy commodities for fu-
ture delivery.

“(II) RECOMMENDATIONS.—Not
later than 60 days after the date on
which the advisory group is convened
under subclause (I), and annually
thereafter, the advisory group shall
submit to the Commission rec-
ommendations regarding an appro-
priate level for position limits—

“(aa) that are designed for
traders or entities that are not
legitimate hedge traders; and

“(bb) to replace the position
limits imposed by the Commiss-
sion under clause (i)(I).
“(III) **Applicability of FACA.**—The advisory group shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

“(iii) **Review of Recommendations.**—Not later than 270 days after the date of enactment of this subsection, the Commission shall—

“(I) analyze and review the recommendations submitted by the advisory group under clause (ii)(II); and

“(II) submit to the appropriate committees of Congress a report describing each recommendation (including each modification to the statutory authority of the Commission that the Commission determines to be necessary to effectuate each recommendation).

“(iv) **Rulemaking.**—

“(I) **In General.**—Not later than 18 months after the date of enactment of this subsection, the Commission shall promulgate a final rule...
that establishes speculative position limits—

“(aa) for any person engaged in nonlegitimate hedge trading of an energy commodity; and

“(bb) that are consistent with this Act.

“(II) Effective Date.—The final rule described in subclause (I) shall take effect on the date that is 30 days after the date on which the Commission promulgates the final rule.

“(v) Development of Methodology.—

“(I) In General.—Not later than 180 days after the date of enactment of this subsection, the Commission shall propose a methodology to determine and set aggregate speculative position limits at the control entity level for all nonlegitimate traders of energy commodities—

“(aa) on designated contract markets;
“(bb) on derivatives transaction execution facilities; and

“(cc) in over-the-counter commodity derivatives.

“(II) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Commission shall submit to the appropriate committees of Congress a report that contains—

“(aa) any recommendations regarding any additional statutory authority that the Commission determines to be necessary for the imposition of the speculative position limits described in subclause (I); and

“(bb) a description of the resources that the Commission considers to be necessary to implement the speculative position limits.

“(D) MAXIMUM LEVEL OF SPECULATIVE POSITION LIMITS.—
“(i) IN GENERAL.—In establishing speculative position limits under this section (including subparagraph (C)(iv)), the Commission shall set the limits at the maximum level practicable—

“(I) to ensure sufficient market liquidity for the conduct of legitimate hedging activities;

“(II) to ensure that price discovery is not disrupted;

“(III) to protect and promote legitimate hedge trading;

“(IV) to minimize nonlegitimate hedge trading; and

“(V) to eliminate excess speculation.

“(ii) EFFECT.—

“(I) IN GENERAL.—Nothing in this subparagraph modifies the spot month position limitation of 3,000 contracts that is designed to prevent a corner or squeeze at the delivery date.

“(II) COMMISSION ACTION.—If the Commission sets position limits under clause (i) that are different
from the spot month position limit described in subclause (I), the Commission shall include in the report required under subparagraph (C)(v)(II) an analysis describing the reasons for the position limits.”.

SEC. 7. LARGE OVER-THE-COUNTER TRANSACTIONS.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:

“(j) OVER-THE-COUNTER TRANSACTIONS.—

“(1) DEFINITIONS.—In this subsection:

“(A) COVERED OVER-THE-COUNTER TRANSACTION.—The term ‘covered over-the-counter transaction’ means an over-the-counter transaction the reporting of which is required by the Commission as the result of a determination made under paragraph (3)(C).

“(B) COVERED PERSON.—The term ‘covered person’ means a person that enters into a covered over-the-counter transaction.

“(C) MAJOR MARKET DISTURBANCE.—The term ‘major market disturbance’ means any disturbance in a commodity market that disrupts the liquidity and price discovery function of that market from accurately reflecting the
forces of supply and demand for a commodity, including—

“(i) a threatened or actual market manipulation or corner;

“(ii) excessive speculation;

“(iii) nonlegitimate hedge trading;

and

“(iv) any action of the United States or a foreign government that affects a commodity.

“(D) MARKET DISTURBANCE.—The term ‘market disturbance’ shall be interpreted in accordance with section 8a(9)).

“(E) OVER-THE-COUNTER TRANSACTION.—The term ‘over-the-counter transaction’ means a contract, agreement, or transaction in a petroleum or energy commodity that is—

“(i) entered into only between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction;

“(ii) not entered into on a trading facility; and
“(iii) not a sale of any cash commodity for deferred shipment or delivery.

“(2) COMMISSION OVERSIGHT AUTHORITY.—

“(A) IN GENERAL.—In the case of a major market disturbance, as determined by the Commission, the Commission may require any trader subject to the reporting requirements described in paragraph (3) to take such action as the Commission considers to be necessary to maintain or restore orderly trading in any contract listed for trading on a registered entity, including—

“(i) the liquidation of any over-the-counter transaction; and

“(ii) the fixing of any limit that may apply to a market position involving any over-the-counter transaction acquired in good faith before the date of the determination of the Commission.

“(B) JUDICIAL REVIEW.—Any action taken by the Commission under subparagraph (A) shall be subject to judicial review carried out in accordance with section 8a(9).

“(3) REPORTING; RECORDKEEPING.—
“(A) IN GENERAL.—The Commission shall require each covered person to submit to the Commission a report—

“(i) at such time and in such manner as the Commission determines to be appropriate; and

“(ii) containing the information required under subparagraph (B) to assist the Commission in detecting and preventing potential price manipulation of, or excessive speculation in, any contract listed for trading on a registered entity.

“(B) CONTENTS OF REPORT.—A report required under subparagraph (A) shall contain—

“(i) information describing large trading positions of the covered person obtained through 1 or more over-the-counter transactions that involve—

“(I) substantial quantities of a commodity in the cash market; or

“(II) substantial positions, investments, or trades in agreements or contracts relating to the commodity;

“(ii) any other information relating to each covered over-the-counter transaction
carried out by the covered person that the
Commission determines to be necessary to
accomplish the purposes described in sub-
paragraph (A); and

“(iii) information distinguishing legitimate hedge trading from nonlegitimate
hedge trading.

“(C) Determination of covered over-
the-counter transactions.—

“(i) In general.—The Commission
shall identify each large over-the-counter
transaction or class of large over-the-
counter transactions the reporting of which
the Commission determines to be appro-
priate to assist the Commission in detect-
ing and preventing potential price manipu-
lation of, or excessive speculation in, any
contract listed for trading on a registered
entity.

“(ii) Mandatory factors for de-
terminations.—

“(I) In general.—In carrying
out a determination under clause (i),
the Commission shall consider the ex-
tent to which each factor described in subclause (II) applies.

“(II) FACTORS.—The factors required for carrying out a determination under clause (i) include whether—

“(aa) a standardized agreement is used to execute the over-the-counter transaction;

“(bb) the over-the-counter transaction settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity;

“(cc) the price of the over-the-counter transaction is reported to a third party, published, or otherwise disseminated;

“(dd) the price of the over-the-counter transaction is referenced in any other transaction;

“(ee) there is a significant volume of the over-the-counter
transaction or class of over-the-counter transactions; and

“(ff) there is any other factor that the Commission determines to be appropriate.

“(D) RECORDKEEPING.—The Commission, by rule, shall require each covered person—

“(i) in accordance with section 4i, to maintain such records as directed by the Commission for a period of 5 years, or longer, if directed by the Commission; and

“(ii) to provide such records upon request to the Commission or the Department of Justice.

“(4) PROTECTION OF PROPRIETARY INFORMATION.—In carrying out this subsection, the Commission may not—

“(A) require the real-time publication of any proprietary information;

“(B) prohibit the commercial sale or licensing of any real-time proprietary information; and

“(C) except as provided in section 8, publicly disclose any information relating to any market position, business transaction, trade se-
cret, or name of any customer of a covered per-
son.

“(5) APPLICABILITY.—Notwithstanding sub-
sections (g) and (h), and any exemption issued by
the Commission for any energy commodity, each
over-the-counter transaction shall be subject to this
subsection.

“(6) SAVINGS CLAUSE.—Nothing in this sub-
section modifies or alters—

“(A) the guidance of the Commission; or

“(B) any applicable requirements with re-
spect the disclosure of proprietary informa-
tion.”.

SEC. 8. INDEX TRADERS AND SWAP DEALERS.

Section 4 of the Commodity Exchange Act (7 U.S.C.
6) (as amended by section 3) is amended by adding at
the end the following:

“(f) INDEX TRADERS AND SWAP DEALERS.—Not
later than 60 days after the date of enactment of this sub-
section, the Commission shall—

“(1) routinely require detailed reporting from
index traders and swap dealers in markets under the
jurisdiction of the Commission;
“(2) reclassify the types of traders for regulatory and reporting purposes to distinguish between index traders and swaps dealers;

“(3) review the trading practices for index traders in markets under the jurisdiction of the Commission—

“(A) to ensure that index trading is not adversely impacting the price discovery process; and

“(B) to determine whether different practices or regulations should be implemented; and

“(4) ensure, to the maximum extent practicable, that the reports required under this subsection distinguish between legitimate and nonlegitimate hedge trading.”.

SEC. 9. DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY MARKETS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 8) is amended by adding at the end the following:

“(g) DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY MARKETS.—The Commission shall disaggregate and make public monthly—
“(1) the number of positions and total value of
index funds and other passive, long-only positions in
energy markets; and
“(2) data on speculative positions relative to
bona fide physical hedgers in those markets.”.

SEC. 10. ADDITIONAL COMMODITY FUTURES TRADING
COMMISSION EMPLOYEES FOR IMPROVED
ENFORCEMENT.

Section 2(a)(7) of the Commodity Exchange Act (7
U.S.C. 2(a)(7)) is amended by adding at the end the fol-
lowing:

“(D) ADDITIONAL EMPLOYEES.—As soon
as practicable after the date of enactment of
this subparagraph, the Commission shall ap-
point at least 100 full-time employees (in addi-
tion to the employees employed by the Commis-
sion as of the date of enactment of this sub-
paragraph)—

“(i) to increase the public trans-
pareny of operations in energy futures
markets;
“(ii) to improve the enforcement of
this Act in those markets; and
“(iii) to carry out such other duties as
are prescribed by the Commission.”.
SEC. 11. WORKING GROUP ON ENERGY MARKETS.

(a) ESTABLISHMENT.—There is established a Working Group on Energy Markets.

(b) COMPOSITION.—The Working Group shall be composed of—

(1) the Secretary of Energy (referred to in this section as the “Secretary’’);

(2) the Secretary of the Treasury;

(3) the Chairman of the Federal Energy Regulatory Commission;

(4) the Chairman of Federal Trade Commission;

(5) the Chairman of the Securities and Exchange Commission;

(6) the Chairman of the Commodity Futures Trading Commission; and

(7) the Administrator of the Energy Information Administration.

(c) CHAIRPERSON.—

(1) INITIAL CHAIRPERSON.—The Secretary shall serve as the Chairperson of the Working Group for the 1-year period beginning on the date of enactment of this Act.

(2) ROTATION OF CHAIRPERSONS.—For each 1-year period following the period described in paragraph (1), each individual described in subsection
(b) shall serve as the Chairperson of the Working Group in the order corresponding to which the individual is described in that subsection.

(d) PURPOSE AND FUNCTION.—The Working Group shall—

(1) investigate the effect of speculation in energy commodities on energy prices and the energy security of the United States;

(2) recommend to the President and Congress laws (including regulations) that may be needed to prevent excessive speculation in energy commodities to prevent or minimize the adverse impact of high energy prices on consumers and the economy of the United States; and

(3) review energy security considerations posed by developments in international energy markets.

(e) ADMINISTRATION.—The Secretary shall provide the Working Group with such administrative and support services as may be necessary for the performance of the functions of the Working Group.

(f) COOPERATION OF OTHER AGENCIES.—The heads of Executive departments, agencies, and independent instrumentalities shall, to the extent permitted by law, provide the Working Group with such information as the Working Group requires to carry out this section.
(g) Consultation.—The Working Group shall con- 
sult, as appropriate, with representatives of the various 
exchanges, clearinghouses, self-regulatory bodies, other 
major market participants, consumers, and the general 
public.

6 SEC. 12. STUDY OF REGULATORY FRAMEWORK FOR EN-
ERGY MARKETS.

(a) Study.—The Working Group established under 
section 11(a) shall conduct a study to—

(1) identify the factors that affect the pricing of 
  crude oil and refined petroleum products, including 
  an examination of the effects of market speculation 
  on prices; and

(2) review and assess the roles, missions, and 
  structures of relevant Federal agencies, examine 
  interagency coordination, and identify and assess the 
  gaps that need to be filled for the Federal Govern-
  ment to effectively oversee and regulate markets 
  critical to the energy security of the United States.

(b) Elements of Study.—The study shall in-
clude—

(1) an examination of price formation with re-
  spect to crude oil and refined petroleum products;

(2) an examination of relevant international 
  regulatory regimes; and
(3) an examination of the degree to which changes in energy market transparency, liquidity, and structure have influenced or driven abuse, manipulation, excessive speculation, or inefficient price formation.

(e) Report and Recommendations.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides options and the recommendations of the Working Group for appropriate Federal coordination of oversight and regulatory actions to ensure transparency of crude oil and refined petroleum product pricing and the elimination of excessive speculation.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 13. COLLECTION AND ANALYSIS OF INFORMATION ON ENERGY COMMODITIES.

(a) Accurate and Complete Information on Energy Producing Companies.—Section 205(h)(1) of the Department of Energy Organization Act (42 U.S.C.
7135(h)(1)) is amended by adding at the end the following:

“(C) INFORMATION ON ENERGY-PRODUCING COMPANIES.—Notwithstanding any other provision of law, the head of each Federal department or agency shall provide to the Administrator, on the request of the Administrator, such information as the Administrator may require to identify each energy-producing company.”.

(b) ENHANCED DATA ON OWNERSHIP OF CRITICAL ENERGY COMMODITIES.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

“(n) COLLECTION OF INFORMATION ON OWNERSHIP OF ENERGY COMMODITIES.—

“(1) IN GENERAL.—To ensure transparency of information with respect to critical energy infrastructure and product ownership in the United States, the Administrator shall collect on a weekly basis information identifying the ownership of all commercially held oil and natural gas inventories in the United States.

“(2) COMPANY-SPECIFIC DATA.—The information shall include company-specific data, including—
“(A) volumes of product under ownership;

and

“(B) storage and transportation capacity

(including owned and leased capacity).

“(3) PROTECTION OF PROPRIETARY INFORMATION.—Section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)) shall apply to information collected under this section.

“(o) MONTHLY REPORTING ON ENERGY COMMODITY TRANSACTIONS.—

“(1) IN GENERAL.—In accordance with paragraph (2), to improve the ability to evaluate the energy security of the United States, any person holding or controlling energy futures contracts or energy commodity swaps (as defined in section 202 of the Energy Policy and Conservation Act) at a level to be determined by the Secretary for which the underlying energy commodity is physically delivered within the United States shall report on a monthly basis, with respect to the energy commodities and the by-products of the energy commodities—

“(A) the quantity of physical stocks owned;

“(B) the quantity of fixed price purchase commitments open;
“(C) the quantity of fixed price sales commitments open;

“(D) the physical storage capacity owned or leased; and

“(E) such other information as the Secretary determines is necessary to provide adequate transparency with respect to entities that control critical energy assets in the United States.

“(2) Use of Data.—Any data collected under paragraph (1) shall not be made public in a manner that is inconsistent with this Act.

“(p) Financial Market Analysis Office.—

“(1) Establishment.—There shall be within the Energy Information Administration a Financial Market Analysis Office, headed by a director, who shall report directly to the Administrator of the Energy Information Administration.

“(2) Duties.—The Office shall be responsible for analysis of the financial aspects of energy markets.

“(3) Analyses.—The Administrator of the Energy Information Administration shall take analyses by the Office into account in conducting analyses and forecasting of energy prices.”.

SEC. 14. NATIONAL NATURAL GAS MARKET INVESTIGATION.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, in order to ensure the integrity of natural gas markets, the Federal Energy Regulatory Commission (referred to in this section as the “Commission”) shall commence an investigation into the role of financial institutions in natural gas markets, including—

(1) trends in investment in natural gas storage, transportation capacity, and pipeline infrastructure;

(2) factors contributing to potential effects on wholesale natural gas prices, including the mechanisms covered by physical natural gas supply contracts;

(3) the character and number of positions held in related financial markets; and

(4) any international considerations the Commission considers relevant.
(b) ASSESSMENT.—The Commission may include in the investigation an assessment of real-time market dynamics during the 2008 winter heating season.

(e) REQUIRED DATA.—Each Federal department and agency shall comply with any request from the Commission for records, papers, and information in the possession of the department or agency relating to any agreement, contract, or transaction for the sale of an energy commodity for future delivery in interstate or foreign commerce, or any energy commodity swap.

(d) REPORTS.—Not later than 270 days after the date of enactment of this Act, the Commission shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the findings, conclusions, and recommendations of the investigation conducted under this section.

(e) ADDITIONAL INVESTIGATIONS.—On an annual basis and during any other period the Commission determines necessary, the Commission shall—

(1) conduct an investigation that is similar to the investigation required under subsections (a) through (c); and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee
on Energy and Commerce of the House of Rep-
representatives a report on the findings, conclusions,
and recommendations of the investigation.

(f) Authorization of Appropriations.—There
are authorized to be appropriated such sums as are nec-
essary to carry out this section.

SEC. 15. STUDIES; REPORTS.

(a) Study Relating to International Regulation of Energy Commodity Markets.—

(1) In General.—The Comptroller General of
the United States shall conduct a study of the inter-
national regime for regulating the trading of energy
commodity futures and derivatives.

(2) Analysis.—The study shall include an
analysis of, at a minimum—

(A) key common features and differences
among countries in the regulation of energy
commodity trading, including with respect to
market oversight and enforcement standards
and activities;

(B) variations among countries with re-
spect to the use of position limits, account-
ability limits, or other thresholds to detect and
prevent price manipulation, excessive specula-
tion, or other unfair trading practices;
(C) variations in practices regarding the
differentiation of commercial and noncommer-
cial trading;

(D) agreements and practices for sharing
market and trading data among regulatory bod-
ies and among individual regulators and the en-
tities that the bodies and regulators oversee;

and

(E) agreements and practices for facili-
tating international cooperation on market over-
sight, compliance, and enforcement.

(3) REPORT.—Not later than 1 year after the
date of enactment of this Act, the Comptroller Gen-
eral shall submit to the appropriate committees of
Congress a report that—

(A) describes the results of the study;

(B) addresses the effects of excessive spec-
ulation and energy price volatility on energy fu-
tures; and

(C) provides recommendations to improve
openness, transparency, and other necessary
elements of a properly functioning market in a
manner that protects consumers in the United
States.
(b) Study Relating to Effects of Noncommercial Speculators on Energy Futures Markets and Energy Prices.—

(1) Study.—The Comptroller General of the United States shall conduct a study of the effects of noncommercial speculators on energy futures markets and energy prices.

(2) Analysis.—The study shall include an analysis of, at a minimum—

(A) the effect of increased amounts of capital in energy futures markets;

(B) the impact of the roll-over of positions by index fund traders and swap dealers on energy futures markets and energy prices; and

(C) the extent to which each factor described in subparagraphs (A) and (B) and noncommercial speculators—

(i) affect—

(I) the pricing of energy commodities; and

(II) risk management functions; and

(ii) contribute to economically efficient price discovery.
(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report that describes the results of the study.

(c) REPORTS OF COMMODITY FUTURES TRADING COMMISSION.—

(1) IN GENERAL.—The Commission shall submit to Congress—

(A) not later than 60 days after the date of enactment of this Act, a report that describes in detail the actions the Commission has taken, is taking, and intends to take to carry out this subsection (including any recommended legislative changes that are necessary to carry out this subsection); and

(B) not later than 45 days after the date described in subparagraph (A) and every 45 days thereafter until the date of implementation of this subsection, an update on the report required under subparagraph (A).

(2) ADDITIONAL EMPLOYEES OR RESOURCES.—Not later than 60 days after the date of enactment of this Act, the Commission shall submit to Congress a report that describes the number of addi-
tional positions and resources that the Commission
determines to be necessary to carry out this sub-
section (including the specific duty of each addi-
tional employee).

SEC. 16. EXPEDITED PROCEDURES.

(a) In General.—Subject to subsection (b), the
Commodity Futures Trading Commission (referred to in
this section as the “Commission”) shall use emergency
and expedited procedures (including any administrative or
other procedure as appropriate) to carry out this Act (in-
cluding the amendments made by this Act).

(b) Report.—If the Commission decides not to use
the procedures described in subsection (a) in a specific in-
stance, not later than 30 days after the date of the deci-
sion, the Commission shall submit to Congress a detailed
report that describes in each instance the reasons for not
using the procedures.
A BILL

To amend the Commodity Exchange Act to prevent excessive price speculation with respect to energy commodities, and for other purposes.

JULY 16, 2008

Read the second time and placed on the Calendar