

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.**

**(no.)** \_\_\_\_\_

To create clean energy jobs, promote energy independence,  
reduce global warming pollution, and transition to a  
clean energy economy.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by \_\_\_\_\_

Viz:

1       Strike all after the enacting clause and insert the fol-  
2       lowing:

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

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Clean Energy Jobs and American Power Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Economywide emission reduction goals.
- Sec. 4. Definitions.

## 2

DIVISION A—AUTHORIZATIONS FOR POLLUTION REDUCTION,  
TRANSITION, AND ADAPTATION

Sec. 101. Structure of Act.

Sec. 102. Requirements relating to Federal advisory committees.

## TITLE I—GREENHOUSE GAS REDUCTION PROGRAMS

## Subtitle A—Clean Transportation

Sec. 111. Emission standards.

## “PART B—MOBILE SOURCES

“Sec. 821. Greenhouse gas emission standards for mobile sources.

Sec. 112. Greenhouse gas emission reductions through transportation efficiency.

## “PART C—TRANSPORTATION EMISSIONS

“Sec. 831. Greenhouse gas emission reductions through transportation efficiency.

Sec. 113. Transportation greenhouse gas emission reduction program grants.

“Sec. 832. Transportation greenhouse gas emission reduction program grants.

Sec. 114. Smartway transportation efficiency program.

“Sec. 822. SmartWay transportation efficiency program.

## Subtitle B—Carbon Capture and Sequestration

Sec. 121. National strategy.

Sec. 122. Regulations for geological sequestration sites.

“Sec. 813. Geological storage sites.

Sec. 123. Studies and reports.

Sec. 124. Performance standards for new coal-fueled power plants.

“Sec. 812. Performance standards for new coal-fired power plants.

Sec. 125. Carbon capture and sequestration demonstration and early deployment program.

## Subtitle C—Nuclear and Advanced Technologies

Sec. 131. Findings and policy.

Sec. 132. Nuclear worker training.

Sec. 133. Nuclear safety and waste management programs.

## Subtitle D—Water Efficiency

Sec. 141. WaterSense.

Sec. 142. Federal procurement of water-efficient products.

Sec. 143. State residential water efficiency and conservation incentives program.

## Subtitle E—Miscellaneous

Sec. 151. Office of Consumer Advocacy.

Sec. 152. Clean technology business competition grant program.

Sec. 153. Product carbon disclosure program.

Sec. 154. State recycling programs.

Sec. 155. Supplemental agriculture and forestry greenhouse gas reduction and renewable energy program.

## 3

- Sec. 156. Economic Development Climate Change Fund.  
 “Sec. 219. Economic Development Climate Change Fund.  
 Sec. 157. Study of risk-based programs addressing vulnerable areas.  
 Sec. 158. Efficient Buildings Program.

Subtitle F—Energy Efficiency and Renewable Energy

- Sec. 161. Renewable energy.  
 Sec. 162. Advanced biofuels.  
 Sec. 163. Energy efficiency in building codes.  
 Sec. 164. Retrofit for energy and environmental performance.  
 Sec. 165. Certified stoves program.  
 Sec. 166. Renewable fuel standard.

Subtitle G—Emission Reductions From Public Transportation Vehicles

- Sec. 171. Short title.  
 Sec. 172. State fuel economy regulation for taxicabs.  
 Sec. 173. State regulation of motor vehicle emissions for taxicabs.

Subtitle H—Clean Energy and Natural Gas

- Sec. 181. Clean Energy and Accelerated Emission Reduction Program.  
 Sec. 182. Advanced natural gas technologies.

TITLE II—RESEARCH

Subtitle A—Energy Research

- Sec. 201. Advanced energy research.

Subtitle B—Drinking Water Adaptation, Technology, Education, and Research

- Sec. 211. Effects of climate change on drinking water utilities.

TITLE III—TRANSITION AND ADAPTATION

Subtitle A—Green Jobs and Worker Transition

PART 1—GREEN JOBS

- Sec. 301. Clean energy curriculum development grants.  
 Sec. 302. Development of Information and Resources clearinghouse for vocational education and job training in renewable energy sectors.  
 Sec. 303. Green construction careers demonstration project.

PART 2—CLIMATE CHANGE WORKER ADJUSTMENT ASSISTANCE

- Sec. 311. Petitions, eligibility requirements, and determinations.  
 Sec. 312. Program benefits.  
 Sec. 313. General provisions.

Subtitle B—International Climate Change Programs

- Sec. 321. Strategic Interagency Board on International Climate Investment.  
 Sec. 322. Emission reductions from reduced deforestation.

“PART V—SUPPLEMENTAL EMISSION REDUCTIONS

## 4

“Sec. 751. Definitions.

“Sec. 752. Purposes.

“Sec. 753. Emission reductions from reduced deforestation.

Sec. 323. International Clean Energy Deployment Program.

Sec. 324. International climate change adaptation and global security program.

Sec. 325. Evaluation and reports.

Sec. 326. Report on climate actions of major economies.

### Subtitle C—Adapting to Climate Change

#### PART 1—DOMESTIC ADAPTATION

##### SUBPART A—NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM

Sec. 341. National Climate Change Adaptation Program.

Sec. 342. Climate services.

##### SUBPART B—PUBLIC HEALTH AND CLIMATE CHANGE

Sec. 351. Sense of Congress on public health and climate change.

Sec. 352. Relationship to other laws.

Sec. 353. National strategic action plan.

Sec. 354. Advisory board.

Sec. 355. Reports.

Sec. 356. Definitions.

##### SUBPART C—CLIMATE CHANGE SAFEGUARDS FOR NATURAL RESOURCES CONSERVATION

Sec. 361. Purposes.

Sec. 362. Natural resources climate change adaptation policy.

Sec. 363. Definitions.

Sec. 364. Council on Environmental Quality.

Sec. 365. Natural Resources Climate Change Adaptation Panel.

Sec. 366. Natural Resources Climate Change Adaptation Strategy.

Sec. 367. Natural resources adaptation science and information.

Sec. 368. Federal natural resource agency adaptation plans.

Sec. 369. State natural resources adaptation plans.

Sec. 370. Natural Resources Climate Change Adaptation Account.

Sec. 371. National Fish and Wildlife Habitat and Corridors Information Program.

Sec. 372. Additional provisions regarding Indian tribes.

##### SUBPART D—ADDITIONAL CLIMATE CHANGE ADAPTATION PROGRAMS

Sec. 381. Water system mitigation and adaptation partnerships.

Sec. 382. Flood control, protection, prevention, and response.

Sec. 383. Wildfire.

Sec. 384. Coastal and Great Lakes State adaptation program.

#### DIVISION B—POLLUTION REDUCTION AND INVESTMENT

##### TITLE I—REDUCING GLOBAL WARMING POLLUTION

##### Subtitle A—Reducing Global Warming Pollution

Sec. 101. Reducing global warming pollution.

## 5

“TITLE VII—GLOBAL WARMING POLLUTION REDUCTION AND  
INVESTMENT PROGRAM

“PART A—GLOBAL WARMING POLLUTION REDUCTION GOALS AND TARGETS

- “Sec. 701. Findings.
- “Sec. 702. Economywide reduction goals.
- “Sec. 703. Reduction targets for specified sources.
- “Sec. 704. Supplemental pollution reductions.
- “Sec. 705. Review and program recommendations.
- “Sec. 706. National Academy review.
- “Sec. 707. Presidential response and recommendations.
- “Sec. 708. Consultation with States.

“PART B—DESIGNATION AND REGISTRATION OF GREENHOUSE GASES

- “Sec. 711. Designation of greenhouse gases.
- “Sec. 712. Carbon dioxide equivalent value of greenhouse gases.
- “Sec. 713. Greenhouse gas registry.
- “Sec. 714. Perfluorocarbon and other nonhydrofluorocarbon fluorinated substance production regulation.

“PART C—PROGRAM RULES

- “Sec. 721. Emission allowances.
- “Sec. 722. Prohibition of excess emissions.
- “Sec. 723. Penalty for noncompliance.
- “Sec. 724. Trading.
- “Sec. 725. Banking and borrowing.
- “Sec. 726. Market Stability Reserve.
- “Sec. 727. Permits.
- “Sec. 728. International emission allowances.

“PART D—OFFSETS

- “Sec. 731. Offsets Integrity Advisory Board.
- “Sec. 732. Establishment of offsets program.
- “Sec. 733. Eligible project types.
- “Sec. 734. Requirements for offset projects.
- “Sec. 735. Approval of offset projects.
- “Sec. 736. Verification of offset projects.
- “Sec. 737. Issuance of offset credits.
- “Sec. 738. Audits.
- “Sec. 739. Program review and revision.
- “Sec. 740. Early offset supply.
- “Sec. 741. Environmental considerations.
- “Sec. 742. Trading.
- “Sec. 743. Office of Offsets Integrity.
- “Sec. 744. International offset credits.
- Sec. 102. Definitions.
- “Sec. 700. Definitions.
- Sec. 103. Offset reporting requirements.

Subtitle B—Disposition of Allowances

- Sec. 111. Disposition of allowances for global warming pollution reduction program.

## 6

## “PART H—DISPOSITION OF ALLOWANCES

- “Sec. 771. Allocation of emission allowances.
- “Sec. 772. Electricity consumers.
- “Sec. 773. Natural gas consumers.
- “Sec. 774. Home heating oil and propane consumers.
- “Sec. 775. Domestic fuel production.
- “Sec. 776. Consumer protection.
- “Sec. 777. Exchange for State-issued allowances.
- “Sec. 778. Auction procedures.
- “Sec. 779. Auctioning allowances for other entities.
- “Sec. 780. Commercial deployment of carbon capture and permanent sequestration technologies.
- “Sec. 781. Oversight of allocations.
- “Sec. 782. Early action recognition.
- “Sec. 783. Establishment of Deficit Reduction Fund.

## Subtitle C—Additional Greenhouse Gas Standards

- Sec. 121. Greenhouse gas standards.

## “TITLE VIII—ADDITIONAL GREENHOUSE GAS STANDARDS

- “Sec. 801. Definitions.

## “PART A—STATIONARY SOURCE STANDARDS

- “Sec. 811. Standards of performance.
- Sec. 122. HFC regulation.
- “Sec. 619. Hydrofluorocarbons (HFCs).
- Sec. 123. Black carbon.

## “PART E—BLACK CARBON

- “Sec. 851. Black carbon.
- Sec. 124. States.
- Sec. 125. State programs.

## “PART F—MISCELLANEOUS

- “Sec. 861. State programs.
- “Sec. 862. Grants for support of air pollution control programs.
- Sec. 126. Enforcement.
- Sec. 127. Forestry sector greenhouse gas accounting.
- Sec. 128. Conforming amendments.
- Sec. 129. Davis-Bacon compliance.

## Subtitle D—Carbon Market Assurance

- Sec. 131. Carbon market assurance.

## Subtitle E—Ensuring Real Reductions in Industrial Emissions

- Sec. 141. Ensuring real reductions in industrial emissions.

## “PART F—ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS

- “Sec. 761. Purposes.
- “Sec. 762. Definitions.

“Sec. 763. Eligible industrial sectors.

“Sec. 764. Distribution of emission allowance rebates.

“Sec. 765. International trade.

## TITLE II—PROGRAM ALLOCATIONS

Sec. 201. Distribution of allowances for investment in clean vehicles.

Sec. 202. State and local investment in energy efficiency and renewable energy.

Sec. 203. Energy efficiency in building codes.

Sec. 204. Energy Innovation Hubs.

Sec. 205. ARPA-E research.

Sec. 206. International clean energy deployment program.

Sec. 207. International climate change adaptation and global security.

Sec. 208. Energy efficiency and renewable energy worker training.

Sec. 209. Worker transition.

Sec. 210. State programs for greenhouse gas reduction and climate adaptation.

Sec. 211. Climate Change Health Protection and Promotion Fund.

Sec. 212. Climate change safeguards for natural resources conservation.

Sec. 213. Nuclear worker training.

Sec. 214. Supplemental agriculture, renewable energy, and forestry.

Sec. 215. Investment in greenhouse gas reductions from the transportation sector.

Sec. 216. State programs for natural resource adaptation activities.

## 1 SEC. 2. FINDINGS.

2 Congress finds that—

3 (1) the United States can take back control of  
4 the energy future of the United States, strengthen  
5 economic competitiveness, safeguard the health of  
6 families and the environment, and ensure the na-  
7 tional security, of the United States by increasing  
8 energy independence;

9 (2) creating a clean energy future requires a  
10 comprehensive approach that includes support for  
11 the improvement of all energy sources, including  
12 coal, natural gas, nuclear power, and renewable gen-  
13 eration;

14 (3) efficiency in the energy sector also rep-  
15 resents a critical avenue to reduce energy consump-

1       tion and carbon pollution, and those benefits can be  
2       captured while generating additional savings for con-  
3       sumers;

4           (4) substantially increasing the investment in  
5       the clean energy future of the United States will  
6       provide economic opportunities to millions of people  
7       in the United States and drive future economic  
8       growth in this country;

9           (5) the United States is responsible for many of  
10      the initial scientific advances in clean energy tech-  
11      nology, but, as of September 2009, the United  
12      States has only 5 of the top 30 leading companies  
13      in solar, wind, and advanced battery technology;

14          (6) investment in the clean energy sector will  
15      allow companies in the United States to retake a  
16      leadership position, and the jobs created by those in-  
17      vestments will significantly accelerate growth in do-  
18      mestic manufacturing;

19          (7) those opportunities also will result in sub-  
20      stantial employment gains in construction, a sector  
21      in which the median hourly wage is 17 percent high-  
22      er than the national median;

23          (8) those jobs are distributed throughout the  
24      United States, and the highest clean energy economy  
25      employment growth rates in the last 10 years were

1 in the States of Idaho, Nebraska, South Dakota, Or-  
2 egon, and New Mexico;

3 (9) focusing on clean energy will dramatically  
4 reduce pollution and significantly improve the health  
5 of families in and the environment of the United  
6 States;

7 (10) moving to a low-carbon economy must pro-  
8 tect the most vulnerable populations in the United  
9 States, including low-income families that are par-  
10 ticularly affected by volatility in energy prices;

11 (11) if unchecked, the impact of climate change  
12 will include widespread effects on health and welfare,  
13 including—

14 (A) increased outbreaks from waterborne  
15 diseases;

16 (B) more droughts;

17 (C) diminished agricultural production;

18 (D) severe storms and floods;

19 (E) heat waves;

20 (F) wildfires; and

21 (G) a substantial rise in sea levels, due in  
22 part to—

23 (i) melting mountain glaciers;

24 (ii) shrinking sea ice; and

25 (iii) thawing permafrost;

1           (12) the most recent science indicates that the  
2       changes described in paragraph (11)(G) are occur-  
3       ring faster and with greater intensity than expected;

4           (13) military officials, including retired admiral-  
5       rals and generals, concur with the intelligence com-  
6       munity that climate change acts as a threat multi-  
7       plier for instability and presents significant national  
8       security challenges for the United States;

9           (14) massive portions of the infrastructure of  
10      the United States, including critical military infra-  
11      structure, are at risk from the effects of climate  
12      change;

13          (15) impacts are already being felt in local com-  
14      munities within the United States as well as by at-  
15      risk populations abroad;

16          (16) the Declaration of the Leaders from the  
17      Major Economies Forum on Energy and Climate,  
18      representing 17 of the largest economies in the  
19      world, recognizes the need to limit the increase in  
20      global average temperatures to within 2 degrees  
21      Centigrade, as a necessary step to prevent the cata-  
22      strophic consequences of climate change; and

23          (17) the United States should lead the global  
24      community in combating the threat of global climate  
25      change and reaching a robust international agree-

1       ment to address global warming under the United  
2       Nations Framework Convention on Climate Change,  
3       done at New York on May 9, 1992 (or a successor  
4       agreement).

5   **SEC. 3. ECONOMYWIDE EMISSION REDUCTION GOALS.**

6       The goals of this Act and the amendments made by  
7       this Act are to reduce steadily the quantity of United  
8       States greenhouse gas emissions such that—

9           (1) in 2012, the quantity of United States  
10       greenhouse gas emissions does not exceed 97 percent  
11       of the quantity of United States greenhouse gas  
12       emissions in 2005;

13          (2) in 2020, the quantity of United States  
14       greenhouse gas emissions does not exceed 80 percent  
15       of the quantity of United States greenhouse gas  
16       emissions in 2005;

17          (3) in 2030, the quantity of United States  
18       greenhouse gas emissions does not exceed 58 percent  
19       of the quantity of United States greenhouse gas  
20       emissions in 2005; and

21          (4) in 2050, the quantity of United States  
22       greenhouse gas emissions does not exceed 17 percent  
23       of the quantity of United States greenhouse gas  
24       emissions in 2005.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-  
4 trator” means the Administrator of the Environ-  
5 mental Protection Agency.

6 (2) INDIAN TRIBE.—The term “Indian tribe”  
7 has the meaning given the term in section 302 of the  
8 Clean Air Act (42 U.S.C. 7602).

9 (3) STATE.—The term “State” has the mean-  
10 ing given that term in section 302 of the Clean Air  
11 Act (42 U.S.C. 7602).

12 **DIVISION A—AUTHORIZATIONS**  
13 **FOR POLLUTION REDUCTION,**  
14 **TRANSITION, AND ADAPTA-**  
15 **TION**

16 **SEC. 101. STRUCTURE OF ACT.**

17 (a) AUTHORIZED AND ALLOCATED PROGRAMS.—The  
18 following programs authorized under this division are eli-  
19 gible to receive an allocation under title VII of the Clean  
20 Air Act:

21 (1) The program for greenhouse gas emission  
22 reductions through transportation efficiency under  
23 part C of title VIII the Clean Air Act (as added by  
24 sections 112 and 113 of this division) and section  
25 215 of division B.

1           (2) The program for nuclear worker training  
2           under section 132 of this division and 213 of divi-  
3           sion B.

4           (3) State recycling programs under section 154  
5           of this division and section 210 of division B.

6           (4) The supplemental agriculture and forestry  
7           greenhouse gas reduction and renewable energy pro-  
8           gram under section 155 of this division and section  
9           214 of division B.

10          (5) The program for energy efficiency in build-  
11          ing codes under section 163 of this division and sec-  
12          tion 203 of division B.

13          (6) The program for retrofit for energy and en-  
14          vironmental performance under section 164 of this  
15          division.

16          (7) The program for worker transition under  
17          part 2 of subtitle A of title III of this division and  
18          section 209 of division B.

19          (8) The program for public health and climate  
20          change under subpart B of part 1 of subtitle C of  
21          title III of this division and section 211 of division  
22          B.

23          (9) The program for climate change safeguards  
24          for natural resources conservation under subpart C

1 of part 1 of subtitle C of title III of this division and  
2 section 212 of division B, including—

3 (A) State programs for natural resource  
4 adaptation under section 370(a)(1) of division  
5 A, and section 216 of division B; and

6 (B) the Natural Resources Climate Change  
7 Adaptation Account section 370(a)(2) of divi-  
8 sion A, and section 212 of division B.

9 (10) The program for emission reductions from  
10 reduced deforestation under section 753 of the Clean  
11 Air Act (as added by section 322 of this division).

12 (11) The International Clean Energy Deploy-  
13 ment Program under section 323 of this division and  
14 section 206 of division B.

15 (12) The international climate change adapta-  
16 tion and global security program under 324 of this  
17 division and section 207 of division B.

18 (13) The program for water system mitigation  
19 and adaptation partnerships under section 381 of  
20 this division and section 210 of division B.

21 (14) The program for flood control, protection,  
22 prevention, and response under section 382 of this  
23 division and section 210 of division B.

24 (15) The program for wildfire under section  
25 383 of this division and section 210 of division B.

1           (16) The Coastal and Great Lakes State Adap-  
2           tation Program under section 384 of this division  
3           and section 210 of division B.

4           (b) ALLOCATED PROGRAMS.—The following alloca-  
5           tions are provided under title VII of the Clean Air Act:

6           (1) The Market Stability Reserve Fund under  
7           section 726 of the Clean Air Act (as added by sec-  
8           tion 101 of division B).

9           (2) The program to ensure real reductions in  
10          industrial emissions under part F of title VII of the  
11          Clean Air Act (as added by section 141 of division  
12          B).

13          (3) The program for electricity consumers pur-  
14          suant to section 772 of the Clean Air Act (as added  
15          by section 111 of division B).

16          (4) The program for natural gas consumers  
17          pursuant to section 773 of the Clean Air Act (as  
18          added by section 111 of division B).

19          (5) The program for home heating oil and pro-  
20          pane consumers pursuant to section 774 of the  
21          Clean Air Act (as added by section 111 of division  
22          B).

23          (6) The program for domestic fuel production,  
24          including petroleum refiners and small business re-

1 finers, under section 775 of the Clean Air Act (as  
2 added by section 111 of division B).

3 (7) The program for climate change consumer  
4 refunds and low- and moderate-income consumers  
5 pursuant to section 776 of the Clean Air Act (as  
6 added by section 111 of division B), including—

7 (A) consumer rebates under section 776(a)  
8 of the Clean Air Act (as so added); and

9 (B) energy refunds under section 776(b) of  
10 the Clean Air Act (as so added).

11 (8) The program for commercial deployment of  
12 carbon capture and storage technology under section  
13 780 of the Clean Air Act (as added by section 111  
14 of division B).

15 (9) The program for early action recognition  
16 pursuant to section 782 of the Clean Air Act (as  
17 added by section 111 of division B).

18 (10) The program for investment in clean vehi-  
19 cle technology under section 201 of division B.

20 (11) The program for State and local invest-  
21 ment in energy efficiency and renewable energy  
22 under section 202 of division B.

23 (12) The program for Energy Innovation Hubs  
24 pursuant to section 204 of division B.

1           (13) The program for ARPA–E research pursu-  
2           ant to section 205 of division B.

3           (14) The program for energy efficiency and re-  
4           newable energy worker training under section 208 of  
5           division B.

6           (15) The State programs for greenhouse gas re-  
7           duction and climate adaptation pursuant to section  
8           210 of division B.

9           (16) The program for greenhouse gas emission  
10          reductions from the transportation sector under sec-  
11          tion 215 of division B.

12          (c) NONALLOCATED PROGRAMS.—The following pro-  
13          grams are authorized under this division:

14           (1) The SmartWay Transportation Efficiency  
15          Program under section 822 of the Clean Air Act (as  
16          added by section 114 of this division).

17           (2) The carbon capture and sequestration dem-  
18          onstration and early deployment program under sec-  
19          tion 125 of this division.

20           (3) The nuclear safety and waste management  
21          programs under section 133 of this division.

22           (4) Water efficiency programs under subtitle D  
23          of title I of this division.

24           (5) The Office of Consumer Advocacy under  
25          section 151 of this division.

1           (6) The clean technology business competition  
2           grant program under section 152 of this division.

3           (7) The product carbon disclosure program  
4           under section 153 of this division.

5           (8) The Economic Development Climate  
6           Change Fund under section 219 of the Public Works  
7           and Economic Development Act of 1965 (as added  
8           by section 156 of this division).

9           (9) The program for renewable energy under  
10          section 161 of this division.

11          (10) The program for advanced biofuels under  
12          section 162 of this division.

13          (11) The program for emission reductions from  
14          public transportation vehicles under subtitle G of  
15          title I of this division.

16          (12) The Clean Energy and Accelerated Emis-  
17          sion Reduction Program under section 181 of this  
18          division.

19          (13) The program for advanced natural gas  
20          technologies under section 182 of this division.

21          (14) The program for advanced energy research  
22          under subtitle A of title II of this division.

23          (15) The program for drinking water adapta-  
24          tion, technology, education, and research under sub-  
25          title B of title II of this division.

1           (16) The program for clean energy curriculum  
2           development grants under section 301 of this divi-  
3           sion.

4           (17) The program for Development of Informa-  
5           tion and Resources clearinghouse for vocational edu-  
6           cation and job training in renewable energy sectors  
7           under section 302 of this division.

8           (18) The green construction careers demonstra-  
9           tion project under section 303 of this division.

10 **SEC. 102. REQUIREMENTS RELATING TO FEDERAL ADVI-**  
11 **SORY COMMITTEES.**

12           (a) APPOINTMENT QUALIFICATIONS.—Each appoint-  
13           ment of a member to an advisory committee established  
14           under this Act or an amendment made by this Act shall  
15           be—

16           (1) based on the qualifications, competence, and  
17           experience of the member; and

18           (2) except as otherwise required by Federal law  
19           (including regulations), made without regard to the  
20           political affiliation of the member.

21           (b) DESIGNATION OF MEMBERS.—

22           (1) IN GENERAL.—An individual appointed to  
23           serve on an advisory committee established under  
24           this Act or an amendment made by this Act who is  
25           not a full-time or permanent part-time officer or em-

1        ployee of the Federal Government shall be des-  
2        igned by the Federal department or agency to  
3        which the relevant advisory committee reports as—

4                (A) a special employee of the Federal Gov-  
5                ernment, if the individual is providing advice  
6                based substantially on the expertise or experi-  
7                ence of the individual; or

8                (B) a representative, if the individual is  
9                substantially representing the views of individ-  
10              uals or entities outside the Federal Govern-  
11              ment.

12        (2) REVIEWS.—

13                (A) IN GENERAL.—The head of each Fed-  
14                eral department or agency shall review the  
15                membership of each advisory committee that re-  
16                ports to the department or agency—

17                        (i) to determine whether the designa-  
18                        tion of the members is appropriate; and

19                        (ii) if the designation of any member  
20                        is not appropriate, to redesignate the mem-  
21                        ber.

22                (B) TIMING.—A review under subpara-  
23                graph (A) shall be conducted—

- 1 (i) on the date on which the charter  
2 of the relevant advisory committee expires;  
3 or  
4 (ii) for any advisory committee with  
5 an indefinite charter, not less frequently  
6 than once every 2 years.

7 (c) ENSURING INDEPENDENT ADVICE AND EXPER-  
8 TISE.—

9 (1) APPOINTMENT.—To the maximum extent  
10 practicable, except as provided in subsection  
11 (b)(1)(B), the head of each Federal department and  
12 agency shall appoint members of advisory commit-  
13 tees established under this Act or an amendment  
14 made by this Act as special employees of the Federal  
15 Government.

16 (2) ACTION BY AGENCY HEADS.—The head of  
17 each Federal department or agency shall ensure, to  
18 the maximum extent practicable, that—

19 (A) no individual appointed to serve on an  
20 applicable advisory committee has a conflict of  
21 interest that is relevant to the functions to be  
22 performed by the individual, unless—

23 (i) the conflict is promptly and pub-  
24 licly disclosed; and

1 (ii) the head of the department or  
2 agency determines that the conflict is un-  
3 avoidable; and

4 (B) each report of an applicable advisory  
5 committee—

6 (i) is the result of the independent  
7 judgment of the advisory committee; and

8 (ii) includes a statement indicating  
9 the process used by the advisory committee  
10 in formulating the recommendations or  
11 conclusions contained in the report.

12 (3) REQUIREMENT.—The head of each Federal  
13 department or agency shall require that individuals  
14 appointed or considered for appointment to serve on  
15 an applicable advisory committee shall inform the  
16 head of any conflict of interest of the individual that  
17 is relevant to the advisory committee functions to be  
18 performed by the individual.

19 (4) REPRESENTATIVE MEMBERS.—If the head  
20 of a Federal department or agency determines that  
21 a member described in subsection (b)(1)(B) is re-  
22 quired to serve on an applicable advisory committee,  
23 the advisory committee management officer of the  
24 department or agency shall consult with the des-  
25 ignated ethics official of the department or agency

1 to ensure that the designation of the member is ap-  
2 propriate and necessary to fulfilling the purpose of  
3 the advisory committee.

4 (5) ACTION BY ETHICS OFFICIALS.—The des-  
5 ignated ethics official of each applicable Federal de-  
6 partment or agency shall issue guidance to ensure  
7 that the applicable advisory committees are pro-  
8 viding sufficiently independent advice and expertise.

9 (6) REPORTS.—The Administrator of General  
10 Services shall—

11 (A) conduct an annual review of compli-  
12 ance by Federal departments and agencies with  
13 the requirements of this subsection; and

14 (B) submit to the Committee on Environ-  
15 ment and Public Works of the Senate and the  
16 Committee on Energy and Commerce of the  
17 House of Representatives annual reports de-  
18 scribing the results of the reviews.

19 (d) DISCLOSURE OF INFORMATION.—

20 (1) ITEMS REQUIRED TO BE DISCLOSED.—The  
21 head of each Federal department or agency to which  
22 an advisory committee established under this Act or  
23 an amendment made by this Act reports shall make  
24 available as described in paragraph (2) the following  
25 information, at a minimum:

1 (A) The charter of the advisory committee.

2 (B) A description of the formation process  
3 of the advisory committee, including—

4 (i) the process for identifying prospec-  
5 tive members;

6 (ii) the process of selecting members  
7 for balance of viewpoints or expertise; and

8 (iii) a justification of the need for rep-  
9 resentative members, if any.

10 (C) A list of all current members of the  
11 advisory committee, updated regularly, includ-  
12 ing, for each member—

13 (i) the name of any individual or enti-  
14 ty that nominated the member;

15 (ii) whether the member is designated  
16 as a special employee of the Federal Gov-  
17 ernment or a representative member; and

18 (iii) in the case of a representative  
19 member, the individuals or entity the view-  
20 point of which the member represents.

21 (D) A list of all special employees of the  
22 Federal Government who have received conflict  
23 of interest waivers under section 208(b) of title  
24 18, United States Code, pursuant to regulations  
25 promulgated by the Office of Government Eth-

1           ics, a description of the conflict necessitating  
2           the waiver, and the reason for granting the  
3           waiver.

4           (E) A summary of the decisionmaking  
5           process of the advisory committee.

6           (F) A complete report of all meetings of  
7           the advisory committee.

8           (G) Notices of future meetings of the advi-  
9           sory committee.

10          (2) METHODS OF DISCLOSURE.—

11           (A) AVAILABILITY.—

12               (i) IN GENERAL.—Subject to clause  
13               (ii), the information required to be dis-  
14               closed by a Federal department or agency  
15               under this subsection shall be made avail-  
16               able electronically, including on the official  
17               public Internet website of the department  
18               or agency, not later than 7 calendar days  
19               before the applicable meeting of the advi-  
20               sory committee.

21               (ii) COMPLETE REPORTS.—Each com-  
22               plete report of a meeting of an advisory  
23               committee established under this Act or an  
24               amendment made by this Act—

1 (I) shall be disclosed by the rel-  
2 evant Federal department or agency  
3 under this subsection by not later  
4 than 7 calendar days after the date of  
5 the meeting; and

6 (II) may take the form of an  
7 electronic recording of the meeting, a  
8 transcript, or any other substantively  
9 complete accounting of the meeting.

10 (B) ACTION BY GSA.—The Administrator  
11 of General Services shall provide, on the official  
12 public Internet website of the General Services  
13 Administration, electronic access to the infor-  
14 mation made available by each Federal depart-  
15 ment or agency under subparagraph (A).

16 **TITLE I—GREENHOUSE GAS**  
17 **REDUCTION PROGRAMS**  
18 **Subtitle A—Clean Transportation**

19 **SEC. 111. EMISSION STANDARDS.**

20 Title VIII of the Clean Air Act (as added by section  
21 121 of division B) is amended by adding at the end the  
22 following:

1                   **“PART B—MOBILE SOURCES**  
2   **“SEC. 821. GREENHOUSE GAS EMISSION STANDARDS FOR**  
3                   **MOBILE SOURCES.**

4           “(a) NEW MOTOR VEHICLES AND NEW MOTOR VE-  
5   HICLE ENGINES.—(1) Pursuant to section 202(a)(1), by  
6   December 31, 2010, the Administrator shall promulgate  
7   standards applicable to emissions of greenhouse gases  
8   from new heavy-duty motor vehicles or new heavy-duty  
9   motor vehicle engines, excluding such motor vehicles cov-  
10   ered by the Tier II standards (as established by the Ad-  
11   ministrator as of the date of the enactment of this sec-  
12   tion). The Administrator may revise these standards from  
13   time to time.

14           “(2) Regulations issued under section 202(a)(1) ap-  
15   plicable to emissions of greenhouse gases from new heavy-  
16   duty motor vehicles or new heavy-duty motor vehicle en-  
17   gines, excluding such motor vehicles covered by the Tier  
18   II standards (as established by the Administrator as of  
19   the date of the enactment of this section), shall contain  
20   standards that reflect the greatest degree of emissions re-  
21   duction achievable through the application of technology  
22   which the Administrator determines will be available for  
23   the model year to which such standards apply, giving ap-  
24   propriate consideration to cost, energy, and safety factors  
25   associated with the application of such technology. Any  
26   such regulations shall take effect after such period as the

1 Administrator finds necessary to permit the development  
2 and application of the requisite technology, and, at a min-  
3 imum, shall apply for a period no less than 3 model years  
4 beginning no earlier than the model year commencing 4  
5 years after such regulations are promulgated.

6 “(3) Regulations issued under section 202(a)(1) ap-  
7 plicable to emissions of greenhouse gases from new heavy-  
8 duty motor vehicles or new heavy-duty motor vehicle en-  
9 gines, excluding such motor vehicles covered by the Tier  
10 II standards (as established by the Administrator as of  
11 the date of the enactment of this section), shall supersede  
12 and satisfy any and all of the rulemaking and compliance  
13 requirements of section 32902(k) of title 49, United  
14 States Code.

15 “(4) Other than as specifically set forth in paragraph  
16 (3) of this subsection, nothing in this section shall affect  
17 or otherwise increase or diminish the authority of the Sec-  
18 retary of Transportation to adopt regulations to improve  
19 the overall fuel efficiency of the commercial goods move-  
20 ment system.

21 “(b) NONROAD VEHICLES AND ENGINES.—(1) Pur-  
22 suant to section 213(a)(4) and (5), the Administrator  
23 shall identify those classes or categories of new nonroad  
24 vehicles or engines, or combinations of such classes or cat-  
25 egories, that, in the judgment of the Administrator, both

1 contribute significantly to the total emissions of green-  
2 house gases from nonroad engines and vehicles, and pro-  
3 vide the greatest potential for significant and cost-effective  
4 reductions in emissions of greenhouse gases. The Adminis-  
5 trator shall promulgate standards applicable to emissions  
6 of greenhouse gases from these new nonroad engines or  
7 vehicles by December 31, 2012. The Administrator shall  
8 also promulgate standards applicable to emissions of  
9 greenhouse gases for such other classes and categories of  
10 new nonroad vehicles and engines as the Administrator de-  
11 termines appropriate and in the timeframe the Adminis-  
12 trator determines appropriate. The Administrator shall  
13 base such determination, among other factors, on the rel-  
14 ative contribution of greenhouse gas emissions, and the  
15 costs for achieving reductions, from such classes or cat-  
16 egories of new nonroad engines and vehicles. The Adminis-  
17 trator may revise these standards from time to time.

18 “(2) Standards under section 213(a)(4) and (5) ap-  
19 plicable to emissions of greenhouse gases from those class-  
20 es or categories of new nonroad engines or vehicles identi-  
21 fied in the first sentence of paragraph (1) of this sub-  
22 section, shall achieve the greatest degree of emissions re-  
23 duction achievable based on the application of technology  
24 which the Administrator determines will be available at  
25 the time such standards take effect, taking into consider-

1 ation cost, energy, and safety factors associated with the  
2 application of such technology. Any such regulations shall  
3 take effect at the earliest possible date after such period  
4 as the Administrator finds necessary to permit the devel-  
5 opment and application of the requisite technology, giving  
6 appropriate consideration to the cost of compliance within  
7 such period, the applicable compliance dates for other  
8 standards, and other appropriate factors, including the pe-  
9 riod of time appropriate for the transfer of applicable tech-  
10 nology from other applications, including motor vehicles,  
11 and the period of time in which previously promulgated  
12 regulations have been in effect.

13 “(3) For purposes of this section and standards  
14 under section 213(a)(4) or (5) applicable to emissions of  
15 greenhouse gases, the term ‘nonroad engines and vehicles’  
16 shall include non-internal combustion engines and the ve-  
17 hicles these engines power (such as electric engines and  
18 electric vehicles), for those non-internal combustion en-  
19 gines and vehicles which would be in the same category  
20 and have the same uses as nonroad engines and vehicles  
21 that are powered by internal combustion engines.

22 “(c) AVERAGING, BANKING, AND TRADING OF EMIS-  
23 SIONS CREDITS.—In establishing standards applicable to  
24 emissions of greenhouse gases pursuant to this section and  
25 sections 202(a), 213(a)(4) and (5), and 231(a), the Ad-

1   ministrator may establish provisions for averaging, bank-  
2   ing, and trading of greenhouse gas emissions credits with-  
3   in or across classes or categories of motor vehicles and  
4   motor vehicle engines, nonroad vehicles and engines (in-  
5   cluding marine vessels), and aircraft and aircraft engines,  
6   to the extent the Administrator determines appropriate  
7   and considering the factors appropriate in setting stand-  
8   ards under those sections. Such provisions may include  
9   reasonable and appropriate provisions concerning genera-  
10   tion, banking, trading, duration, and use of credits.

11       “(d) REPORTS.—The Administrator shall, from time  
12   to time, submit a report to Congress that projects the  
13   amount of greenhouse gas emissions from the transpor-  
14   tation sector, including transportation fuels, for the years  
15   2030 and 2050, based on the standards adopted under  
16   this section.

17       “(e) GREENHOUSE GASES.—Notwithstanding the  
18   provisions of section 711, hydrofluorocarbons shall be con-  
19   sidered a greenhouse gas for purposes of this section.”.

20   **SEC. 112. GREENHOUSE GAS EMISSION REDUCTIONS**  
21       **THROUGH TRANSPORTATION EFFICIENCY.**

22       (a) ENVIRONMENTAL PROTECTION AGENCY.—Title  
23   VIII of the Clean Air Act (as amended by section 111  
24   of this division) is amended by adding at the end the fol-  
25   lowing:

1           **“PART C—TRANSPORTATION EMISSIONS**

2   **“SEC. 831. GREENHOUSE GAS EMISSION REDUCTIONS**  
3           **THROUGH TRANSPORTATION EFFICIENCY.**

4           “(a) IN GENERAL.—The Administrator, in consulta-  
5   tion with the Secretary of Transportation (referred to in  
6   this part as the ‘Secretary’), shall promulgate, and update  
7   from time to time, regulations to establish—

8           “(1) national transportation-related greenhouse  
9           gas emission reduction goals that are commensurate  
10          with the emission reduction goals established under  
11          the Clean Energy Jobs and American Power Act  
12          and amendments made by that Act;

13          “(2) standardized emission models and related  
14          methods, to be used by States, metropolitan plan-  
15          ning organizations, and air quality agencies to ad-  
16          dress emission reduction goals, including—

17               “(A) the development of surface transpor-  
18               tation-related greenhouse gas emission reduc-  
19               tion targets pursuant to sections 134 and 135  
20               of title 23, and sections 5303 and 5304 of title  
21               49, United States Code;

22               “(B) the assessment of projected surface  
23               transportation-related greenhouse gas emissions  
24               from transportation strategies;

1 “(C) the assessment of projected surface  
2 transportation-related greenhouse gas emissions  
3 from State and regional transportation plans;

4 “(D) the establishment of surface trans-  
5 portation-related greenhouse gas emission base-  
6 lines at a national, State, and regional levels;  
7 and

8 “(E) the measurement and assessment of  
9 actual surface transportation-related emissions  
10 to assess progress toward achievement of emis-  
11 sion targets at the State and regional levels;

12 “(3) methods for collection of data on transpor-  
13 tation-related greenhouse gas emissions; and

14 “(4) publication and distribution of successful  
15 strategies employed by States, Indian tribes, metro-  
16 politan planning organizations, and other entities to  
17 reduce transportation-related greenhouse gas emis-  
18 sions.

19 “(b) ROLE OF DEPARTMENT OF TRANSPOR-  
20 TATION.—The Secretary, in consultation with the Admin-  
21 istrator, shall promulgate, and update from time to time,  
22 regulations—

23 “(1) to improve the ability of transportation  
24 planning models and tools, including travel demand  
25 models, to address greenhouse gas emissions;

1           “(2) to assess projected surface transportation-  
2           related travel activity and transportation strategies  
3           from State and regional transportation plans; and

4           “(3) to update transportation planning require-  
5           ments and approval of transportation plans as nec-  
6           essary to carry out this section.

7           “(c) CONSULTATION AND MODELS.—In promul-  
8           gating the regulations, the Administrator and the Sec-  
9           retary—

10           “(1) shall consult with States, Indian tribes,  
11           metropolitan planning organizations, and air quality  
12           agencies;

13           “(2) may use existing models and methodolo-  
14           gies if the models and methodologies are widely con-  
15           sidered to reflect the best practicable modeling or  
16           methodological approach for assessing actual and  
17           projected transportation-related greenhouse gas  
18           emissions from transportation plans and projects;  
19           and

20           “(3) shall consider previously developed plans  
21           that were based on models and methodologies for re-  
22           ducing greenhouse gas emissions in applying those  
23           regulations to the first approvals after promulgation.

24           “(d) TIMING.—The Administrator and the Secretary  
25           shall—

1 “(1) publish proposed regulations under sub-  
2 sections (a) and (b) not later than 1 year after the  
3 date of enactment of this section; and

4 “(2) promulgate final regulations under sub-  
5 sections (a) and (b) not later than 18 months after  
6 the date of enactment of this section.

7 “(e) ASSESSMENT.—

8 “(1) IN GENERAL.—At least every 6 years after  
9 promulgating final regulations under subsections (a)  
10 and (b), the Administrator and the Secretary shall  
11 jointly assess current and projected progress in re-  
12 ducing national transportation-related greenhouse  
13 gas emissions.

14 “(2) REQUIREMENTS.—The assessment shall  
15 examine the contributions to emission reductions at-  
16 tributable to—

17 “(A) improvements in vehicle efficiency;

18 “(B) greenhouse gas performance of trans-  
19 portation fuels;

20 “(C) reductions in vehicle miles traveled;

21 “(D) changes in consumer demand and use  
22 of transportation management systems; and

23 “(E) any other greenhouse gas-related  
24 transportation policies enacted by Congress.

1           “(3) RESULTS OF ASSESSMENT.—The Sec-  
2       retary and the Administrator shall consider—

3           “(A) the results of the assessment con-  
4       ducted under this subsection; and

5           “(B) based on those results, whether tech-  
6       nical or other updates to regulations required  
7       under this section and sections 134 and 135 of  
8       title 23, and sections 5303 and 5304 of title 49,  
9       United States Code, are necessary.”.

10       (b) METROPOLITAN PLANNING ORGANIZATIONS.—

11           (1) TITLE 23.—Section 134 of title 23, United  
12       States Code, is amended—

13           (A) in subsection (a)(1)—

14               (i) by striking “minimizing” and in-  
15       serting “reducing”; and

16               (ii) by inserting “, reliance on oil, im-  
17       pacts on the environment, transportation-  
18       related greenhouse gas emissions,” after  
19       “consumption”;

20           (B) in subsection (h)(1)(E)—

21               (i) by inserting “sustainability, and  
22       livability, reduce surface transportation-re-  
23       lated greenhouse gas emissions and reli-  
24       ance on oil, adapt to the effects of climate  
25       change,” after “energy conservation,”;

1 (ii) by inserting “and public health”  
2 after “quality of life”; and

3 (iii) by inserting “, including housing  
4 and land use patterns” after “development  
5 patterns”;

6 (C) in subsection (i)—

7 (i) in paragraph (4)(A)—

8 (I) by striking “consult, as ap-  
9 propriate,” and inserting “cooperate”;

10 (II) by inserting “transportation,  
11 public transportation, air quality, and  
12 housing, and shall consult, as appro-  
13 priate, with State and local agencies  
14 and Indian tribes responsible for”  
15 after “responsible for” and

16 (III) by inserting “public  
17 health,” after “conservation,”; and

18 (ii) in paragraph (5)(C)(iii), by insert-  
19 ing “and through the website of the metro-  
20 politan planning organization, including  
21 emission reduction targets and strategies  
22 developed under subsection (k)(6), includ-  
23 ing an analysis of the anticipated effects of  
24 the targets and strategies,” after “World  
25 Wide Web”; and

1 (D) in subsection (k), by adding at the end  
2 the following:

3 “(6) TRANSPORTATION GREENHOUSE GAS RE-  
4 Duction efforts.—

5 “(A) IN GENERAL.—Within a metropolitan  
6 planning area serving a transportation manage-  
7 ment area, the transportation planning process  
8 under this section shall address transportation-  
9 related greenhouse gas emissions by including  
10 emission reduction targets and strategies to  
11 meet those targets.

12 “(B) ELIGIBLE ORGANIZATIONS.—

13 “(i) MPOS WITHIN TMAS.—All provi-  
14 sions and requirements of this section, in-  
15 cluding the requirements of the transpor-  
16 tation greenhouse gas reduction efforts,  
17 shall apply to metropolitan planning orga-  
18 nizations that also serve as transportation  
19 management areas.

20 “(ii) OTHER MPOS.—A metropolitan  
21 planning organization that does not serve  
22 as a transportation management area—

23 “(I) may develop transportation  
24 greenhouse gas emission reduction

1 targets and strategies to meet those  
2 targets; and

3 “(II) if those targets and strate-  
4 gies are developed, shall be subject to  
5 all applicable provisions and require-  
6 ments of this section and the Clean  
7 Energy Jobs and American Power  
8 Act, including requirements of the  
9 transportation greenhouse gas reduc-  
10 tion efforts.

11 “(C) ESTABLISHMENT OF TARGETS AND  
12 CRITERIA.—

13 “(i) IN GENERAL.—Not later than 2  
14 years after the promulgation of the final  
15 regulations required under section 831 of  
16 the Clean Air Act, each metropolitan plan-  
17 ning organization that also serves as a  
18 transportation management area shall de-  
19 velop surface transportation-related green-  
20 house gas emission reduction targets, as  
21 well as strategies to meet those targets, in  
22 consultation with State air agencies and  
23 Indian tribes as part of the metropolitan  
24 transportation planning process under this  
25 section.

“(ii) MULTIPLE DESIGNATIONS.—If more than 1 metropolitan planning organization has been designated within a metropolitan area, each metropolitan planning organization shall coordinate with other metropolitan planning organizations in the same metropolitan area to develop the targets and strategies described in clause (i).

9 “(iii) MINIMUM REQUIREMENTS.—  
10 Each metropolitan transportation plan de-  
11 veloped by a metropolitan planning organi-  
12 zation under clause (i) shall, within the  
13 plan, demonstrate progress in stabilizing  
14 and reducing transportation-related green-  
15 house gas emissions so as to contribute to  
16 the achievement of State targets pursuant  
17 to section 135(f)(9).

18 “(iv) REQUIREMENTS FOR TARGETS  
19 AND STRATEGIES.—The targets and strat-  
20 egies developed under this subparagraph  
21 shall, at a minimum—

“(I) be based on the emission  
and travel demand models and related  
methodologies established in the final

1 regulations required under section  
2 831 of the Clean Air Act;

3 “(II) inventory all sources of sur-  
4 face transportation-related greenhouse  
5 gas emissions;

6 “(III) apply to those modes of  
7 surface transportation that are ad-  
8 dressed in the planning process under  
9 this section;

10 “(IV) be integrated and con-  
11 sistent with regional transportation  
12 plans and transportation improvement  
13 programs; and

14 “(V) be selected through scenario  
15 analysis, and include, pursuant to the  
16 requirements of the transportation  
17 planning process under this section,  
18 transportation investment and man-  
19 agement strategies that reduce green-  
20 house gas emissions from the trans-  
21 portation sector over the life of the  
22 plan, such as—

23 “(aa) efforts to increase  
24 public transportation ridership,  
25 including through service im-

1                   provements, capacity expansions,  
2                   and access enhancement;

3                   “(bb) efforts to increase  
4                   walking, bicycling, and other  
5                   forms of nonmotorized transpor-  
6                   tation;

7                   “(cc) implementation of zon-  
8                   ing and other land use regula-  
9                   tions and plans to support infill,  
10                  transit-oriented development, re-  
11                  development, or mixed use devel-  
12                  opment;

13                  “(dd) travel demand man-  
14                  agement programs (including  
15                  carpool, vanpool, or car-share  
16                  projects), transportation pricing  
17                  measures, parking policies, and  
18                  programs to promote telecom-  
19                  muting, flexible work schedules,  
20                  and satellite work centers;

21                  “(ee) surface transportation  
22                  system operation improvements,  
23                  including intelligent transpor-  
24                  tation systems or other oper-  
25                  ational improvements to reduce

1 long-term greenhouse gas emis-  
2 sions through reduced congestion  
3 and improved system manage-  
4 ment;

5 “(ff) intercity passenger rail  
6 improvements;

7 “(gg) intercity bus improve-  
8 ments;

9 “(hh) freight rail improve-  
10 ments;

11 “(ii) use of materials or  
12 equipment associated with the  
13 construction or maintenance of  
14 transportation projects that re-  
15 duce greenhouse gas emissions;

16 “(jj) public facilities for sup-  
17 plying electricity to electric or  
18 plug-in hybrid-electric vehicles; or

19 “(kk) any other effort that  
20 demonstrates progress in reduc-  
21 ing transportation-related green-  
22 house gas emissions in each met-  
23 ropolitan planning organization  
24 under this subsection.

1                   “(D) REVIEW AND APPROVAL.—Not later  
2                   than 180 days after the date of submission of  
3                   a plan under this section—

4                   “(i) the Secretary and the Adminis-  
5                   trator shall review the plan; and

6                   “(ii) the Secretary shall make a deter-  
7                   mination that the plan submitted by a met-  
8                   ropolitan planning organization meets the  
9                   requirements of subparagraph (C) if—

10                   “(I) the Secretary finds that a  
11                   metropolitan planning organization  
12                   has developed, submitted, and pub-  
13                   lished the plan of the metropolitan  
14                   planning organization pursuant to this  
15                   section;

16                   “(II) the Secretary, in consulta-  
17                   tion with the Administrator, deter-  
18                   mines that the plan is likely to achieve  
19                   the targets established by the metro-  
20                   politan planning organization under  
21                   this subsection; and

22                   “(III) the development of the  
23                   plan complies with the minimum re-  
24                   quirements established under clauses  
25                   (iii) and (iv) of subparagraph (C).

1 “(E) CERTIFICATION.—

2 “(i) IN GENERAL.—Only metropolitan  
3 planning organizations that meet the re-  
4 quirements of subparagraph (C) shall be  
5 eligible to receive performance grants  
6 under section 113(c).

7 “(ii) FAILURE TO COMPLY.—Failure  
8 to comply with the requirements under  
9 subparagraph (C) shall not impact certifi-  
10 cation standards under paragraph (5).

11 “(7) DEFINITION OF METROPOLITAN PLANNING  
12 ORGANIZATION.—In this subsection, the term ‘met-  
13 ropolitan planning organization’ means a metropoli-  
14 tan planning organization described in clause (i) or  
15 (ii) of paragraph (6)(B).

16 “(8) SCENARIO ANALYSIS.—The term ‘scenario  
17 analysis’ means the use of a planning tool that—

18 “(A) develops a range of scenarios rep-  
19 resenting various combinations of transpor-  
20 tation and land use strategies, and estimates of  
21 how each of those scenarios would perform in  
22 meeting the greenhouse gas emission reduction  
23 targets based on analysis of various forces  
24 (such as health, transportation, economic or en-

1            vironmental factors, and land use) that affect  
2            growth;

3            “(B) may include features such as—

4                    “(i) the involvement of the general  
5                    public, key stakeholders, and elected offi-  
6                    cials on a broad scale;

7                    “(ii) the creation of an opportunity  
8                    for those participants to educate each  
9                    other as to growth trends and trade-offs,  
10                   as a means to incorporate values and feed-  
11                   back into future plans; and

12                   “(iii) the use of continuing efforts and  
13                   ongoing processes; and

14            “(C) may include key elements such as—

15                    “(i) identification of the driving forces  
16                    behind planning decisions and outcomes;

17                    “(ii) determination of patterns of  
18                    interaction;

19                    “(iii) creation of scenarios for discus-  
20                    sion purposes;

21                    “(iv) analysis of implications;

22                    “(v) evaluation of scenarios; and

23                    “(vi) use of monitoring indicators.”.

24            (2) TITLE 49.—Section 5303 of title 49, United  
25            States Code, is amended—

1 (A) in subsection (a)(1)—

2 (i) by striking “minimizing” and in-  
3 serting “reducing”; and

4 (ii) by inserting “, reliance on oil, im-  
5 pacts on the environment, transportation-  
6 related greenhouse gas emissions,” after  
7 “consumption”;

8 (B) in subsection (h)(1)(E)—

9 (i) by inserting “sustainability, and  
10 livability, reduce surface transportation-re-  
11 lated greenhouse gas emissions and reli-  
12 ance on oil, adapt to the effects of climate  
13 change,” after “energy conservation,”;

14 (ii) by inserting “and public health”  
15 after “quality of life”; and

16 (iii) by inserting “, including housing  
17 and land use patterns” after “development  
18 patterns”;

19 (C) in subsection (i)—

20 (i) in paragraph (4)(A)—

21 (I) by striking “consult, as ap-  
22 propriate,” and inserting “cooperate”;

23 (II) by inserting “transportation,  
24 public transportation, air quality, and  
25 housing, and shall consult, as appro-

1                   priate, with State and local agencies  
2                   and Indian tribes responsible for”  
3                   after “responsible for” and

4                   (III) by inserting “public  
5                   health,” after “conservation,”; and

6                   (ii) in paragraph (5)(C)(iii), by insert-  
7                   ing “and through the website of the metro-  
8                   politan planning organization, including  
9                   emission reduction targets and strategies  
10                  developed under subsection (k)(6), includ-  
11                  ing an analysis of the anticipated effects of  
12                  the targets and strategies,” after “World  
13                  Wide Web”; and

14                  (D) in subsection (k), by adding at the end  
15                  the following:

16                  “(6) TRANSPORTATION GREENHOUSE GAS RE-  
17                  DUCTION EFFORTS.—

18                  “(A) IN GENERAL.—Within a metropolitan  
19                  planning area serving a transportation manage-  
20                  ment area, the transportation planning process  
21                  under this section shall address transportation-  
22                  related greenhouse gas emissions by including  
23                  emission reduction targets and strategies to  
24                  meet those targets.

25                  “(B) ELIGIBLE ORGANIZATIONS.—

1                   “(i) IN GENERAL.—The requirements  
2                   of the transportation greenhouse gas re-  
3                   duction efforts shall apply only to metro-  
4                   politan planning organizations within a  
5                   transportation management area.

6                   “(ii) DEVELOPMENT OF PLAN.—A  
7                   metropolitan planning organization that  
8                   does not serve as a transportation manage-  
9                   ment area—

10                   “(I) may develop transportation  
11                   greenhouse gas emission reduction  
12                   targets and strategies to meet those  
13                   targets; and

14                   “(II) if those targets and strate-  
15                   gies are developed, shall be subject to  
16                   all provisions and requirements of this  
17                   section, including requirements of the  
18                   transportation greenhouse gas reduc-  
19                   tion efforts.

20                   “(C) ESTABLISHMENT OF TARGETS AND  
21                   CRITERIA.—

22                   “(i) IN GENERAL.—Not later than 2  
23                   years after the promulgation of the final  
24                   regulations required under section 831 of  
25                   the Clean Air Act, each metropolitan plan-

1           ning organization shall develop surface  
2           transportation-related greenhouse gas  
3           emission reduction targets, as well as  
4           strategies to meet those targets, in con-  
5           sultation with State air agencies and In-  
6           dian tribes as part of the metropolitan  
7           transportation planning process under this  
8           section.

9           “(ii) MULTIPLE DESIGNATIONS.—If  
10          more than 1 metropolitan planning organi-  
11          zation has been designated within a metro-  
12          politan area, each metropolitan planning  
13          organization shall coordinate with other  
14          metropolitan planning organizations in the  
15          same metropolitan area to develop the tar-  
16          gets and strategies described in clause (i).

17          “(iii) MINIMUM REQUIREMENTS.—  
18          Each metropolitan transportation plan de-  
19          veloped by a metropolitan planning organi-  
20          zation under clause (i) shall, within the  
21          plan, demonstrate progress in stabilizing  
22          and reducing transportation-related green-  
23          house gas emissions so as to contribute to  
24          the achievement of State targets pursuant  
25          to section 135(f)(9) of title 23.

1 “(iv) REQUIREMENTS FOR TARGETS  
2 AND STRATEGIES.—The targets and strat-  
3 egies developed under this subparagraph  
4 shall, at a minimum—

5 “(I) be based on the emission  
6 models and related methodologies es-  
7 tablished in the final regulations re-  
8 quired under section 831 of the Clean  
9 Air Act;

10 “(II) inventory all sources of sur-  
11 face transportation-related greenhouse  
12 gas emissions;

13 “(III) apply to those modes of  
14 surface transportation that are ad-  
15 dressed in the planning process under  
16 this section;

17 “(IV) be integrated and con-  
18 sistent with regional transportation  
19 plans and transportation improvement  
20 programs; and

21 “(V) be selected through scenario  
22 analysis (as defined in section 134(k)  
23 of title 23), and include, pursuant to  
24 the requirements of the transportation  
25 planning process under this section,

1                   transportation investment and man-  
2                   agement strategies that reduce green-  
3                   house gas emissions from the trans-  
4                   portation sector over the life of the  
5                   plan, such as—

6                   “(aa) efforts to increase  
7                   public transportation ridership,  
8                   including through service im-  
9                   provements, capacity expansions,  
10                  and access enhancement;

11                  “(bb) efforts to increase  
12                  walking, bicycling, and other  
13                  forms of nonmotorized transpor-  
14                  tation;

15                  “(cc) implementation of zon-  
16                  ing and other land use regula-  
17                  tions and plans to support infill,  
18                  transit-oriented development, re-  
19                  development, or mixed use devel-  
20                  opment;

21                  “(dd) travel demand man-  
22                  agement programs (including  
23                  carpool, vanpool, or car-share  
24                  projects), transportation pricing  
25                  measures, parking policies, and

1 programs to promote telecom-  
2 muting, flexible work schedules,  
3 and satellite work centers;

4 “(ee) surface transportation  
5 system operation improvements,  
6 including intelligent transpor-  
7 tation systems or other oper-  
8 ational improvements to reduce  
9 long-term greenhouse gas emis-  
10 sions through reduced congestion  
11 and improved system manage-  
12 ment;

13 “(ff) intercity passenger rail  
14 improvements;

15 “(gg) intercity bus improve-  
16 ments;

17 “(hh) freight rail improve-  
18 ments;

19 “(ii) use of materials or  
20 equipment associated with the  
21 construction or maintenance of  
22 transportation projects that re-  
23 duce greenhouse gas emissions;

1 “(jj) public facilities for sup-  
2 plying electricity to electric or  
3 plug-in hybrid-electric vehicles; or  
4 “(kk) any other effort that  
5 demonstrates progress in reduc-  
6 ing transportation-related green-  
7 house gas emissions in each met-  
8 ropolitan planning organization  
9 under this subsection.

10 “(D) REVIEW AND APPROVAL.—Not later  
11 than 180 days after the date of submission of  
12 a plan under this section—

13 “(i) the Secretary and the Adminis-  
14 trator shall review the plan; and

15 “(ii) the Secretary shall make a deter-  
16 mination that the plan submitted by a met-  
17 ropolitan planning organization meets the  
18 requirements of subparagraph (C) if—

19 “(I) the Secretary finds that a  
20 metropolitan planning organization  
21 has developed, submitted, and pub-  
22 lished the plan of the metropolitan  
23 planning organization pursuant to this  
24 section;

1 “(II) the Secretary, in consulta-  
2 tion with the Administrator, deter-  
3 mines that the plan is likely to achieve  
4 the targets established by the metro-  
5 politan planning organization under  
6 this subsection; and

7 “(III) the development of the  
8 plan complies with the minimum re-  
9 quirements established under clauses  
10 (iii) and (iv) of subparagraph (C).

11 “(E) CERTIFICATION.—

12 “(i) IN GENERAL.—Only metropolitan  
13 planning organizations that meet the re-  
14 quirements of subparagraph (C) shall be  
15 eligible to receive performance grants  
16 under section 113(c).

17 “(ii) FAILURE TO COMPLY.—Failure  
18 to comply with the requirements under  
19 subparagraph (C) shall not impact certifi-  
20 cation standards under paragraph (5).

21 “(7) DEFINITION OF METROPOLITAN PLANNING  
22 ORGANIZATION.—In this subsection, the term ‘met-  
23 ropolitan planning organization’ means a metropoli-  
24 tan planning organization described in clause (i) or  
25 (ii) of paragraph (6)(B).”.

1 (c) STATES.—

2 (1) TITLE 23.—Section 135 of title 23, United  
3 States Code, is amended—

4 (A) in subsection (d)(1)(E)—

5 (i) by inserting “sustainability, and  
6 livability, reduce surface transportation-re-  
7 lated greenhouse gas emissions and reli-  
8 ance on oil, adapt to the effects of climate  
9 change,” after “energy conservation,”;

10 (ii) by inserting “and public health”  
11 after “quality of life”; and

12 (iii) by inserting “, including housing  
13 and land use patterns” after “development  
14 patterns”; and

15 (B) in subsection (f)—

16 (i) in paragraph (2)(D)(i)—

17 (I) by striking “, as appropriate,  
18 in consultation” and inserting “in co-  
19 operation”;

20 (II) by inserting “State and local  
21 agencies and Indian tribes responsible  
22 for transportation, public transpor-  
23 tation, air quality, and housing and in  
24 consultation with” before “State, trib-  
25 al”; and

1 (III) by inserting “public  
2 health,” after “conservation,”;

3 (ii) in paragraph (3)(B)(iii), by insert-  
4 ing “and through the website of the State,  
5 including emission reduction targets and  
6 strategies developed under paragraph (9)  
7 and an analysis of the anticipated effects  
8 of the targets and strategies” after “World  
9 Wide Web”; and

10 (iii) by adding at the end the fol-  
11 lowing:

12 “(9) TRANSPORTATION GREENHOUSE GAS RE-  
13 Duction EFFORTS.—

14 “(A) IN GENERAL.—Within a State, the  
15 transportation planning process under this sec-  
16 tion, shall address transportation-related green-  
17 house gas emissions by including emission re-  
18 duction targets and strategies to meet those  
19 targets.

20 “(B) ESTABLISHMENT OF TARGETS AND  
21 CRITERIA.—

22 “(i) IN GENERAL.—Not later than 2  
23 years after the promulgation of the final  
24 regulations required under section 831 of  
25 the Clean Air Act, each State shall develop

1 surface transportation-related greenhouse  
2 gas emission reduction targets, as well as  
3 strategies to meet those targets, in con-  
4 sultation with State air agencies and In-  
5 dian tribes as part of the transportation  
6 planning process under this section.

7 “(ii) MINIMUM REQUIREMENTS.—  
8 Each transportation plan developed by a  
9 State under clause (i) shall, within the  
10 plan, demonstrate progress in stabilizing  
11 and reducing transportation-related green-  
12 house gas emissions in the State so as to  
13 contribute to the achievement of national  
14 targets pursuant to section 831(a)(1) of  
15 the Clean Air Act.

16 “(iii) REQUIREMENTS FOR TARGETS  
17 AND STRATEGIES.—The targets and strat-  
18 egies developed under this subparagraph  
19 shall, at a minimum—

20 “(I) be based on the emission  
21 models and related methodologies es-  
22 tablished in the final regulations re-  
23 quired under section 831 of the Clean  
24 Air Act;

1 “(II) inventory all sources of sur-  
2 face transportation-related greenhouse  
3 gas emissions;

4 “(III) apply to those modes of  
5 surface transportation that are ad-  
6 dressed in the planning process under  
7 this section;

8 “(IV) be integrated and con-  
9 sistent with statewide transportation  
10 plans and statewide transportation  
11 improvement programs; and

12 “(V) be selected through scenario  
13 analysis (as defined in section  
14 134(k)), and include, pursuant to the  
15 requirements of the transportation  
16 planning process under this section,  
17 transportation investment and man-  
18 agement strategies that reduce green-  
19 house gas emissions from the trans-  
20 portation sector over the life of the  
21 plan, such as—

22 “(aa) efforts to increase  
23 public transportation ridership,  
24 including through service im-

1           provements, capacity expansions,  
2           and access enhancement;

3           “(bb) efforts to increase  
4           walking, bicycling, and other  
5           forms of nonmotorized transpor-  
6           tation;

7           “(cc) implementation of zon-  
8           ing and other land use regula-  
9           tions and plans to support infill,  
10          transit-oriented development, re-  
11          development, or mixed use devel-  
12          opment;

13          “(dd) travel demand man-  
14          agement programs (including  
15          carpool, vanpool, or car-share  
16          projects), transportation pricing  
17          measures, parking policies, and  
18          programs to promote telecom-  
19          muting, flexible work schedules,  
20          and satellite work centers;

21          “(ee) surface transportation  
22          system operation improvements,  
23          including intelligent transpor-  
24          tation systems or other oper-  
25          ational improvements to reduce

1 congestion and improve system  
2 management;

3 “(ff) intercity passenger rail  
4 improvements;

5 “(gg) intercity bus improve-  
6 ments;

7 “(hh) freight rail improve-  
8 ments;

9 “(ii) use of materials or  
10 equipment associated with the  
11 construction or maintenance of  
12 transportation projects that re-  
13 duce greenhouse gas emissions;

14 “(jj) public facilities for sup-  
15 plying electricity to electric or  
16 plug-in hybrid-electric vehicles; or

17 “(kk) any other effort that  
18 demonstrates progress in reduc-  
19 ing transportation-related green-  
20 house gas emissions.

21 “(C) COORDINATION AND CONSULTATION  
22 WITH PUBLIC AGENCIES.—Transportation  
23 greenhouse gas targets and plans pursuant to  
24 this section shall be developed—

25 “(i) in coordination with—

1 “(I) all metropolitan planning or-  
2 ganizations covered by this section  
3 within the State; and

4 “(II) transportation and air qual-  
5 ity agencies within the State;

6 “(ii) in consultation with representa-  
7 tives of State and local housing, economic  
8 development, and land use agencies; and

9 “(iii) in consultation with Indian  
10 tribes contiguous to the State.

11 “(D) ENFORCEMENT.—Not later than 180  
12 days after the date of submission of a plan  
13 under this section—

14 “(i) the Secretary and the Adminis-  
15 trator shall review the plan; and

16 “(ii) the Secretary shall make a deter-  
17 mination that the plan submitted by a  
18 State meets the requirements of subpara-  
19 graph (B) if—

20 “(I) the Secretary finds that a  
21 State has developed, submitted, and  
22 published the plan pursuant to this  
23 section;

24 “(II) the Secretary, in consulta-  
25 tion with the Administrator, deter-

1 mines that the plan is likely to achieve  
2 the targets established by the State  
3 under this subsection; and

4 “(III) the development of the  
5 plan complies with the minimum re-  
6 quirements established under clauses  
7 (ii) and (iii) of subparagraph (B).

8 “(E) PLANNING FINDING.—

9 “(i) IN GENERAL.—Only States that  
10 meet the requirements of subparagraph  
11 (B) shall be eligible to receive performance  
12 grants under section 113(c).

13 “(ii) FAILURE TO COMPLY.—Failure  
14 to comply with the requirements under  
15 subparagraph (B) shall not impact the  
16 planning finding under subsection (g)(7).”.

17 (2) TITLE 49.—Section 5304 of title 49, United  
18 States Code is amended—

19 (A) in subsection (d)(1)(E)—

20 (i) by inserting “sustainability, and  
21 livability, reduce surface transportation-re-  
22 lated greenhouse gas emissions and reli-  
23 ance on oil, adapt to the effects of climate  
24 change,” after “energy conservation,”;

1 (ii) by inserting “and public health”  
2 after “quality of life”; and

3 (iii) by inserting “, including housing  
4 and land use patterns” after “development  
5 patterns”; and

6 (B) in subsection (f)—

7 (i) in paragraph (2)(D)(i)—

8 (I) by striking “, as appropriate,  
9 in consultation” and inserting “in co-  
10 operation”;

11 (II) by inserting “State and local  
12 agencies and Indian tribes responsible  
13 for transportation, public transpor-  
14 tation, air quality, and housing and in  
15 consultation with” before “State, trib-  
16 al”; and

17 (III) by inserting “public  
18 health,” after “conservation,”;

19 (ii) in paragraph (3)(B)(iii), by insert-  
20 ing “and through the website of the State,  
21 including emission reduction targets and  
22 strategies developed under paragraph (9)  
23 and an analysis of the anticipated effects  
24 of the targets and strategies” after “World  
25 Wide Web”; and

1 (iii) by adding at the end the fol-  
2 lowing:

3 “(9) TRANSPORTATION GREENHOUSE GAS RE-  
4 Duction EFFORTS.—

5 “(A) IN GENERAL.—Within a State, the  
6 transportation planning process under this sec-  
7 tion, shall address transportation-related green-  
8 house gas emissions by including emission re-  
9 duction targets and strategies to meet those  
10 targets.

11 “(B) ESTABLISHMENT OF TARGETS AND  
12 CRITERIA.—

13 “(i) IN GENERAL.—Not later than 2  
14 years after the promulgation of the final  
15 regulations required under section 831 of  
16 the Clean Air Act, each State shall develop  
17 surface transportation-related greenhouse  
18 gas emission reduction targets, as well as  
19 strategies to meet those targets, in con-  
20 sultation with State air agencies and In-  
21 dian tribes as part of the transportation  
22 planning process under this section.

23 “(ii) MINIMUM REQUIREMENTS.—  
24 Each transportation plan developed by a  
25 State under clause (i) shall, within the

1 plan, demonstrate progress in stabilizing  
2 and reducing transportation-related green-  
3 house gas emissions in the State so as to  
4 contribute to the achievement of national  
5 targets pursuant to section 831(a)(1) of  
6 the Clean Air Act.

7 “(iii) REQUIREMENTS FOR TARGETS  
8 AND STRATEGIES.—The targets and strat-  
9 egies developed under this subparagraph  
10 shall, at a minimum—

11 “(I) be based on the emission  
12 models and related methodologies es-  
13 tablished in the final regulations re-  
14 quired under section 831 of the Clean  
15 Air Act;

16 “(II) inventory all sources of sur-  
17 face transportation-related greenhouse  
18 gas emissions;

19 “(III) apply to those modes of  
20 surface transportation that are ad-  
21 dressed in the planning process under  
22 this section;

23 “(IV) be integrated and con-  
24 sistent with statewide transportation

1 plans and statewide transportation  
2 improvement programs; and

3 “(V) be selected through scenario  
4 analysis (as defined in section 134(k)  
5 of title 23), and include, pursuant to  
6 the requirements of the transportation  
7 planning process under this section,  
8 transportation investment and man-  
9 agement strategies that reduce green-  
10 house gas emissions from the trans-  
11 portation sector over the life of the  
12 plan, such as—

13 “(aa) efforts to increase  
14 public transportation ridership,  
15 including through service im-  
16 provements, capacity expansions,  
17 and access enhancement;

18 “(bb) efforts to increase  
19 walking, bicycling, and other  
20 forms of nonmotorized transpor-  
21 tation;

22 “(cc) implementation of zon-  
23 ing and other land use regula-  
24 tions and plans to support infill,  
25 transit-oriented development, re-

1 development, or mixed use devel-  
2 opment;

3 “(dd) travel demand man-  
4 agement programs (including  
5 carpool, vanpool, or car-share  
6 projects), transportation pricing  
7 measures, parking policies, and  
8 programs to promote telecom-  
9 muting, flexible work schedules,  
10 and satellite work centers;

11 “(ee) surface transportation  
12 system operation improvements,  
13 including intelligent transpor-  
14 tation systems or other oper-  
15 ational improvements to reduce  
16 congestion and improve system  
17 management;

18 “(ff) intercity passenger rail  
19 improvements;

20 “(gg) intercity bus improve-  
21 ments;

22 “(hh) freight rail improve-  
23 ments;

24 “(ii) use of materials or  
25 equipment associated with the

1 construction or maintenance of  
2 transportation projects that re-  
3 duce greenhouse gas emissions;

4 “(jj) public facilities for sup-  
5 plying electricity to electric or  
6 plug-in hybrid-electric vehicles; or

7 “(kk) any other effort that  
8 demonstrates progress in reduc-  
9 ing transportation-related green-  
10 house gas emissions.

11 “(C) COORDINATION AND CONSULTATION  
12 WITH PUBLIC AGENCIES.—Transportation  
13 greenhouse gas targets and plans pursuant to  
14 this section shall be developed—

15 “(i) in coordination with—

16 “(I) all metropolitan planning or-  
17 ganizations covered by this section  
18 within the State; and

19 “(II) transportation and air qual-  
20 ity agencies within the State;

21 “(ii) in consultation with representa-  
22 tives of State and local housing, economic  
23 development, and land use agencies; and

24 “(iii) in consultation with Indian  
25 tribes contiguous to the State.

1 “(D) ENFORCEMENT.—Not later than 180  
2 days after the date of submission of a plan  
3 under this section—

4 “(i) the Secretary and the Adminis-  
5 trator shall review the plan; and

6 “(ii) the Secretary shall make a deter-  
7 mination that the plan submitted by a  
8 State meets the requirements of subpara-  
9 graph (B) if—

10 “(I) the Secretary finds that a  
11 State has developed, submitted, and  
12 published the plan pursuant to this  
13 section;

14 “(II) the Secretary, in consulta-  
15 tion with the Administrator, deter-  
16 mines that the plan is likely to achieve  
17 the targets established by the State  
18 under this subsection; and

19 “(III) the development of the  
20 plan complies with the minimum re-  
21 quirements established under clauses  
22 (ii) and (iii) of subparagraph (B).

23 “(E) PLANNING FINDING.—

24 “(i) IN GENERAL.—Only States that  
25 meet the requirements of subparagraph

1 (B) shall be eligible to receive performance  
2 grants under section 113(c).

3 “(ii) FAILURE TO COMPLY.—Failure  
4 to comply with the requirements under  
5 subparagraph (B) shall not impact the  
6 planning finding under subsection (g)(7).”.

7 (d) APPLICABILITY.—Section 304 of the Clean Air  
8 Act (42 U.S.C. 7604) shall not apply to the planning pro-  
9 visions of this section or any amendment made by this  
10 section.

11 (e) LAND USE AUTHORITY.—Nothing in this section  
12 or an amendment made by this section—

13 (1) infringes on the existing authority of local  
14 governments to plan or control land use; or

15 (2) provides or transfers authority over land  
16 use to any other entity.

17 **SEC. 113. TRANSPORTATION GREENHOUSE GAS EMISSION**  
18 **REDUCTION PROGRAM GRANTS.**

19 Part C of title VIII of the Clean Air Act (as amended  
20 by section 112) is amended by adding at the end the fol-  
21 lowing:

22 **“SEC. 832. TRANSPORTATION GREENHOUSE GAS EMISSION**  
23 **REDUCTION PROGRAM GRANTS.**

24 “(a) IN GENERAL.—The Secretary of Transportation  
25 (referred to in this section as the ‘Secretary’) shall provide

1 grants to States and metropolitan planning organizations  
2 to carry out the purposes of this section for each fiscal  
3 year—

4 “(1) to support the developing and updating of  
5 transportation greenhouse gas reduction targets and  
6 strategies; and

7 “(2) to provide financial assistance to imple-  
8 ment plans approved pursuant to—

9 “(A) sections 134(k)(6) and 135(f)(9) of  
10 title 23, United States Code; and

11 “(B) sections 5303(k)(6) and 5304(f)(9) of  
12 title 49, United States Code.

13 “(b) PLANNING GRANTS.—

14 “(1) IN GENERAL.—Subject to paragraph (2),  
15 the Secretary shall allocate not more than 10 per-  
16 cent of the funds available to carry out this section  
17 for a fiscal year for metropolitan planning organiza-  
18 tions to develop and update transportation plans, in-  
19 cluding targets and strategies for greenhouse gas  
20 emission reduction under—

21 “(A) sections 134(k)(6) and 135(f)(9) of  
22 title 23, United States Code; and

23 “(B) sections 5303(k)(6) and 5304(f)(9) of  
24 title 49, United States Code.

1           “(2) ELIGIBLE ORGANIZATIONS.—The Sec-  
2       retary shall distribute the funds available in (1) to  
3       metropolitan planning organizations (as defined in  
4       section 134(k)(7) of title 23, United States Code) in  
5       the proportion that—

6           “(A) the population within such a metro-  
7       politan planning organization; bears to

8           “(B) the total population of all such met-  
9       ropolitan planning organizations.

10       “(c) PERFORMANCE GRANTS.—

11           “(1) IN GENERAL.—After allocating funds pur-  
12       suant to subsection (b)(1), and subject to subsection  
13       (h), the Secretary shall use the remainder of  
14       amounts made available to carry out this section to  
15       provide grants to States and metropolitan planning  
16       organizations.

17           “(2) CRITERIA.—In providing grants under this  
18       subsection, the Secretary, in consultation with the  
19       Administrator, shall develop criteria for providing  
20       the grants, taking into consideration, with respect to  
21       areas to be covered by the grants—

22           “(A) the quantity of total greenhouse gas  
23       emissions to be reduced as a result of imple-  
24       mentation of a plan, within a covered area, as

1 determined by methods established under sec-  
2 tion 831(a);

3 “(B) the quantity of total greenhouse gas  
4 emissions to be reduced per capita as a result  
5 of implementation of a plan, within the covered  
6 area, as determined by methods established  
7 under section 831(a);

8 “(C) the cost-effectiveness of reducing  
9 greenhouse gas emissions during the life of the  
10 plan;

11 “(D) progress toward achieving emission  
12 reductions target established under—

13 “(i) sections 134(k)(6) and 135(f)(9)  
14 of title 23, United States Code; and

15 “(ii) sections 5303(k)(6) and  
16 5304(f)(9) of title 49, United States Code;

17 “(E) reductions in greenhouse gas emis-  
18 sions previously achieved by States and metro-  
19 politan planning organizations during the 5-  
20 year period beginning on the date of enactment  
21 of this Act;

22 “(F) plans that increase transportation op-  
23 tions and mobility, particularly for low-income  
24 individuals, minorities, the elderly, households

1 without motor vehicles, cost-burdened house-  
2 holds, and the disabled; and

3 “(G) other factors, including innovative ap-  
4 proaches, minimization of costs, and consider-  
5 ation of economic development, revenue genera-  
6 tion, consumer fuel cost-savings, and other eco-  
7 nomic, environmental and health benefits, as  
8 the Secretary determines to be appropriate.

9 “(d) REQUIREMENT FOR REDUCED EMISSIONS.—A  
10 performance grant under subsection (c) may be used only  
11 to fund strategies that demonstrate a reduction in green-  
12 house gas emissions that is sustainable over the life of the  
13 applicable transportation plan.

14 “(e) COST-SHARING.—The Federal share of the costs  
15 of a project receiving Federal financial assistance under  
16 this section shall be 80 percent.

17 “(f) COMPLIANCE WITH APPLICABLE LAWS.—

18 “(1) IN GENERAL.—Subject to paragraph (2), a  
19 project receiving funds under this section shall com-  
20 ply with all applicable Federal laws (including regu-  
21 lations), including—

22 “(A) subchapter IV of chapter 31 of title  
23 40, United States Code; and

24 “(B) applicable requirements of titles 23  
25 and 49, United States Code.

1           “(2) ELIGIBILITY.—Project eligibility shall be  
2           determined in accordance with this section.

3           “(3) DETERMINATION OF APPLICABLE MODAL  
4           REQUIREMENTS.—The Secretary shall—

5                   “(A) have the discretion to designate the  
6                   specific modal requirements that shall apply to  
7                   a project; and

8                   “(B) be guided by the predominant modal  
9                   characteristics of the project in the event that  
10                  a project has cross-modal application.

11          “(g) ADDITIONAL REQUIREMENTS.—

12               “(1) IN GENERAL.—As a condition on the re-  
13               ceipt of financial assistance under this section, the  
14               interests of public transportation employees affected  
15               by the assistance shall be protected under arrange-  
16               ments that the Secretary of Labor determines—

17                   “(A) to be fair and equitable; and

18                   “(B) to provide benefits equal to the bene-  
19                   fits established under section 5333(b) of title  
20                   49, United States Code.

21               “(2) WAGES AND BENEFITS.—Laborers and  
22               mechanics employed on projects funded with  
23               amounts made available under this section shall be  
24               paid wages and benefits not less than those deter-  
25               mined by the Secretary of Labor under subchapter

1 IV of chapter 31 of title 40, United States Code, to  
2 be prevailing in the same locality.

3 “(h) ADMINISTRATIVE EXPENSES.—Not more than 5  
4 percent of the funds made available to carry out this sec-  
5 tion may be used by the Secretary to pay the administra-  
6 tive expenses necessary to carry out this section for a fis-  
7 cal year.

8 “(i) MISCELLANEOUS.—

9 “(1) ROAD-USE AND CONGESTION PRICING  
10 MEASURES.—All projects funded by amounts made  
11 available under this section shall be eligible to re-  
12 ceive amounts collected through road-use and con-  
13 gestion pricing measures.

14 “(2) LIMITATIONS.—The Administrator may  
15 not approve any transportation plan for a project  
16 that would be inconsistent with existing design, pro-  
17 curement, and construction guidelines established by  
18 the Department of Transportation.

19 “(3) SUBGRANTEES.—With the approval of the  
20 Secretary, recipients of funding under this section  
21 may enter into agreements providing for the transfer  
22 of funds to noneligible public entities (such as local  
23 governments, air quality agencies, zoning commis-  
24 sions, special districts and transit agencies) that

1       have statutory responsibility or authority for actions  
2       necessary to implement the strategies pursuant to—  
3               “(A) sections 134(k)(6) and 135(f)(9) of  
4               title 23, United States Code; and  
5               “(B) sections 5303(k)(6) and 5304(f)(9) of  
6               title 49, United States Code.”.

7   **SEC. 114. SMARTWAY TRANSPORTATION EFFICIENCY PRO-**  
8               **GRAM.**

9       Part B of title VIII of the Clean Air Act (as amended  
10      by section 111) is amended by adding at the end the fol-  
11      lowing:

12   **“SEC. 822. SMARTWAY TRANSPORTATION EFFICIENCY PRO-**  
13               **GRAM.**

14       “(a) IN GENERAL.—There is established within the  
15      Environmental Protection Agency a SmartWay Transpor-  
16      tation Efficiency Program to quantify, demonstrate, and  
17      promote the benefits of technologies, products, fuels, and  
18      operational strategies that reduce petroleum consumption,  
19      air pollution, and greenhouse gas emissions from the mo-  
20      bile source sector.

21       “(b) GENERAL DUTIES.—Under the program estab-  
22      lished under this section, the Administrator shall carry out  
23      each of the following:

24               “(1) Development of measurement protocols to  
25               evaluate the energy consumption and greenhouse gas

1 impacts from technologies and strategies in the mo-  
2 bile source sector, including those for passenger  
3 transport and goods movement.

4 “(2) Development of qualifying thresholds for  
5 certifying, verifying, or designating energy-efficient,  
6 low-greenhouse gas SmartWay technologies and  
7 strategies for each mode of passenger transportation  
8 and goods movement.

9 “(3) Development of partnership and recogni-  
10 tion programs to promote best practices and drive  
11 demand for energy-efficient, low-greenhouse gas  
12 transportation performance.

13 “(4) Promotion of the availability of, and en-  
14 couragement of the adoption of, SmartWay certified  
15 or verified technologies and strategies, and publica-  
16 tion of the availability of financial incentives, such  
17 as assistance from loan programs and other Federal  
18 and State incentives.

19 “(c) SMARTWAY TRANSPORT FREIGHT PARTNER-  
20 SHIP.—The Administrator shall establish a SmartWay  
21 Transport Partnership program with shippers and carriers  
22 of goods to promote energy-efficient, low-greenhouse gas  
23 transportation. In carrying out such partnership, the Ad-  
24 ministrator shall undertake each of the following:

1           “(1) Verification of the energy and greenhouse  
2           gas performance of participating freight carriers, in-  
3           cluding those operating rail, trucking, marine, and  
4           other goods movement operations.

5           “(2) Publication of a comprehensive energy and  
6           greenhouse gas performance index of freight modes  
7           (including rail, trucking, marine, and other modes of  
8           transporting goods) and individual freight companies  
9           so that shippers can choose to deliver their goods  
10          more efficiently.

11          “(3) Development of tools for—

12               “(A) carriers to calculate their energy and  
13               greenhouse gas performance; and

14               “(B) shippers to calculate the energy and  
15               greenhouse gas impacts of moving their prod-  
16               ucts and to evaluate the relative impacts from  
17               transporting their goods by different modes and  
18               corporate carriers.

19          “(4) Provision of recognition opportunities for  
20          participating shipper and carrier companies dem-  
21          onstrating advanced practices and achieving superior  
22          levels of greenhouse gas performance.

23          “(d) IMPROVING FREIGHT GREENHOUSE GAS PER-  
24          FORMANCE DATABASES.—The Administrator shall, in co-  
25          ordination with the Secretary of Commerce and other ap-

1 appropriate agencies, define and collect data on the physical  
2 and operational characteristics of the Nation's truck popu-  
3 lation, with special emphasis on data related to energy ef-  
4 ficiency and greenhouse gas performance to inform the  
5 performance index published under subsection (c)(2) of  
6 this section, and other means of goods transport as nec-  
7 essary, at least every 5 years as part of the economic cen-  
8 sus required under title 13, United States Code.

9 “(e) ESTABLISHMENT OF FINANCING PROGRAM.—  
10 The Administrator shall establish a SmartWay Financing  
11 Program to competitively award funding to eligible entities  
12 identified by the Administrator in accordance with the  
13 program requirements in subsection (g).

14 “(f) PURPOSES.—Under the SmartWay Financing  
15 Program, eligible entities shall—

16 “(1) use funds awarded by the Administrator to  
17 provide flexible loan and/or lease terms that increase  
18 approval rates or lower the costs of loans and/or  
19 leases in accordance with guidance developed by the  
20 Administrator;

21 “(2) make such loans and/or leases available to  
22 public and private entities for the purpose of adopt-  
23 ing low-greenhouse gas technologies or strategies for  
24 the mobile source sector that are designated by the  
25 Administrator; and

1           “(3) use funds provided by the Administrator  
2           for electrification of freight transportation systems  
3           in major national goods movement corridors, giving  
4           priority to electrification of transportation systems  
5           in areas that are gateways for high volumes of inter-  
6           national and national freight transport and require  
7           substantial criteria pollutant emission reductions in  
8           order to attain national ambient air quality stand-  
9           ards.

10          “(g) PROGRAM REQUIREMENTS.—The Administrator  
11 shall determine program design elements and require-  
12 ments, including—

13           “(1) the type of financial mechanism with  
14           which to award funding, in the form of grants and/  
15           or contracts;

16           “(2) the designation of eligible entities to re-  
17           ceive funding, such as State, tribal, and local gov-  
18           ernments, regional organizations comprised of gov-  
19           ernmental units, nonprofit organizations, or for-prof-  
20           it companies;

21           “(3) criteria for evaluating applications from el-  
22           igible entities, including anticipated—

23           “(A) cost-effectiveness of loan or lease pro-  
24           gram on a metric-ton-of-greenhouse gas-saved-  
25           per-dollar basis; and

1 “(B) ability to promote the loan or lease  
2 program and associated technologies and strate-  
3 gies to the target audience; and

4 “(4) reporting requirements for entities that re-  
5 ceive awards, including—

6 “(A) actual cost-effectiveness and green-  
7 house gas savings from the loan or lease pro-  
8 gram based on a methodology designated by the  
9 Administrator;

10 “(B) the total number of applications and  
11 number of approved applications; and

12 “(C) terms granted to loan and lease re-  
13 cipients compared to prevailing market prac-  
14 tices and/or rates.

15 “(h) AUTHORIZATION OF APPROPRIATIONS.—Such  
16 sums as necessary are authorized to be appropriated to  
17 the Administrator to carry out this section.”.

18 **Subtitle B—Carbon Capture and**  
19 **Sequestration**

20 **SEC. 121. NATIONAL STRATEGY.**

21 (a) IN GENERAL.—Not later than 1 year after the  
22 date of enactment of this Act, the Administrator, in con-  
23 sultation with the Secretary of Energy, the Secretary of  
24 the Interior, and the heads of such other relevant Federal  
25 agencies as the President may designate, shall submit to

1 Congress a report establishing a unified and comprehen-  
2 sive strategy to address the key legal, regulatory, and  
3 other barriers to the commercial-scale deployment of car-  
4 bon capture and storage.

5 (b) BARRIERS.—The report under this section  
6 shall—

7 (1) identify the regulatory, legal, and other  
8 gaps and barriers that—

9 (A) could be addressed by a Federal agen-  
10 cy using existing statutory authority;

11 (B) require Federal legislation, if any; or

12 (C) would be best addressed at the State,  
13 tribal, or regional level;

14 (2) identify regulatory implementation chal-  
15 lenges, including challenges relating to approval of  
16 State and tribal programs and delegation of author-  
17 ity for permitting; and

18 (3) recommend rulemakings, Federal legisla-  
19 tion, or other actions that should be taken to further  
20 evaluate and address those barriers.

21 (c) FINDING.—Congress finds that it is in the public  
22 interest to achieve widespread, commercial-scale deploy-  
23 ment of carbon capture and storage in the United States  
24 and throughout Asia before January 1, 2030.

1 **SEC. 122. REGULATIONS FOR GEOLOGICAL SEQUESTRA-**  
2 **TION SITES.**

3 (a) COORDINATED CERTIFICATION AND PERMITTING  
4 PROCESS.—Part A of title VIII of the Clean Air Act (as  
5 amended by section 124 of this division) is amended by  
6 adding at the end the following:

7 **“SEC. 813. GEOLOGICAL STORAGE SITES.**

8 “(a) COORDINATED PROCESS.—

9 “(1) IN GENERAL.—The Administrator shall es-  
10 tablish a coordinated approach to certifying and per-  
11 mitting geological storage, taking into consideration  
12 all relevant statutory authorities.

13 “(2) REQUIREMENTS.—In establishing such ap-  
14 proach, the Administrator shall—

15 “(A) take into account, and reduce redun-  
16 dancy with, the requirements of section 1421 of  
17 the Safe Drinking Water Act (42 U.S.C. 300h),  
18 including the rulemaking for geological storage  
19 wells described in the proposed rule entitled  
20 ‘Federal Requirements Under the Underground  
21 Injection Control (UIC) Program for Carbon  
22 Dioxide (CO<sub>2</sub>) Geologic Sequestration (GS)  
23 Wells’ (73 Fed. Reg. 43492 (July 25, 2008));  
24 and

1 “(B) to the maximum extent practicable,  
2 reduce the burden on certified entities and im-  
3 plementing authorities.

4 “(b) REGULATIONS.—Not later than 2 years after  
5 the date of enactment of this title, the Administrator shall  
6 promulgate regulations to protect human health and the  
7 environment by minimizing the risk of escape to the at-  
8 mosphere of carbon dioxide injected for purposes of geo-  
9 logical storage.

10 “(c) REQUIREMENTS.—The regulations under sub-  
11 section (b) shall include—

12 “(1) a process to obtain certification for geo-  
13 logical storage under this section; and

14 “(2) requirements for—

15 “(A) monitoring, recordkeeping, and re-  
16 porting for emissions associated with injection  
17 into, and escape from, geological storage sites,  
18 taking into account any requirements or proto-  
19 cols developed under section 713;

20 “(B) public participation in the certifi-  
21 cation process that maximizes transparency;

22 “(C) the sharing of data among States, In-  
23 dian tribes, and the Environmental Protection  
24 Agency; and

1           “(D) other elements or safeguards nec-  
2           essary to achieve the purpose described in sub-  
3           section (b).

4           “(d) REPORT.—

5           “(1) IN GENERAL.—Not later than 2 years  
6           after the date of promulgation of regulations pursu-  
7           ant to subsection (b), and not less frequently than  
8           once every 3 years thereafter, the Administrator  
9           shall submit to the Committee on Energy and Com-  
10          merce of the House of Representatives and the Com-  
11          mittee on Environment and Public Works of the  
12          Senate a report describing geological storage in the  
13          United States, and, to the extent relevant, other  
14          countries in North America.

15          “(2) INCLUSIONS.—Each report under para-  
16          graph (1) shall include—

17               “(A) data regarding injection, emissions to  
18               the atmosphere, if any, and performance of ac-  
19               tive and closed geological storage sites, includ-  
20               ing those at which enhanced hydrocarbon recov-  
21               ery operations occur;

22               “(B) an evaluation of the performance of  
23               relevant Federal environmental regulations and  
24               programs in ensuring environmentally protec-  
25               tive geological storage practices;

1                   “(C) recommendations on how those pro-  
2                   grams and regulations should be improved or  
3                   made more effective; and

4                   “(D) other relevant information.”.

5           (b) SAFE DRINKING WATER ACT STANDARDS.—Sec-  
6   tion 1421 of the Safe Drinking Water Act (42 U.S.C.  
7   300h) is amended by adding at the end the following:

8           “(e) CARBON DIOXIDE GEOLOGICAL STORAGE  
9   WELLS.—

10           “(1) IN GENERAL.—Not later than 1 year after  
11   the date of enactment of this subsection, the Admin-  
12   istrator shall promulgate regulations under sub-  
13   section (a) for carbon dioxide geological storage  
14   wells.

15           “(2) FINANCIAL RESPONSIBILITY.—

16           “(A) IN GENERAL.—The regulations under  
17   paragraph (1) shall include requirements for  
18   maintaining evidence of financial responsibility,  
19   including financial responsibility for emergency  
20   and remedial response, well plugging, site clo-  
21   sure, and post-injection site care.

22           “(B) REGULATIONS.—Financial responsi-  
23   bility may be established for carbon dioxide geo-  
24   logical wells in accordance with regulations pro-

1 mulgated by the Administrator by any 1, or any  
2 combination, of the following:

3 “(i) Insurance.

4 “(ii) Guarantee.

5 “(iii) Trust.

6 “(iv) Standby trust.

7 “(v) Surety bond.

8 “(vi) Letter of credit.

9 “(vii) Qualification as a self-insurer.

10 “(viii) Any other method satisfactory  
11 to the Administrator.”.

12 **SEC. 123. STUDIES AND REPORTS.**

13 (a) STUDY OF LEGAL FRAMEWORK FOR GEOLOGICAL  
14 STORAGE SITES.—

15 (1) ESTABLISHMENT OF TASK FORCE.—

16 (A) IN GENERAL.—As soon as practicable,  
17 but not later than 180 days after the date of  
18 enactment of this Act, the Administrator shall  
19 establish a task force, to be composed of an  
20 equal number of—

21 (i) subject matter experts;

22 (ii) nongovernmental organizations  
23 with expertise regarding environmental pol-  
24 icy;

1 (iii) academic experts with expertise in  
2 environmental law;

3 (iv) State and tribal officials with en-  
4 vironmental expertise;

5 (v) representatives of State and tribal  
6 attorneys general;

7 (vi) representatives of the Environ-  
8 mental Protection Agency, the Department  
9 of the Interior, the Department of Energy,  
10 the Department of Transportation, and  
11 other relevant Federal agencies; and

12 (vii) members of the private sector.

13 (B) STUDY.—The task force established  
14 under subparagraph (A) shall conduct a study  
15 of—

16 (i) existing Federal environmental  
17 statutes, State environmental statutes, and  
18 State common law that apply to geological  
19 storage sites for carbon dioxide, including  
20 the ability of those laws to serve as risk  
21 management tools;

22 (ii) the existing statutory framework,  
23 including Federal and State laws, that  
24 apply to harm and damage to the environ-  
25 ment or public health at closed sites at

1           which carbon dioxide injection has been  
2           used for enhanced hydrocarbon recovery;

3                   (iii) the statutory framework, environ-  
4           mental health and safety considerations,  
5           implementation issues, and financial impli-  
6           cations of potential models for Federal,  
7           State, or private sector assumption of li-  
8           abilities and financial responsibilities with  
9           respect to closed geological storage sites;

10                   (iv) private sector mechanisms, includ-  
11           ing insurance and bonding, that may be  
12           available to manage environmental, health,  
13           and safety risks from closed geological  
14           storage sites; and

15                   (v) the subsurface mineral rights,  
16           water rights, and property rights issues as-  
17           sociated with geological storage of carbon  
18           dioxide, including issues specific to Federal  
19           land.

20           (2) REPORT.—Not later than 18 months after  
21           the date of enactment of this Act, the task force es-  
22           tablished under paragraph (1)(A) shall submit to  
23           Congress a report describing the results of the study  
24           conducted under that paragraph, including any con-  
25           sensus recommendations of the task force.

1 (b) ENVIRONMENTAL STATUTES.—

2 (1) STUDY.—The Administrator shall conduct a  
3 study of the means by which, and under what cir-  
4 cumstances, the environmental statutes for which  
5 the Environmental Protection Agency has responsi-  
6 bility would apply to carbon dioxide injection and ge-  
7 ological storage activities.

8 (2) REPORT.—Not later than 1 year after the  
9 date of enactment of this Act, the Administrator  
10 shall submit to Congress a report describing the re-  
11 sults of the study conducted under paragraph (1).

12 **SEC. 124. PERFORMANCE STANDARDS FOR NEW COAL-**  
13 **FUELED POWER PLANTS.**

14 (a) IN GENERAL.—Part A of title VIII of the Clean  
15 Air Act (as added by section 121 of division B) is amended  
16 by adding at the end the following:

17 **“SEC. 812. PERFORMANCE STANDARDS FOR NEW COAL-**  
18 **FIRED POWER PLANTS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COVERED EGU.—The term ‘covered EGU’  
21 means a utility unit that is—

22 “(A) required to have a permit under sec-  
23 tion 503(a); and

1 “(B) authorized under State or Federal  
2 law to derive at least 30 percent of the annual  
3 heat input of the unit from—

4 “(i) coal;

5 “(ii) petroleum coke; or

6 “(iii) any combination of those fuels.

7 “(2) INITIALLY PERMITTED.—

8 “(A) IN GENERAL.—The term ‘initially  
9 permitted’, with respect to a covered EGU,  
10 means that—

11 “(i) the owner or operator of the cov-  
12 ered EGU has received a preconstruction  
13 approval or permit under this Act as a new  
14 (not modified) source; but

15 “(ii) administrative review or appeal  
16 of the approval or permit has not been ex-  
17 hausted.

18 “(B) CALCULATION.—A subsequent modi-  
19 fication of any approval or permit described in  
20 subparagraph (A), ongoing administrative or  
21 court review, appeals, challenges, or the exist-  
22 ence or tolling of any time to pursue additional  
23 review, appeals, or challenges shall not affect  
24 the date on which a covered EGU is considered

1           to be initially permitted for purposes of this  
2           paragraph.

3       “(b) STANDARDS.—

4           “(1) IN GENERAL.—A covered EGU that is ini-  
5       tially permitted on or after January 1, 2020, shall—

6           “(A) achieve an emission limitation that  
7       represents a 65-percent reduction in emissions  
8       of the carbon dioxide produced by the covered  
9       EGU, as measured on an annual basis; or

10          “(B) meet such more-stringent standard as  
11       the Administrator may establish pursuant to  
12       subsection (c).

13       “(2) CERTAIN COVERED EGUS.—

14          “(A) IN GENERAL.—A covered EGU that  
15       is initially permitted during the period begin-  
16       ning on January 1, 2009, and ending on De-  
17       cember 31, 2019, shall achieve, by the applica-  
18       ble compliance date established under this para-  
19       graph, an emission limitation that represents a  
20       50-percent reduction in emissions of the carbon  
21       dioxide produced by the covered EGU, as meas-  
22       ured on an annual basis.

23          “(B) DATE OF REQUIREMENT.—Compli-  
24       ance with the requirement described in subpara-  
25       graph (A) shall be required by the earlier of—

1 “(i) the date that is 4 years after the  
2 date on which the Administrator has pub-  
3 lished pursuant to subsection (d) a report  
4 that there are in commercial operation in  
5 the United States electric generating units  
6 or other stationary sources equipped with  
7 carbon capture and permanent sequestra-  
8 tion technology that, in the aggregate—

9 “(I) have a total of at least 10  
10 gigawatts of capacity (including at  
11 least 3 gigawatts which shall be  
12 through electric generating units, and  
13 up to 1 gigawatt which may be  
14 through industrial applications (for  
15 which capture and permanent seques-  
16 tration of 3,000,000 tons of carbon  
17 dioxide per year on an aggregate  
18 annualized basis shall be considered  
19 equivalent to 1 gigawatt)), measured  
20 as the sum of—

21 “(aa) the treated generating  
22 capacity (as defined in section  
23 780(a)) for electric generating  
24 unit retrofits and industrial  
25 sources; and

1 “(bb) the nameplate capac-  
2 ity for new electric generating  
3 units;

4 “(II) include at least 3 electric  
5 generating units, each with a name-  
6 plate generating capacity of 250  
7 megawatts or greater, that capture,  
8 inject, and sequester carbon dioxide  
9 into geological formations other than  
10 oil and gas fields; and

11 “(III) are capturing and seques-  
12 tering at least 12,000,000 tons of car-  
13 bon dioxide per year, calculated on an  
14 aggregate annualized basis; or

15 “(ii) January 1, 2020.

16 “(3) PROGRESS REVIEW.—

17 “(A) IN GENERAL.—Not later than June  
18 30, 2017, the Administrator and the Secretary  
19 of Energy shall jointly prepare and submit to  
20 Congress a review of the status of commercial  
21 deployment of carbon capture and permanent  
22 sequestration technology that specifies—

23 “(i) the number of and size of units in  
24 the United States that are capturing and  
25 permanently sequestering carbon dioxide;

1 “(ii) the tons of carbon dioxide being  
2 captured and permanently sequestered by  
3 those units; and

4 “(iii) the geographical and techno-  
5 logical diversity represented by those units  
6 and that technology.

7 “(B) FINDING.—To accompany the report  
8 under subparagraph (A), the Administrator and  
9 the Secretary of Energy shall make a finding  
10 that, in light of the status of commercial de-  
11 ployment of carbon capture and permanent se-  
12 questration technology, the date set forth in  
13 paragraph (2)(B)(ii) should—

14 “(i) remain in effect; or

15 “(ii) in accordance with subparagraph  
16 (C), be extended to January 1, 2022.

17 “(C) CONDITIONS FOR EXTENSION.—The  
18 date set forth in paragraph (2)(B)(ii) shall be  
19 extended to January 1, 2022, only if—

20 “(i) the Administrator and the Sec-  
21 retary jointly find, pursuant to subpara-  
22 graph (B), that the extension should occur;  
23 and

24 “(ii) Congress acts to approve the  
25 finding by not later than January 1, 2018.

1 “(4) UNIT-SPECIFIC EXTENSION.—

2 “(A) IN GENERAL.—If the deadline for  
3 compliance with paragraph (2) is the date spec-  
4 ified in paragraph (2)(B), the Administrator  
5 may extend the deadline for compliance by a  
6 covered EGU by not more than 18 months if  
7 the Administrator makes a determination,  
8 based on a showing by the owner or operator of  
9 the covered EGU, that it will be technically in-  
10 feasible for the covered EGU to meet the stand-  
11 ard by that date.

12 “(B) REQUEST.—An owner or operator of  
13 a covered EGU shall submit to the Adminis-  
14 trator a request for an extension under sub-  
15 paragraph (A) by not later than June 1, 2018.

16 “(C) PUBLIC COMMENT.—The Adminis-  
17 trator shall provide for public notice and com-  
18 ment on each extension request submitted  
19 under subparagraph (B).

20 “(c) REVIEW AND REVISION OF STANDARDS.—Not  
21 later than the date specified in subsection (b)(2)(B), and  
22 not less frequently than once every 5 years thereafter, the  
23 Administrator shall—

24 “(1) review the standards for new covered  
25 EGUs under this section; and

1           “(2) by rule, reduce the maximum carbon diox-  
2       ide emission rate for new covered EGUs to a rate  
3       that reflects the degree of emission limitation achiev-  
4       able through the application of the best system of  
5       emission reduction that (taking into account the cost  
6       of achieving the reduction and any nonair quality  
7       health and environmental impact and energy re-  
8       quirements) the Administrator determines has been  
9       adequately demonstrated.

10       “(d) REPORTS.—Not later than the date that is 18  
11   months after the date of enactment of this title, and semi-  
12   annually thereafter, the Administrator shall publish a re-  
13   port on the nameplate capacity of units (determined pur-  
14   suant to subsection (b)(2)(A)) in commercial operation in  
15   the United States equipped with carbon capture and stor-  
16   age technology, including the information described in  
17   subsection (b)(2)(A) (including the cumulative generating  
18   capacity to which carbon capture and storage retrofit  
19   projects meeting the criteria described in section  
20   780(c)(1)(A) has been applied and the quantities of car-  
21   bon dioxide captured and sequestered by those projects).

22       “(e) REGULATIONS.—Not later than 2 years after the  
23   date of enactment of this title, the Administrator shall  
24   promulgate regulations to carry out the requirements of  
25   this section.”.

1 **SEC. 125. CARBON CAPTURE AND SEQUESTRATION DEM-**  
2 **ONSTRATION AND EARLY DEPLOYMENT PRO-**  
3 **GRAM.**

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

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

7 (2) DISTRIBUTION UTILITY.—The term “dis-  
8 tribution utility” means an entity that distributes  
9 electricity directly to retail consumers under a legal,  
10 regulatory, or contractual obligation to do so.

11 (3) ELECTRIC UTILITY.—The term “electric  
12 utility” has the meaning provided by section 3 of the  
13 Federal Power Act (16 U.S.C. 796).

14 (4) FOSSIL FUEL-BASED ELECTRICITY.—The  
15 term “fossil fuel-based electricity” means electricity  
16 that is produced from the combustion of fossil fuels.

17 (5) FOSSIL FUEL.—The term “fossil fuel”  
18 means coal, petroleum, natural gas or any derivative  
19 of coal, petroleum, or natural gas.

20 (6) CORPORATION.—The term “Corporation”  
21 means the Carbon Storage Research Corporation es-  
22 tablished in accordance with this section.

23 (7) QUALIFIED INDUSTRY ORGANIZATION.—The  
24 term “qualified industry organization” means the  
25 Edison Electric Institute, the American Public  
26 Power Association, the National Rural Electric Co-

1       operative Association, a successor organization of  
2       such organizations, or a group of owners or opera-  
3       tors of distribution utilities delivering fossil fuel-  
4       based electricity who collectively represent at least  
5       20 percent of the volume of fossil fuel-based elec-  
6       tricity delivered by distribution utilities to consumers  
7       in the United States.

8               (8) RETAIL CONSUMER.—The term “retail con-  
9       sumer” means an end-user of electricity.

10       (b) CARBON STORAGE RESEARCH CORPORATION.—

11               (1) ESTABLISHMENT.—

12               (A) REFERENDUM.—Qualified industry or-  
13       ganizations may conduct, at their own expense,  
14       a referendum among the owners or operators of  
15       distribution utilities delivering fossil fuel-based  
16       electricity for the creation of a Carbon Storage  
17       Research Corporation. Such referendum shall  
18       be conducted by an independent auditing firm  
19       agreed to by the qualified industry organiza-  
20       tions. Voting rights in such referendum shall be  
21       based on the quantity of fossil fuel-based elec-  
22       tricity delivered to consumers in the previous  
23       calendar year or other representative period as  
24       determined by the Secretary pursuant to sub-  
25       section (f). Upon approval of those persons rep-

1           resenting two-thirds of the total quantity of fos-  
2           sil fuel-based electricity delivered to retail con-  
3           sumers, the Corporation shall be established un-  
4           less opposed by the State regulatory authorities  
5           pursuant to subparagraph (B). All distribution  
6           utilities voting in the referendum shall certify to  
7           the independent auditing firm the quantity of  
8           fossil fuel-based electricity represented by their  
9           vote.

10           (B) STATE REGULATORY AUTHORITIES.—

11           Upon its own motion or the petition of a quali-  
12           fied industry organization, each State regu-  
13           latory authority shall consider its support or op-  
14           position to the creation of the Corporation  
15           under subparagraph (A). State regulatory au-  
16           thorities may notify the independent auditing  
17           firm referred to in subparagraph (A) of their  
18           views on the creation of the Corporation within  
19           180 days after the date of enactment of this  
20           Act. If 40 percent or more of the State regu-  
21           latory authorities submit to the independent au-  
22           diting firm written notices of opposition, the  
23           Corporation shall not be established notwith-  
24           standing the approval of the qualified industry  
25           organizations as provided in subparagraph (A).

1           (2) TERMINATION.—The Corporation shall be  
2           authorized to collect assessments and conduct oper-  
3           ations pursuant to this section for a 10-year period  
4           from the date 6 months after the date of enactment  
5           of this Act. After such 10-year period, the Corpora-  
6           tion is no longer authorized to collect assessments  
7           and shall be dissolved on the date 15 years after  
8           such date of enactment, unless the period is ex-  
9           tended by an Act of Congress.

10          (3) GOVERNANCE.—The Corporation shall oper-  
11          ate as a division or affiliate of the Electric Power  
12          Research Institute (referred to in this section as  
13          “EPRI”) and be managed by a Board of not more  
14          than 15 voting members responsible for its oper-  
15          ations, including compliance with this section. EPRI,  
16          in consultation with the Edison Electric Institute,  
17          the American Public Power Association and the Na-  
18          tional Rural Electric Cooperative Association shall  
19          appoint the Board members under clauses (i), (ii),  
20          and (iii) of subparagraph (A) from among can-  
21          didates recommended by those organizations. At  
22          least a majority of the Board members appointed by  
23          EPRI shall be representatives of distribution utilities  
24          subject to assessments under subsection (d).

1 (A) MEMBERS.—The Board shall include  
2 at least 1 representative of each of the fol-  
3 lowing:

4 (i) Investor-owned utilities.

5 (ii) Utilities owned by a State agency,  
6 a municipality, and an Indian tribe.

7 (iii) Rural electric cooperatives.

8 (iv) Fossil fuel producers.

9 (v) Nonprofit environmental organiza-  
10 tions.

11 (vi) Independent generators or whole-  
12 sale power providers.

13 (vii) Consumer groups.

14 (viii) The National Energy Tech-  
15 nology laboratory of the Department of  
16 Energy.

17 (ix) The Environmental Protection  
18 Agency.

19 (B) NONVOTING MEMBERS.—The Board  
20 shall also include as additional nonvoting Mem-  
21 bers the Secretary of Energy or his designee  
22 and 2 representatives of State regulatory au-  
23 thorities as defined in section 3 of the Public  
24 Utility Regulatory Policies Act of 1978 (16  
25 U.S.C. 2602), each designated by the National

1           Association of State Regulatory Utility Com-  
2           missioners from States that are not within the  
3           same transmission interconnection.

4           (4) COMPENSATION.—Corporation Board mem-  
5           bers shall receive no compensation for their services,  
6           nor shall Corporation Board members be reimbursed  
7           for expenses relating to their service.

8           (5) TERMS.—Corporation Board members shall  
9           serve terms of 4 years and may serve not more than  
10          2 full consecutive terms. Members filling unexpired  
11          terms may serve not more than a total of 8 consecu-  
12          tive years. Former members of the Corporation  
13          Board may be reappointed to the Corporation Board  
14          if they have not been members for a period of 2  
15          years. Initial appointments to the Corporation Board  
16          shall be for terms of 1, 2, 3, and 4 years, staggered  
17          to provide for the selection of 3 members each year.

18          (6) STATUS OF CORPORATION.—The Corpora-  
19          tion shall not be considered to be an agency, depart-  
20          ment, or instrumentality of the United States, and  
21          no officer or director or employee of the Corporation  
22          shall be considered to be an officer or employee of  
23          the United States Government, for purposes of title  
24          5 or title 31 of the United States Code, or for any  
25          other purpose, and no funds of the Corporation shall

1 be treated as public money for purposes of chapter  
2 33 of title 31, United States Code, or for any other  
3 purpose.

4 (c) FUNCTIONS AND ADMINISTRATION OF THE COR-  
5 PORATION.—

6 (1) IN GENERAL.—The Corporation shall estab-  
7 lish and administer a program to accelerate the com-  
8 mercial availability of carbon dioxide capture and  
9 storage technologies and methods, including tech-  
10 nologies which capture and store, or capture and  
11 convert, carbon dioxide. Under such program com-  
12 petitively awarded grants, contracts, and financial  
13 assistance shall be provided and entered into with el-  
14 igible entities. Except as provided in paragraph (8),  
15 the Corporation shall use all funds derived from as-  
16 sessments under subsection (d) to issue grants and  
17 contracts to eligible entities.

18 (2) PURPOSE.—The purposes of the grants,  
19 contracts, and assistance under this subsection shall  
20 be to support commercial-scale demonstrations of  
21 carbon capture or storage technology projects capa-  
22 ble of advancing the technologies to commercial  
23 readiness. Such projects should encompass a range  
24 of different coal and other fossil fuel varieties, be  
25 geographically diverse, involve diverse storage media,

1 and employ capture or storage, or capture and con-  
2 version, technologies potentially suitable either for  
3 new or for retrofit applications. The Corporation  
4 shall seek, to the extent feasible, to support at least  
5 5 commercial-scale demonstration projects inte-  
6 grating carbon capture and sequestration or conver-  
7 sion technologies.

8 (3) ELIGIBLE ENTITIES.—Entities eligible for  
9 grants, contracts or assistance under this subsection  
10 may include distribution utilities, electric utilities  
11 and other private entities, academic institutions, na-  
12 tional laboratories, Federal research agencies, State  
13 and tribal research agencies, nonprofit organizations,  
14 or consortiums of 2 or more entities. Pilot-scale and  
15 similar small-scale projects are not eligible for sup-  
16 port by the Corporation. Owners or developers of  
17 projects supported by the Corporation shall, where  
18 appropriate, share in the costs of such projects.  
19 Projects supported by the Corporation shall meet the  
20 eligibility criteria of section 780(b) of the Clean Air  
21 Act.

22 (4) GRANTS FOR EARLY MOVERS.—Fifty per-  
23 cent of the funds raised under this section shall be  
24 provided in the form of grants to electric utilities  
25 that had, prior to the award of any grant under this

1 section, committed resources to deploy a large scale  
2 electricity generation unit with integrated carbon  
3 capture and sequestration or conversion applied to a  
4 substantial portion of the unit's carbon dioxide emis-  
5 sions. Grant funds shall be provided to defray costs  
6 incurred by such electricity utilities for at least 5  
7 such electricity generation units.

8 (5) ADMINISTRATION.—The members of the  
9 Board of Directors of the Corporation shall elect a  
10 Chairman and other officers as necessary, may es-  
11 tablish committees and subcommittees of the Cor-  
12 poration, and shall adopt rules and bylaws for the  
13 conduct of business and the implementation of this  
14 section. The Board shall appoint an Executive Di-  
15 rector and professional support staff who may be  
16 employees of the Electric Power Research Institute  
17 (EPRI). After consultation with the Technical Advi-  
18 sory Committee established under subsection (j), the  
19 Secretary, and the Director of the National Energy  
20 Technology Laboratory to obtain advice and rec-  
21 ommendations on plans, programs, and project selec-  
22 tion criteria, the Board shall establish priorities for  
23 grants, contracts, and assistance; publish requests  
24 for proposals for grants, contracts, and assistance;  
25 and award grants, contracts, and assistance competi-

1       tively, on the basis of merit, after the establishment  
2       of procedures that provide for scientific peer review  
3       by the Technical Advisory Committee. The Board  
4       shall give preference to applications that reflect the  
5       best overall value and prospect for achieving the  
6       purposes of the section, such as those which dem-  
7       onstrate an integrated approach for capture and  
8       storage or capture and conversion technologies. The  
9       Board members shall not participate in making  
10      grants or awards to entities with whom they are af-  
11      filiated.

12           (6) USES OF GRANTS, CONTRACTS, AND ASSIST-  
13      ANCE.—A grant, contract, or other assistance pro-  
14      vided under this subsection may be used to purchase  
15      carbon dioxide when needed to conduct tests of car-  
16      bon dioxide storage sites, in the case of established  
17      projects that are storing carbon dioxide emissions, or  
18      for other purposes consistent with the purposes of  
19      this section. The Corporation shall make publicly  
20      available at no cost information learned as a result  
21      of projects which it supports financially.

22           (7) ADMINISTRATIVE EXPENSES.—Up to 5 per-  
23      cent of the funds collected in any fiscal year under  
24      subsection (d) may be used for the administrative  
25      expenses of operating the Corporation (not including

1 costs incurred in the determination and collection of  
2 the assessments pursuant to subsection (d)).

3 (8) PROGRAMS AND BUDGET.—Before August 1  
4 each year, the Corporation, after consulting with the  
5 Technical Advisory Committee and the Secretary  
6 and the Director of the Department's National En-  
7 ergy Technology Laboratory and other interested  
8 parties to obtain advice and recommendations, shall  
9 publish for public review and comment its proposed  
10 plans, programs, project selection criteria, and  
11 projects to be funded by the Corporation for the  
12 next calendar year. The Corporation shall also pub-  
13 lish for public review and comment a budget plan for  
14 the next calendar year, including the probable costs  
15 of all programs, projects, and contracts and a rec-  
16 ommended rate of assessment sufficient to cover  
17 such costs. The Secretary may recommend programs  
18 and activities the Secretary considers appropriate.  
19 The Corporation shall include in the first publication  
20 it issues under this paragraph a strategic plan or  
21 roadmap for the achievement of the purposes of the  
22 Corporation, as set forth in paragraph (2).

23 (9) RECORDS; AUDITS.—The Corporation shall  
24 keep minutes, books, and records that clearly reflect  
25 all of the acts and transactions of the Corporation

1       and make public such information. The books of the  
2       Corporation shall be audited by a certified public ac-  
3       countant at least once each fiscal year and at such  
4       other times as the Corporation may designate. Cop-  
5       ies of each audit shall be provided to the Congress,  
6       all Corporation board members, all qualified indus-  
7       try organizations, each State regulatory authority  
8       and, upon request, to other members of the industry.  
9       If the audit determines that the Corporation's prac-  
10      tices fail to meet generally accepted accounting prin-  
11      ciples the assessment collection authority of the Cor-  
12      poration under subsection (d) shall be suspended  
13      until a certified public accountant renders a subse-  
14      quent opinion that the failure has been corrected.  
15      The Corporation shall make its books and records  
16      available for review by the Secretary or the Comp-  
17      troller General of the United States.

18           (10)   PUBLIC   ACCESS.—The   Corporation  
19      Board's meetings shall be open to the public and  
20      shall occur after at least 30 days advance public no-  
21      tice. Meetings of the Board of Directors may be  
22      closed to the public where the agenda of such meet-  
23      ings includes only confidential matters pertaining to  
24      project selection, the award of grants or contracts,  
25      personnel matters, or the receipt of legal advice. The

1 minutes of all meetings of the Corporation shall be  
2 made available to and readily accessible by the pub-  
3 lic.

4 (11) ANNUAL REPORT.—Each year the Cor-  
5 poration shall prepare and make publicly available a  
6 report which includes an identification and descrip-  
7 tion of all programs and projects undertaken by the  
8 Corporation during the previous year. The report  
9 shall also detail the allocation or planned allocation  
10 of Corporation resources for each such program and  
11 project. The Corporation shall provide its annual re-  
12 port to the Congress, the Secretary, each State regu-  
13 latory authority, and upon request to the public. The  
14 Secretary shall, not less than 60 days after receiving  
15 such report, provide to the President and Congress  
16 a report assessing the progress of the Corporation in  
17 meeting the objectives of this section.

18 (d) ASSESSMENTS.—

19 (1) AMOUNT.—(A) In all calendar years fol-  
20 lowing its establishment, the Corporation shall col-  
21 lect an assessment on distribution utilities for all  
22 fossil fuel-based electricity delivered directly to retail  
23 consumers (as determined under subsection (f)). The  
24 assessments shall reflect the relative carbon dioxide  
25 emission rates of different fossil fuel-based elec-

1        tricity, and initially shall be not less than the fol-  
 2        lowing amounts for coal, natural gas, and oil:

<b>Fuel type</b>	<b>Rate of assessment per kilowatt hour</b>
Coal .....	\$0.00043
Natural Gas .....	\$0.00022
Oil .....	\$0.00032.

3            (B) The Corporation is authorized to adjust the  
 4        assessments on fossil fuel-based electricity to reflect  
 5        changes in the expected quantities of such electricity  
 6        from different fuel types, such that the assessments  
 7        generate not less than \$1.0 billion and not more  
 8        than \$1.1 billion annually. The Corporation is au-  
 9        thorized to supplement assessments through addi-  
 10       tional financial commitments.

11           (2) INVESTMENT OF FUNDS.—Pending dis-  
 12        bursement pursuant to a program, plan, or project,  
 13        the Corporation may invest funds collected through  
 14        assessments under this subsection, and any other  
 15        funds received by the Corporation, only in obliga-  
 16        tions of the United States or any agency thereof, in  
 17        general obligations of any State or any political sub-  
 18        division thereof, in any interest-bearing account or  
 19        certificate of deposit of a bank that is a member of  
 20        the Federal Reserve System, or in obligations fully  
 21        guaranteed as to principal and interest by the  
 22        United States.

1           (3) REVERSION OF UNUSED FUNDS.—If the  
2       Corporation does not disburse, dedicate or assign 75  
3       percent or more of the available proceeds of the as-  
4       sessed fees in any calendar year 7 or more years fol-  
5       lowing its establishment, due to an absence of quali-  
6       fied projects or similar circumstances, it shall reim-  
7       burse the remaining undedicated or unassigned bal-  
8       ance of such fees, less administrative and other ex-  
9       penses authorized by this section, to the distribution  
10      utilities upon which such fees were assessed, in pro-  
11      portion to their collected assessments.

12      (e) ERCOT.—

13           (1) ASSESSMENT, COLLECTION, AND REMIT-  
14      TANCE.—(A) Notwithstanding any other provision of  
15      this section, within ERCOT, the assessment pro-  
16      vided for in subsection (d) shall be—

17           (i) levied directly on qualified scheduling  
18      entities, or their successor entities;

19           (ii) charged consistent with other charges  
20      imposed on qualified scheduling entities as a fee  
21      on energy used by the load-serving entities; and

22           (iii) collected and remitted by ERCOT to  
23      the Corporation in the amounts and in the  
24      same manner as set forth in subsection (d).

1 (B) The assessment amounts referred to in sub-  
2 paragraph (A) shall be—

3 (i) determined by the amount and types of  
4 fossil fuel-based electricity delivered directly to  
5 all retail customers in the prior calendar year  
6 beginning with the year ending immediately  
7 prior to the period described in subsection  
8 (b)(2); and

9 (ii) take into account the number of renew-  
10 able energy credits retired by the load-serving  
11 entities represented by a qualified scheduling  
12 entity within the prior calendar year.

13 (2) ADMINISTRATION EXPENSES.—Up to 1 per-  
14 cent of the funds collected in any fiscal year by  
15 ERCOT under the provisions of this subsection may  
16 be used for the administrative expenses incurred in  
17 the determination, collection and remittance of the  
18 assessments to the Corporation.

19 (3) AUDIT.—ERCOT shall provide a copy of its  
20 annual audit pertaining to the administration of the  
21 provisions of this subsection to the Corporation.

22 (4) DEFINITIONS.—For the purposes of this  
23 subsection:

24 (A) The term “ERCOT” means the Elec-  
25 tric Reliability Council of Texas.

1           (B) The term “load-serving entities” has  
2           the meaning adopted by ERCOT Protocols and  
3           in effect on the date of enactment of this Act.

4           (C) The term “qualified scheduling enti-  
5           ties” has the meaning adopted by ERCOT Pro-  
6           tocols and in effect on the date of enactment of  
7           this Act.

8           (D) The term “renewable energy credit”  
9           has the meaning as promulgated and adopted  
10          by the Public Utility Commission of Texas pur-  
11          suant to section 39.904(b) of the Public Utility  
12          Regulatory Act of 1999, and in effect on the  
13          date of enactment of this Act.

14          (f) DETERMINATION OF FOSSIL FUEL-BASED ELEC-  
15          TRICITY DELIVERIES.—

16           (1) FINDINGS.—The Congress finds that:

17           (A) The assessments under subsection (d)  
18           are to be collected based on the amount of fossil  
19           fuel-based electricity delivered by each distribu-  
20           tion utility.

21           (B) Since many distribution utilities pur-  
22           chase all or part of their retail consumer’s elec-  
23           tricity needs from other entities, it may not be  
24           practical to determine the precise fuel mix for

1 the power sold by each individual distribution  
2 utility.

3 (C) It may be necessary to use average  
4 data, often on a regional basis with reference to  
5 Regional Transmission Organization (“RTO”)  
6 or NERC regions, to make the determinations  
7 necessary for making assessments.

8 (2) DOE PROPOSED RULE.—The Secretary,  
9 acting in close consultation with the Energy Infor-  
10 mation Administration, shall issue for notice and  
11 comment a proposed rule to determine the level of  
12 fossil fuel electricity delivered to retail customers by  
13 each distribution utility in the United States during  
14 the most recent calendar year or other period deter-  
15 mined to be most appropriate. Such proposed rule  
16 shall balance the need to be efficient, reasonably pre-  
17 cise, and timely, taking into account the nature and  
18 cost of data currently available and the nature of  
19 markets and regulation in effect in various regions  
20 of the country. Different methodologies may be ap-  
21 plied in different regions if appropriate to obtain the  
22 best balance of such factors.

23 (3) FINAL RULE.—Within 6 months after the  
24 date of enactment of this Act, and after opportunity  
25 for comment, the Secretary shall issue a final rule

1       under this subsection for determining the level and  
2       type of fossil fuel-based electricity delivered to retail  
3       customers by each distribution utility in the United  
4       States during the appropriate period. In issuing  
5       such rule, the Secretary may consider opportunities  
6       and costs to develop new data sources in the future  
7       and issue recommendations for the Energy Informa-  
8       tion Administration or other entities to collect such  
9       data. After notice and opportunity for comment the  
10      Secretary may, by rule, subsequently update and  
11      modify the methodology for making such determina-  
12      tions.

13           (4) ANNUAL DETERMINATIONS.—Pursuant to  
14      the final rule issued under paragraph (3), the Sec-  
15      retary shall make annual determinations of the  
16      amounts and types for each such utility and publish  
17      such determinations in the Federal Register. Such  
18      determinations shall be used to conduct the ref-  
19      erendum under subsection (b) and by the Corpora-  
20      tion in applying any assessment under this sub-  
21      section.

22           (5) REHEARING AND JUDICIAL REVIEW.—The  
23      owner or operator of any distribution utility that be-  
24      lieves that the Secretary has misapplied the method-  
25      ology in the final rule in determining the amount

1       and types of fossil fuel electricity delivered by such  
2       distribution utility may seek rehearing of such deter-  
3       mination within 30 days of publication of the deter-  
4       mination in the Federal Register. The Secretary  
5       shall decide such rehearing petitions within 30 days.  
6       The Secretary's determinations following rehearing  
7       shall be final and subject to judicial review in the  
8       United States Court of Appeals for the District of  
9       Columbia.

10       (g) COMPLIANCE WITH CORPORATION ASSESS-  
11       MENTS.—The Corporation may bring an action in the ap-  
12       propriate court of the United States to compel compliance  
13       with an assessment levied by the Corporation under this  
14       section. A successful action for compliance under this sub-  
15       section may also require payment by the defendant of the  
16       costs incurred by the Corporation in bringing such action.

17       (h) MIDCOURSE REVIEW.—Not later than 5 years  
18       following establishment of the Corporation, the Comp-  
19       troller General of the United States shall prepare an anal-  
20       ysis, and report to Congress, assessing the Corporation's  
21       activities, including project selection and methods of dis-  
22       bursement of assessed fees, impacts on the prospects for  
23       commercialization of carbon capture and storage tech-  
24       nologies, adequacy of funding, and administration of  
25       funds. The report shall also make such recommendations

1 as may be appropriate in each of these areas. The Cor-  
2 poration shall reimburse the Government Accountability  
3 Office for the costs associated with performing this mid-  
4 course review.

5 (i) RECOVERY OF COSTS.—

6 (1) IN GENERAL.—A distribution utility whose  
7 transmission, delivery, or sales of electric energy are  
8 subject to any form of rate regulation shall not be  
9 denied the opportunity to recover the full amount of  
10 the prudently incurred costs associated with com-  
11 plying with this section, consistent with applicable  
12 State or Federal law.

13 (2) RATEPAYER REBATES.—Regulatory authori-  
14 ties that approve cost recovery pursuant to para-  
15 graph (1) may order rebates to ratepayers to the ex-  
16 tent that distribution utilities are reimbursed  
17 undedicated or unassigned balances pursuant to sub-  
18 section (d)(3).

19 (j) TECHNICAL ADVISORY COMMITTEE.—

20 (1) ESTABLISHMENT.—There is established an  
21 advisory committee, to be known as the “Technical  
22 Advisory Committee”.

23 (2) MEMBERSHIP.—The Technical Advisory  
24 Committee shall be comprised of not less than 7  
25 members appointed by the Board from among aca-

1       demic institutions, national laboratories, independent  
2       research institutions, and other qualified institu-  
3       tions. No member of the Committee shall be affili-  
4       ated with EPRI or with any organization having  
5       members serving on the Board. At least one member  
6       of the Committee shall be appointed from among of-  
7       ficers or employees of the Department of Energy  
8       recommended to the Board by the Secretary of En-  
9       ergy.

10           (3) CHAIRPERSON AND VICE CHAIRPERSON.—  
11       The Board shall designate one member of the Tech-  
12       nical Advisory Committee to serve as Chairperson of  
13       the Committee and one to serve as Vice Chairperson  
14       of the Committee.

15           (4) COMPENSATION.—The Board shall provide  
16       compensation to members of the Technical Advisory  
17       Committee for travel and other incidental expenses  
18       and such other compensation as the Board deter-  
19       mines to be necessary.

20           (5) PURPOSE.—The Technical Advisory Com-  
21       mittee shall provide independent assessments and  
22       technical evaluations, as well as make non-binding  
23       recommendations to the Board, concerning Corpora-  
24       tion activities, including but not limited to the fol-  
25       lowing:

1 (A) Reviewing and evaluating the Corpora-  
2 tion's plans and budgets described in subsection  
3 (c)(9), as well as any other appropriate areas,  
4 which could include approaches to prioritizing  
5 technologies, appropriateness of engineering  
6 techniques, monitoring and verification tech-  
7 nologies for storage, geological site selection,  
8 and cost control measures.

9 (B) Making annual non-binding rec-  
10 ommendations to the Board concerning any of  
11 the matters referred to in subparagraph (A), as  
12 well as what types of investments, scientific re-  
13 search, or engineering practices would best fur-  
14 ther the goals of the Corporation.

15 (6) PUBLIC AVAILABILITY.—All reports, evalua-  
16 tions, and other materials of the Technical Advisory  
17 Committee shall be made available to the public by  
18 the Board, without charge, at time of receipt by the  
19 Board.

20 (k) LOBBYING RESTRICTIONS.—No funds collected  
21 by the Corporation shall be used in any manner for influ-  
22 encing legislation or elections, except that the Corporation  
23 may recommend to the Secretary and the Congress  
24 changes in this section or other statutes that would fur-  
25 ther the purposes of this section.

1 (l) DAVIS-BACON COMPLIANCE.—The Corporation  
2 shall ensure that entities receiving grants, contracts, or  
3 other financial support from the Corporation for the  
4 project activities authorized by this section are in compli-  
5 ance with subchapter IV of chapter 31 of title 40, United  
6 States Code (commonly known as the “Davis-Bacon  
7 Act”).

8 **Subtitle C—Nuclear and Advanced**  
9 **Technologies**

10 **SEC. 131. FINDINGS AND POLICY.**

11 (a) FINDINGS.—Congress finds that—

12 (1) in 2008, 104 nuclear power plants produced  
13 19.6 percent of the electricity generated in the  
14 United States, slightly less than the electricity gen-  
15 erated by natural gas;

16 (2) nuclear energy is the largest provider of  
17 clean, low-carbon, electricity, almost 8 times larger  
18 than all renewable power production combined, ex-  
19 cluding hydroelectric power;

20 (3) nuclear energy supplies consistent, base-load  
21 electricity, independent of environmental conditions;

22 (4) by displacing fossil fuels that would other-  
23 wise be used for electricity production, nuclear power  
24 plants virtually eliminate emissions of greenhouse

1 gases and criteria pollutants associated with acid  
2 rain, smog, or ozone;

3 (5) nuclear power generation continues to re-  
4 quire robust efforts to address issues of safety,  
5 waste, and proliferation;

6 (6) even if every nuclear plant is granted a 20-  
7 year extension, all currently operating nuclear plants  
8 will be retired by 2055;

9 (7) long lead times for nuclear power plant con-  
10 struction indicate that action to stimulate the nu-  
11 clear power industry should not be delayed;

12 (8) the high upfront capital costs of nuclear  
13 plant construction remain a substantial obstacle, de-  
14 spite theoretical potential for significant cost reduc-  
15 tion;

16 (9) translating theoretical cost reduction poten-  
17 tial into actual reduced construction costs remains a  
18 significant industry challenge that can be overcome  
19 only through demonstrated performance;

20 (10) as of January 2009, 17 companies and  
21 consortia have submitted applications to the Nuclear  
22 Regulatory Commission for 26 new reactors in the  
23 United States;

24 (11) those proposed reactors will use the latest  
25 in nuclear technology for efficiency and safety, more

1 advanced than the technology of the 1960s and  
2 1970s found in the reactors currently operating in  
3 the United States;

4 (12) increased resources for the Nuclear Regu-  
5 latory Commission and reform of the licensing proc-  
6 ess have improved the safety and timeliness of the  
7 regulatory environment;

8 (13) the United States has not built a new re-  
9 actor since the 1970s and, as a result, will need to  
10 revitalize and retool the institutions and infrastruc-  
11 ture necessary to construct, maintain, and support  
12 new reactors, including improvements in manufac-  
13 turing of nuclear components and training for the  
14 next generation nuclear workforce; and

15 (14) those new reactors will launch a new era  
16 for the nuclear industry, and translate into tens of  
17 thousands of jobs

18 (b) STATEMENT OF POLICY.—It is the policy of the  
19 United States, given the importance of transitioning to a  
20 clean energy, low-carbon economy, to facilitate the contin-  
21 ued development and growth of a safe and clean nuclear  
22 energy industry, through—

23 (1) reductions in financial and technical bar-  
24 riers to construction and operation; and

1           (2) incentives for the development of a well-  
2           trained workforce and the growth of safe domestic  
3           nuclear and nuclear-related industries.

4   **SEC. 132. NUCLEAR WORKER TRAINING.**

5           (a) DEFINITION OF APPLICABLE PERIOD.—In this  
6           section, the term “applicable period” means—

7                 (1) the 5-year period beginning on January 1,  
8                 2012; and

9                 (2) each 5-year period beginning on each Janu-  
10            ary 1 thereafter.

11          (b) USE OF FUNDS.—Of amounts made available to  
12          carry out this section for the calendar years in each appli-  
13          cable period—

14                 (1) the Secretary of Energy shall use such  
15                 amounts for each applicable period as the Secretary  
16                 of Energy determines to be necessary to increase the  
17                 number and amounts of nuclear science talent ex-  
18                 pansion grants and nuclear science competitiveness  
19                 grants provided under section 5004 of the America  
20                 COMPETES Act (42 U.S.C. 16532); and

21                 (2) the Secretary of Labor, in consultation with  
22                 nuclear energy entities and organized labor, shall  
23                 use such amounts for each applicable period as the  
24                 Secretary of Labor determines to be necessary to  
25                 carry out programs expanding workforce training to

1       meet the high demand for workers skilled in nuclear  
2       power plant construction and operation, including  
3       programs for—

4               (A) electrical craft certification;

5               (B) preapprenticeship career technical edu-  
6       cation for industrialized skilled crafts that are  
7       useful in the construction of nuclear power  
8       plants;

9               (C) community college and skill center  
10      training for nuclear power plant technicians;

11              (D) training of construction management  
12      personnel for nuclear power plant construction  
13      projects; and

14              (E) regional grants for integrated nuclear  
15      energy workforce development programs.

16 **SEC. 133. NUCLEAR SAFETY AND WASTE MANAGEMENT**  
17 **PROGRAMS.**

18       (a) NUCLEAR FACILITY LONG-TERM OPERATIONS  
19 RESEARCH AND DEVELOPMENT PROGRAM.—

20              (1) ESTABLISHMENT.—As soon as practicable  
21      after the date of enactment of this Act, the Sec-  
22      retary of Energy (referred to in this section as the  
23      “Secretary”) shall establish a research and develop-  
24      ment program—

1 (A) to address the reliability, availability,  
2 productivity, component aging, safety, and secu-  
3 rity of nuclear power plants;

4 (B) to improve the performance of nuclear  
5 power plants;

6 (C) to sustain the health and safety of em-  
7 ployees of nuclear power plants;

8 (D) to assess the feasibility of nuclear  
9 power plants to continue to provide clean and  
10 economic electricity safely, substantially beyond  
11 the first license extension period of the nuclear  
12 power plants, which will—

13 (i) significantly contribute to the en-  
14 ergy security of the United States; and

15 (ii) help protect the environment of  
16 the United States; and

17 (E) to support significant carbon reduc-  
18 tions, lower overall costs that are required to  
19 reduce carbon emissions, and increase energy  
20 security.

21 (2) CONDUCT OF PROGRAM.—

22 (A) IN GENERAL.—In carrying out the  
23 program established under paragraph (1), the  
24 Secretary shall—

1 (i) build a fundamental scientific basis  
2 to understand, predict, and measure  
3 changes in materials, systems, structures,  
4 equipment, and components as the mate-  
5 rials, systems, structures, equipment, and  
6 components age through continued oper-  
7 ations in long-term service environments;

8 (ii) develop new safety analysis tools  
9 and methods to enhance the performance  
10 and safety of nuclear power plants;

11 (iii) develop advanced online moni-  
12 toring, control, and diagnostics tech-  
13 nologies to prevent equipment failures and  
14 improve the safety of nuclear power plants;

15 (iv) establish a technical basis for ad-  
16 vanced fuel designs (including silicon car-  
17 bide fuel cladding) to increase the safety  
18 margins of nuclear power plants; and

19 (v) examine issues, including—

20 (I) issues relating to material  
21 degradation, plant aging, and tech-  
22 nology upgrades; and

23 (II) any other issue that would  
24 impact decisions to extend the lifespan  
25 of nuclear power plants.

1 (B) TECHNICAL SUPPORT.—In carrying  
2 out the program established under paragraph  
3 (1), the Secretary shall provide to the Chairman  
4 of the Nuclear Regulatory Commission informa-  
5 tion collected under the program—

6 (i) to help ensure informed decisions  
7 regarding the extension of the life of nu-  
8 clear power plants beyond a 60-year life-  
9 span; and

10 (ii) for the licensing and long-term  
11 management, and safe and economical op-  
12 eration, of nuclear power plants.

13 (b) SPENT NUCLEAR WASTE DISPOSAL RESEARCH  
14 AND DEVELOPMENT PROGRAM.—

15 (1) ESTABLISHMENT.—As soon as practicable  
16 after the date of enactment of this Act, the Sec-  
17 retary shall establish a research and development  
18 program to improve the understanding of nuclear  
19 spent fuel management and the entire nuclear fuel  
20 cycle life.

21 (2) CONDUCT OF PROGRAM.—In carrying out  
22 the program established under paragraph (1), the  
23 Secretary shall carry out science-based research and  
24 development activities to pursue dramatic improve-  
25 ments in a range of nuclear spent fuel management

1 options, including short-term and long-term storage  
2 and disposal, and proliferation-resistant nuclear  
3 spent fuel recycling.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated such sums as are nec-  
6 essary to carry out this section.

## 7 **Subtitle D—Water Efficiency**

### 8 **SEC. 141. WATERSENSE.**

9 (a) IN GENERAL.—There is established within the  
10 Environmental Protection Agency a WaterSense program  
11 to identify and promote water-efficient products, build-  
12 ings, landscapes, facilities, processes, and services, so as—

13 (1) to reduce water use;

14 (2) to reduce the strain on water, wastewater,  
15 and stormwater infrastructure;

16 (3) to conserve energy used to pump, heat,  
17 transport, and treat water; and

18 (4) to preserve water resources for future gen-  
19 erations, through voluntary labeling of, or other  
20 forms of communications about, products, buildings,  
21 landscapes, facilities, processes, and services that  
22 meet the highest water efficiency and performance  
23 criteria.

24 (b) DUTIES.—The Administrator shall—

25 (1) establish—

1 (A) a WaterSense label to be used for cer-  
2 tain items; and

3 (B) the procedure by which an item may  
4 be certified to display the WaterSense label;

5 (2) promote WaterSense-labeled products,  
6 buildings, landscapes, facilities, processes, and serv-  
7 ices in the market place as the preferred tech-  
8 nologies and services for—

9 (A) reducing water use; and

10 (B) ensuring product and service perform-  
11 ance;

12 (3) work to enhance public awareness of the  
13 WaterSense label through public outreach, edu-  
14 cation, and other means;

15 (4) preserve the integrity of the WaterSense  
16 label by—

17 (A) establishing and maintaining perform-  
18 ance criteria so that products, buildings, land-  
19 scapes, facilities, processes, and services labeled  
20 with the WaterSense label perform as well or  
21 better than less water-efficient counterparts;

22 (B) overseeing WaterSense certifications  
23 made by third parties;

24 (C) conducting reviews of the use of the  
25 WaterSense label in the marketplace and taking

1           corrective action in any case in which misuse of  
2           the label is identified; and

3           (D) carrying out such other measures as  
4           the Administrator determines to be appropriate;

5           (5) regularly review and, if appropriate, update  
6           WaterSense criteria for categories of products, build-  
7           ings, landscapes, facilities, processes, and services,  
8           at least once every 4 years;

9           (6) to the maximum extent practicable, regu-  
10          larly estimate and make available to the public the  
11          production and relative market shares of, and the  
12          savings of water, energy, and capital costs of water,  
13          wastewater, and stormwater infrastructure attrib-  
14          utable to the use of WaterSense-labeled products,  
15          buildings, landscapes, facilities, processes, and serv-  
16          ices, at least annually;

17          (7) solicit comments from interested parties and  
18          the public prior to establishing or revising a  
19          WaterSense category, specification, installation cri-  
20          terion, or other criterion (or prior to effective dates  
21          for any such category, specification, installation cri-  
22          terion, or other criterion);

23          (8) provide reasonable notice to interested par-  
24          ties and the public of any changes (including effec-  
25          tive dates), on the adoption of a new or revised cat-

1 category, specification, installation criterion, or other  
2 criterion, along with—

3 (A) an explanation of the changes; and

4 (B) as appropriate, responses to comments  
5 submitted by interested parties and the public;

6 (9) provide appropriate lead time (as deter-  
7 mined by the Administrator) prior to the applicable  
8 effective date for a new or significant revision to a  
9 category, specification, installation criterion, or other  
10 criterion, taking into account the timing require-  
11 ments of the manufacturing, marketing, training,  
12 and distribution process for the specific product,  
13 building and landscape, or service category ad-  
14 dressed;

15 (10) identify and, if appropriate, implement  
16 other voluntary approaches in commercial, institu-  
17 tional, residential, industrial, and municipal sectors  
18 to encourage recycling and reuse technologies to im-  
19 prove water efficiency or lower water use; and

20 (11) where appropriate, apply the WaterSense  
21 label to water-using products that are labeled by the  
22 Energy Star program implemented by the Adminis-  
23 trator and the Secretary of Energy.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this sec-  
3 tion—

4 (1) \$7,500,000 for fiscal year 2010;

5 (2) \$10,000,000 for fiscal year 2011;

6 (3) \$20,000,000 for fiscal year 2012;

7 (4) \$50,000,000 for fiscal year 2013; and

8 (5) for each subsequent fiscal year, the applica-  
9 ble amount during the preceding fiscal year, as ad-  
10 justed to reflect changes for the 12-month period  
11 ending the preceding November 30 in the Consumer  
12 Price Index for All Urban Consumers published by  
13 the Bureau of Labor Statistics of the Department of  
14 Labor.

15 **SEC. 142. FEDERAL PROCUREMENT OF WATER-EFFICIENT**  
16 **PRODUCTS.**

17 (a) DEFINITIONS.—In this section:

18 (1) AGENCY.—The term “Agency” has the  
19 meaning given the term in section 7902(a) of title  
20 5, United States Code.

21 (2) FEMP-DESIGNATED PRODUCT.—The term  
22 “FEMP-designated product” means a product that  
23 is designated under the Federal Energy Manage-  
24 ment Program of the Department of Energy as

1       being among the highest 25 percent of equivalent  
2       products for efficiency.

3           (3) PRODUCT, BUILDING, LANDSCAPE, FACIL-  
4       ITY, PROCESS, AND SERVICE.—The terms “product”,  
5       “building”, “landscape”, “facility”, “process”, and  
6       “service” do not include—

7           (A) any water-using product, building,  
8       landscape, facility, process, or service designed  
9       or procured for combat or combat-related mis-  
10      sions; or

11          (B) any product, building, landscape, facil-  
12      ity, process, or service already covered by the  
13      Federal procurement regulations established  
14      under section 553 of the National Energy Con-  
15      servation Policy Act (42 U.S.C. 8259b).

16          (4) WATERSENSE PRODUCT, BUILDING, LAND-  
17      SCAPE, FACILITY, PROCESS, OR SERVICE.—The term  
18      “WaterSense product, building, landscape, facility,  
19      process, or service” means a product, building, land-  
20      scape, facility, process, or service that is labeled for  
21      water efficiency under the WaterSense program.

22          (5) WATERSENSE PROGRAM.—The term  
23      “WaterSense program” means the program estab-  
24      lished by section 141.

1 (b) PROCUREMENT OF WATER EFFICIENT PROD-  
2 UCTS.—

3 (1) REQUIREMENT.—

4 (A) IN GENERAL.—To meet the require-  
5 ments of an agency for a water-using product,  
6 building, landscape, facility, process, or service,  
7 the head of an Agency shall, except as provided  
8 in paragraph (2), procure—

9 (i) a WaterSense product, building,  
10 landscape, facility, process, or service; or

11 (ii) a FEMP-designated product.

12 (B) SENSE OF CONGRESS REGARDING IN-  
13 STALLATION PREFERENCES.—It is the sense of  
14 Congress that a WaterSense irrigation system  
15 should, to the maximum extent practicable, be  
16 installed and audited by a WaterSense-certified  
17 irrigation professional to ensure optimal per-  
18 formance.

19 (2) EXCEPTIONS.—The head of an Agency shall  
20 not be required to procure a WaterSense product,  
21 building, landscape, facility, process, or service or  
22 FEMP-designated product under paragraph (1) if  
23 the head of the Agency finds in writing that—

24 (A) a WaterSense product, building, land-  
25 scape, facility, process, or service or FEMP-des-

1           ignated product is not cost-effective over the life  
2           of the product, building, landscape, facility,  
3           process, or service, taking energy, water, and  
4           wastewater service cost savings into account; or

5           (B) no WaterSense product, building, land-  
6           scape, facility, process, or service or FEMP-des-  
7           ignated product is reasonably available that  
8           meets the functional requirements of the Agen-  
9           cy.

10       (3) PROCUREMENT PLANNING.—

11           (A) IN GENERAL.—The head of an Agency  
12           shall incorporate criteria used for evaluating  
13           WaterSense products, buildings, landscapes, fa-  
14           cilities, processes, and services and FEMP-des-  
15           ignated products into—

16           (i) the specifications for all procure-  
17           ments involving water-using products,  
18           buildings, landscapes, facilities, processes,  
19           and systems, including guide specifications,  
20           project specifications, and construction,  
21           renovation, and services contracts that in-  
22           clude provision of water-using products,  
23           buildings, landscapes, facilities, processes,  
24           and systems; and

1 (ii) the factors for the evaluation of  
2 offers received for the procurement.

3 (B) LISTING OF WATER-EFFICIENT PROD-  
4 UCTS IN FEDERAL CATALOGS.—WaterSense  
5 products, buildings, landscapes, facilities, proc-  
6 esses, and systems and FEMP-designated prod-  
7 ucts shall be clearly identified and prominently  
8 displayed in any inventory or listing of products  
9 by the General Services Administration or the  
10 Defense Logistics Agency.

11 (C) ADDITIONAL MEASURES.—The head of  
12 an Agency shall consider, to the maximum ex-  
13 tent practicable, additional measures for reduc-  
14 ing Agency water use, including water reuse  
15 technologies, leak detection and repair, and use  
16 of waterless products that perform similar func-  
17 tions to existing water-using products.

18 (c) RETROFIT PROGRAMS.—The head of each Agen-  
19 cy, working in coordination with the Administrator and  
20 the heads of such other Agencies as the President may  
21 designate, shall develop standards and implementation  
22 procedures for a building water efficiency retrofit pro-  
23 gram, which shall include the following elements:

24 (1) EVALUATION OF PRODUCTS AND SYS-  
25 TEMS.—Not later than 270 days after the date of

1       enactment of this Act, each Agency shall evaluate  
2       water-consuming products and systems in buildings  
3       operated by such Agency and identify opportunities  
4       for retrofit and replacement of such products and  
5       systems with high-efficiency equipment, such as  
6       zero-water-consumption equipment, high-efficiency  
7       toilets, high-efficiency shower heads, and high-effi-  
8       ciency faucets, and other products that are certified  
9       as Watersense products or FEMP-designated prod-  
10      ucts.

11           (2) RETROFIT PLAN.—Not later than 360 days  
12      after the date of enactment of this Act, each Agency  
13      shall, in coordination with other appropriate Agen-  
14      cies and officials, prepare a water efficiency retrofit  
15      plan that shall, to the maximum extent practicable,  
16      maximize retrofitting of water-consuming products  
17      and systems and replacement with high-efficiency  
18      equipment described in paragraph (1).

19           (d) GUIDELINES.—Not later than 180 days after the  
20      date of enactment of this Act, the Administrator, working  
21      in coordination with the Secretary of Energy and the  
22      heads of such other Agencies as the President may des-  
23      ignate, shall issue guidelines to carry out this section.

1 **SEC. 143. STATE RESIDENTIAL WATER EFFICIENCY AND**  
2 **CONSERVATION INCENTIVES PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) ELIGIBLE ENTITY.—The term “eligible enti-  
5 ty” means a State government, local or county gov-  
6 ernment, tribal government, wastewater or sewerage  
7 utility, municipal water authority, energy utility,  
8 water utility, or nonprofit organization that meets  
9 the requirements of subsection (b).

10 (2) INCENTIVE PROGRAM.—The term “incentive  
11 program” means a program for administering finan-  
12 cial incentives for consumer purchase and installa-  
13 tion of water-efficient products, buildings (including  
14 New Water-Efficient Homes), landscapes, processes,  
15 or services described in subsection (b)(1).

16 (3) RESIDENTIAL WATER-EFFICIENT PRODUCT,  
17 BUILDING, LANDSCAPE, PROCESS, OR SERVICE.—

18 (A) IN GENERAL.—The term “residential  
19 water-efficient product, building, landscape,  
20 process, or service” means a product, building,  
21 landscape, process, or service for a residence or  
22 its landscape that is rated for water efficiency  
23 and performance—

24 (i) by the WaterSense program; or

25 (ii) if a WaterSense specification does  
26 not exist, by the Energy Star program or

1 an incentive program approved by the Ad-  
2 ministrator.

3 (B) INCLUSIONS.—The term “residential  
4 water-efficient product, building, landscape,  
5 process, or service” includes—

6 (i) faucets;

7 (ii) irrigation technologies and serv-  
8 ices;

9 (iii) point-of-use water treatment de-  
10 vices;

11 (iv) reuse and recycling technologies;

12 (v) toilets;

13 (vi) clothes washers;

14 (vii) dishwashers;

15 (viii) showerheads;

16 (ix) xeriscaping and other landscape  
17 conversions that replace irrigated turf; and

18 (x) New Water Efficient Homes cer-  
19 tified by the WaterSense program.

20 (4) WATERSENSE PROGRAM.—The term  
21 “WaterSense program” means the program estab-  
22 lished by section 141.

23 (b) ELIGIBLE ENTITIES.—An entity shall be eligible  
24 to receive an allocation under subsection (c) if the entity—

1           (1) establishes (or has established) an incentive  
2           program to provide financial incentives to residential  
3           consumers for the purchase of residential water-effi-  
4           cient products, buildings, landscapes, processes, or  
5           services;

6           (2) submits an application for the allocation at  
7           such time, in such form, and containing such infor-  
8           mation as the Administrator may require; and

9           (3) provides assurances satisfactory to the Ad-  
10          ministrator that the entity will use the allocation to  
11          supplement, but not supplant, funds made available  
12          to carry out the incentive program.

13          (c) AMOUNT OF ALLOCATIONS.—For each fiscal year,  
14          the Administrator shall determine the amount to allocate  
15          to each eligible entity to carry out subsection (d), taking  
16          into consideration—

17               (1) the population served by the eligible entity  
18               during the most recent calendar year for which data  
19               are available;

20               (2) the targeted population of the incentive pro-  
21               gram of the eligible entity, such as general house-  
22               holds, low-income households, or first-time home-  
23               owners, and the probable effectiveness of the incen-  
24               tive program for that population;

1           (3) for existing programs, the effectiveness of  
2           the program in encouraging the adoption of water-  
3           efficient products, buildings, landscapes, facilities,  
4           processes, and services;

5           (4) any allocation to the eligible entity for a  
6           preceding fiscal year that remains unused; and

7           (5) the per capita water demand of the popu-  
8           lation served by the eligible entity during the most  
9           recent calendar year for which data are available  
10          and the accessibility of water supplies to such entity.

11          (d) USE OF ALLOCATED FUNDS.—Funds allocated to  
12          an eligible entity under subsection (c) may be used to pay  
13          up to 50 percent of the cost of establishing and carrying  
14          out an incentive program.

15          (e) FIXTURE RECYCLING.—Eligible entities are en-  
16          couraged to promote or implement fixture recycling pro-  
17          grams to manage the disposal of older fixtures replaced  
18          due to the incentive program under this section.

19          (f) ISSUANCE OF INCENTIVES.—

20                 (1) IN GENERAL.—Financial incentives may be  
21                 provided to residential consumers that meet the re-  
22                 quirements of the applicable incentive program.

23                 (2) MANNER OF ISSUANCE.—An eligible entity  
24                 may—

1 (A) issue all financial incentives directly to  
2 residential consumers; or

3 (B) with approval of the Administrator,  
4 delegate all or part of financial incentive admin-  
5 istration to other organizations, including local  
6 governments, municipal water authorities, water  
7 utilities, and non-profit organizations.

8 (3) AMOUNT.—The amount of a financial in-  
9 centive shall be determined by the eligible entity,  
10 taking into consideration—

11 (A) the amount of any Federal or State in-  
12 centive available for the purchase of the resi-  
13 dential water-efficient product or service;

14 (B) the amount necessary to change con-  
15 sumer behavior to purchase water-efficient  
16 products and services; and

17 (C) the consumer expenditures for onsite  
18 preparation, assembly, and original installation  
19 of the product.

20 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated to the Administrator to  
22 carry out this section—

23 (1) \$100,000,000 for fiscal year 2010;

24 (2) \$150,000,000 for fiscal year 2011;

25 (3) \$200,000,000 for fiscal year 2012;

- 1 (4) \$150,000,000 for fiscal year 2013;  
2 (5) \$100,000,000 for fiscal year 2014; and  
3 (6) for each subsequent fiscal year, the applica-  
4 ble amount during the preceding fiscal year, as ad-  
5 justed to reflect changes for the 12-month period  
6 ending the preceding November 30 in the Consumer  
7 Price Index for All Urban Consumers published by  
8 the Bureau of Labor Statistics of the Department of  
9 Labor.

## 10 **Subtitle E—Miscellaneous**

### 11 **SEC. 151. OFFICE OF CONSUMER ADVOCACY.**

12 (a) DEFINITIONS.—In this section:

13 (1) ADVISORY COMMITTEE.—The term “Advi-  
14 sory Committee” means the Consumer Advocacy Ad-  
15 visory Committee established under subsection  
16 (c)(1).

17 (2) COMMISSION.—The term “Commission”  
18 means the Federal Energy Regulatory Commission.

19 (3) ENERGY CUSTOMER.—The term “energy  
20 customer” means a residential customer or a small  
21 commercial customer that receives products or serv-  
22 ices from a public utility or natural gas company  
23 under the jurisdiction of the Commission.

24 (4) NATURAL GAS COMPANY.—The term “nat-  
25 ural gas company” has the meaning given the term

1 in section 2 of the Natural Gas Act (15 U.S.C.  
2 717a).

3 (5) OFFICE.—The term “Office” means the Of-  
4 fice of Consumer Advocacy established by subsection  
5 (b)(1).

6 (6) PUBLIC UTILITY.—The term “public util-  
7 ity” has the meaning given the term in section  
8 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

9 (7) SMALL COMMERCIAL CUSTOMER.—The term  
10 “small commercial customer” means a commercial  
11 customer that has a peak demand of not more than  
12 1,000 kilowatts per hour.

13 (b) OFFICE.—

14 (1) ESTABLISHMENT.—There is established an  
15 Office of Consumer Advocacy to serve as an advo-  
16 cate for the public interest.

17 (2) DIRECTOR.—The Office shall be headed by  
18 a Director to be appointed by the President, who is  
19 admitted to the Federal Bar, with experience in pub-  
20 lic utility proceedings, and by and with the advice  
21 and consent of the Senate.

22 (3) DUTIES.—The Office may—

23 (A) represent, and appeal on behalf of, en-  
24 ergy customers on matters concerning rates or  
25 service of public utilities and natural gas com-

1           panies under the jurisdiction of the Commis-  
2           sion—

3                       (i) at hearings of the Commission;

4                       (ii) in judicial proceedings in the  
5           courts of the United States; and

6                       (iii) at hearings or proceedings of  
7           other Federal regulatory agencies and com-  
8           missions;

9           (B) monitor and review energy customer  
10          complaints and grievances on matters con-  
11          cerning rates or service of public utilities and  
12          natural gas companies under the jurisdiction of  
13          the Commission;

14          (C) investigate independently, or within the  
15          context of formal proceedings, the services pro-  
16          vided by, the rates charged by, and the valu-  
17          ation of the properties of, public utilities and  
18          natural gas companies under the jurisdiction of  
19          the Commission;

20          (D) develop means, such as public dissemi-  
21          nation of information, consultative services, and  
22          technical assistance, to ensure, to the maximum  
23          extent practicable, that the interests of energy  
24          consumers are adequately represented in the

1 course of any hearing or proceeding described  
2 in subparagraph (A);

3 (E) collect data concerning rates or service  
4 of public utilities and natural gas companies  
5 under the jurisdiction of the Commission; and

6 (F) prepare and issue reports and rec-  
7 ommendations.

8 (4) COMPENSATION AND POWERS.—The Direc-  
9 tor may—

10 (A) employ and fix the compensation of  
11 such staff personnel as is deemed necessary;  
12 and

13 (B) procure temporary and intermittent  
14 services as needed.

15 (5) ACCESS TO INFORMATION.—Each depart-  
16 ment, agency, and instrumentality of the Federal  
17 Government is authorized and directed to furnish to  
18 the Director such reports and other information as  
19 he deems necessary to carry out his functions under  
20 this section.

21 (c) CONSUMER ADVOCACY ADVISORY COMMITTEE.—

22 (1) ESTABLISHMENT.—The Director shall es-  
23 tablish an advisory committee, to be known as Con-  
24 sumer Advocacy Advisory Committee, to review

1 rates, services, and disputes and to make rec-  
2 ommendations to the Director.

3 (2) COMPOSITION.—The Director shall appoint  
4 5 members to the Advisory Committee including—

5 (A) 2 individuals representing State Utility  
6 Consumer Advocates; and

7 (B) 1 individual, from a nongovernmental  
8 organization, representing consumers.

9 (3) MEETINGS.—The Advisory Committee shall  
10 meet at such frequency as may be required to carry  
11 out its duties.

12 (4) REPORTS.—The Director shall provide for  
13 publication of recommendations of the Advisory  
14 Committee on the public website established for the  
15 Office.

16 (5) DURATION.—Notwithstanding any other  
17 provision of law, the Advisory Committee shall con-  
18 tinue in operation during the period in which the Of-  
19 fice exists.

20 (6) APPLICATION OF FACA.—Except as other-  
21 wise specifically provided, the Advisory Committee  
22 shall be subject to the Federal Advisory Committee  
23 Act.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized such sums as necessary to carry out this  
3 section.

4 (e) SAVINGS CLAUSE.—Nothing in this section af-  
5 fects the rights or obligations of State Utility Consumer  
6 Advocates.

7 **SEC. 152. CLEAN TECHNOLOGY BUSINESS COMPETITION**  
8 **GRANT PROGRAM.**

9 (a) IN GENERAL.—The Administrator may provide  
10 grants to organizations to conduct business competitions  
11 that provide incentives, training, and mentorship to entre-  
12 preneurs and early stage start-up companies throughout  
13 the United States to meet high-priority economic, environ-  
14 mental, and energy goals in areas including air quality,  
15 energy efficiency and renewable energy, transportation,  
16 water quality and conservation, green buildings, and waste  
17 management.

18 (b) PURPOSES.—

19 (1) IN GENERAL.—The competitions described  
20 in subsection (a) shall have the purposes of—

21 (A) accelerating the development and de-  
22 ployment of clean technology businesses and  
23 green jobs;

24 (B) stimulating green economic develop-  
25 ment;

1 (C) providing business training and men-  
2 toring to early stage clean technology compa-  
3 nies; and

4 (D) strengthening the competitiveness of  
5 United States clean technology industry in  
6 world trade markets.

7 (2) PRIORITY.—Priority shall be given to busi-  
8 ness competitions that—

9 (A) are led by the private sector;

10 (B) encourage regional and interregional  
11 cooperation; and

12 (C) can demonstrate market-driven prac-  
13 tices and the creation of cost-effective green  
14 jobs through an annual publication of competi-  
15 tion activities and directory of companies.

16 (c) ELIGIBILITY.—

17 (1) IN GENERAL.—To be eligible for a grant  
18 under this section, an organization shall be any  
19 sponsored entity of an organization described in sub-  
20 paragraph (A) that is operated as a nonprofit entity.

21 (2) PRIORITY.—In making grants under this  
22 section, the Administrator shall give priority to orga-  
23 nizations that can demonstrate broad funding sup-  
24 port from private and other non-Federal funding  
25 sources to leverage Federal investment.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$20,000,000.

4 **SEC. 153. PRODUCT CARBON DISCLOSURE PROGRAM.**

5 (a) EPA STUDY.—The Administrator shall conduct  
6 a study to determine the feasibility of establishing a na-  
7 tional program for measuring, reporting, publicly dis-  
8 closing, and labeling products or materials sold in the  
9 United States for their carbon content, and shall, not later  
10 than 18 months after the date of enactment of this Act,  
11 transmit a report to Congress which shall include the fol-  
12 lowing:

13 (1) A determination of whether a national prod-  
14 uct carbon disclosure program and labeling program  
15 would be effective in achieving the intended goals of  
16 achieving greenhouse gas reductions and an exam-  
17 ination of existing programs globally and their  
18 strengths and weaknesses.

19 (2) Criteria for identifying and prioritizing sec-  
20 tors and products and processes that should be cov-  
21 ered in such program or programs.

22 (3) An identification of products, processes, or  
23 sectors whose inclusion could have a substantial car-  
24 bon impact (prioritizing industrial products such as  
25 iron and steel, aluminum, cement, chemicals, and

1 paper products, and also including food, beverage,  
2 hygiene, cleaning, household cleaners, construction,  
3 metals, clothing, semiconductor, and consumer elec-  
4 tronics).

5 (4) Suggested methodology and protocols for  
6 measuring the carbon content of the products across  
7 the entire carbon lifecycle of such products for use  
8 in a carbon disclosure program and labeling pro-  
9 gram.

10 (5) A review of existing greenhouse gas product  
11 accounting standards, methodologies, and practices  
12 including the Greenhouse Gas Protocol, ISO 14040/  
13 44, ISO 14067, and Publically Available Specifica-  
14 tion 2050, and including a review of the strengths  
15 and weaknesses of each.

16 (6) A survey of secondary databases including  
17 the Manufacturing Energy Consumption Survey, an  
18 evaluation of the quality of data for use in a product  
19 carbon disclosure program and product carbon label-  
20 ing program, an identification of gaps in the data  
21 relative to the potential purposes of a national prod-  
22 uct carbon disclosure program and product carbon  
23 labeling program, and development of recommenda-  
24 tions for addressing these data gaps.

1           (7) An assessment of the utility of comparing  
2           products and the appropriateness of product carbon  
3           standards.

4           (8) An evaluation of the information needed on  
5           a label for clear and accurate communication, in-  
6           cluding what pieces of quantitative and qualitative  
7           information need to be disclosed.

8           (9) An evaluation of the appropriate boundaries  
9           of the carbon lifecycle analysis for different sectors  
10          and products.

11          (10) An analysis of whether default values  
12          should be developed for products whose producer  
13          does not participate in the program or does not have  
14          data to support a disclosure or label and a deter-  
15          mination of the best ways to develop such default  
16          values.

17          (11) A recommendation of certification and  
18          verification options necessary to assure the quality  
19          of the information and avoid greenwashing or the  
20          use of insubstantial or meaningless environmental  
21          claims to promote a product.

22          (12) An assessment of options for educating  
23          consumers about product carbon content and the  
24          product carbon disclosure program and product car-  
25          bon labeling program.

1           (13) An analysis of the costs and timelines as-  
2           sociated with establishing a national product carbon  
3           disclosure program and product carbon labeling pro-  
4           gram, including options for a phased approach.  
5           Costs should include those for businesses associated  
6           with the measurement of carbon footprints and  
7           those associated with creating a product carbon label  
8           and managing and operating a product carbon label-  
9           ing program, and options for minimizing these costs.

10          (14) An evaluation of incentives (such as finan-  
11          cial incentives, brand reputation, and brand loyalty)  
12          to determine whether reductions in emissions can be  
13          accelerated through encouraging more efficient man-  
14          ufacturing or by encouraging preferences for lower-  
15          emissions products to substitute for higher-emissions  
16          products whose level of performance is no better.

17          (b) DEVELOPMENT OF NATIONAL CARBON DISCLO-  
18          SURE PROGRAM.—Upon conclusion of the study, and not  
19          later than 3 years after the date of enactment of this Act,  
20          the Administrator shall establish a national product car-  
21          bon disclosure program, participation in which shall be  
22          voluntary, and which may involve a product carbon label  
23          with broad applicability to the wholesale and consumer  
24          markets to enable and encourage knowledge about carbon  
25          content by producers and consumers and to inform efforts

1 to reduce energy consumption (carbon dioxide equivalent  
2 emissions) nationwide. In developing such a program, the  
3 Administrator shall—

4 (1) consider the results of the study conducted  
5 under subsection (a);

6 (2) consider existing and planned programs and  
7 proposals and measurement standards (including the  
8 Publicly Available Specification 2050, standards to  
9 be developed by the World Resource Institute/World  
10 Business Council for Sustainable Development, the  
11 International Standards Organization, and the bill  
12 AB19 pending in the California legislature as of the  
13 date of enactment of this Act);

14 (3) consider the compatibility of a national  
15 product carbon disclosure program with existing pro-  
16 grams;

17 (4) utilize incentives and other means to spur  
18 the adoption of product carbon disclosure and prod-  
19 uct carbon labeling;

20 (5) develop protocols and parameters for a  
21 product carbon disclosure program, including a  
22 methodology and formula for assessing, verifying,  
23 and potentially labeling a product's greenhouse gas  
24 content, and for data quality requirements to allow  
25 for product comparison;

1 (6) create a means to—

2 (A) document best practices;

3 (B) ensure clarity and consistency;

4 (C) work with suppliers, manufacturers,  
5 and retailers to encourage participation;

6 (D) ensure that protocols are consistent  
7 and comparable across like products; and

8 (E) evaluate the effectiveness of the pro-  
9 gram;

10 (7) make publicly available information on  
11 product carbon content to ensure transparency;

12 (8) provide for public outreach, including a con-  
13 sumer education program to increase awareness;

14 (9) develop training and education programs to  
15 help businesses learn how to measure and commu-  
16 nicate their carbon footprint and easy tools and tem-  
17 plates for businesses to use to reduce cost and time  
18 to measure their products' carbon lifecycle;

19 (10) consult with the Secretary of Energy, the  
20 Secretary of Commerce, the Federal Trade Commis-  
21 sion, and other Federal agencies, as necessary;

22 (11) gather input from stakeholders through  
23 consultations, public workshops, or hearings with  
24 representatives of consumer product manufacturers,  
25 consumer groups, and environmental groups;

1           (12) utilize systems for verification and product  
2           certification that will ensure that claims manufactur-  
3           ers make about their products are valid;

4           (13) create a process for reviewing the accuracy  
5           of product carbon label information and protecting  
6           the product carbon label in the case of a change in  
7           the product's energy source, supply chain, ingredi-  
8           ents, or other factors, and specify the frequency to  
9           which data should be updated; and

10          (14) develop a standardized, easily understand-  
11          able carbon label, if appropriate, and create a proc-  
12          ess for responding to inaccuracies and misuses of  
13          such a label.

14          (c) REPORT TO CONGRESS.—Not later than 5 years  
15 after the program is established pursuant to subsection  
16 (b), the Administrator shall report to Congress on the ef-  
17 fectiveness and impact of the program, the level of vol-  
18 untary participation, and any recommendations for addi-  
19 tional measures.

20          (d) DEFINITIONS.—In this section:

21           (1) The term “carbon content” means the  
22           quantity of greenhouse gas emissions and the warm-  
23           ing impact of those emissions on the atmosphere ex-  
24           pressed in carbon dioxide equivalent associated with  
25           a product's value chain.

1           (2) The term “carbon footprint” means the  
2           level of greenhouse gas emissions produced by a par-  
3           ticular activity, service, or entity.

4           (3) The term “carbon lifecycle” means the  
5           greenhouse gas emissions that are released as part  
6           of the processes of creating, producing, processing,  
7           manufacturing, modifying, transporting, distrib-  
8           uting, storing, using, recycling, or disposing of goods  
9           and services.

10          (e) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
11          authorized to be appropriated to the Administrator—

12               (1) to carry out the study required by sub-  
13               section (a), \$5,000,000; and

14               (2) to carry out the program required under  
15               subsection (b), \$25,000,000 for each of fiscal years  
16               2010 through 2025.

17          **SEC. 154. STATE RECYCLING PROGRAMS.**

18          (a) **ESTABLISHMENT.**—The Administrator shall es-  
19          tablish a State Recycling Program governing the use of  
20          funds by States in accordance with this Act.

21          (b) **USE OF FUNDING.**—

22               (1) **IN GENERAL.**—States receiving funding to  
23               carry out this section shall use the proceeds to carry  
24               out recycling programs in accordance with this sec-  
25               tion.

1           (2) COUNTY AND MUNICIPAL PROGRAMS.—Not  
2       less than  $\frac{1}{4}$  of the funding made available to a State  
3       to carry out this section shall be distributed by the  
4       State to county and municipal recycling programs as  
5       described in subsection (c)(1) (unless the State does  
6       not have county and municipality programs, in  
7       which case the funding shall be made available to  
8       the State program), to be used exclusively to support  
9       recycling purposes and associated source reduction  
10      purposes, including to provide incentives—

11           (A) for recycling-related technology that—

12               (i) reduces or avoids greenhouse gas  
13              emissions;

14               (ii) increases collection rates; and

15               (iii) improves the quality of recyclable  
16              material that is separated from solid  
17              waste;

18           (B) for energy-efficiency projects for trans-  
19           portation fleets and recycling equipment used to  
20           collect and sort recyclable material separated  
21           from solid waste;

22           (C) for recycling program-related expenses,  
23           including—

24               (i) education and job training;

1 (ii) development and implementation  
2 of variable rate (commonly referred to as  
3 “pay-as-you-throw”) recycling programs  
4 and anaerobic digestion programs;

5 (iii) promotion of public space recy-  
6 cling programs;

7 (iv) approaches for assuring compli-  
8 ance with recycling requirements; and

9 (v) development or implementation of  
10 best practices for municipal solid waste re-  
11 duction programs; and

12 (D) to ensure that recyclable material is  
13 not sent for disposal or incineration during fluc-  
14 tuating markets.

15 (3) RECYCLING FACILITIES.—Not less than  $\frac{1}{4}$   
16 of the funding made available to a State to carry out  
17 this section shall be distributed by the State to eligi-  
18 ble recycling facilities as described in subsection  
19 (c)(2) to be used exclusively to support the recycling  
20 purposes and associated source reduction purposes  
21 of the facilities, including to provide—

22 (A) incentives for the demonstration or de-  
23 ployment of recycling-related technology and  
24 equipment that reduce or avoid greenhouse gas  
25 emissions;

1 (B) incentives to facilities that increase the  
2 quantity and quality of recyclable material that  
3 is recycled versus sent for disposal or inciner-  
4 ation;

5 (C) funding for research, management,  
6 and removal of impediments to recycling, in-  
7 cluding—

8 (i) radioactive material; and

9 (ii) devices or materials that contain  
10 polychlorinated biphenyls, mercury, or  
11 chlorofluorocarbons;

12 (D) funding for research on, and develop-  
13 ment and deployment of, new technologies to  
14 more efficiently and effectively recycle items  
15 such as automobile shredder residue, cathode  
16 ray tubes, plastics, and tires; and

17 (E) incentives to recycle materials identi-  
18 fied by the Administrator that are not being re-  
19 cycled at a recycling facility.

20 (4) MANUFACTURING FACILITIES.—Not less  
21 than  $\frac{1}{4}$  of the funding made available to a State to  
22 carry out this section shall be distributed by the  
23 State to eligible manufacturing facilities as described  
24 in subsection (c)(3) to be used exclusively to support

1 recycling purposes, including to provide incentives  
2 for the demonstration or deployment of—

3 (A) manufacturing-related technology and  
4 equipment that would increase the use of recy-  
5 clable material and avoid or reduce greenhouse  
6 gas emissions;

7 (B) radiation detection equipment and the  
8 costs associated with recovery of detected radi-  
9 ated recyclable material;

10 (C) technologies that will detect and sepa-  
11 rate contaminants, including mercury-, lead-,  
12 and cadmium-containing devices;

13 (D) strategies and technologies to remove  
14 impediments to recovering recyclable material;  
15 and

16 (E) strategies and technologies to improve  
17 the energy efficiency of technology and equip-  
18 ment used to manufacture recyclable material.

19 (c) ELIGIBILITY REQUIREMENTS.—

20 (1) COUNTY AND MUNICIPALITY PROGRAMS.—  
21 Funds provided under subsection (b)(2) shall be pro-  
22 vided on a competitive basis to county and municipal  
23 recycling programs that—

24 (A) have within the solid waste manage-  
25 ment plans of the programs a recycling man-

1           agement plan that includes an education out-  
2           reach program for the individuals and entities  
3           served by the program constituency that high-  
4           lights the lifecycle benefits of recycling; and

5           (B) collect at least 5 recyclable materials,  
6           such as—

- 7                   (i) ferrous and nonferrous metal;
- 8                   (ii) aluminum;
- 9                   (iii) plastic;
- 10                  (iv) tires and rubber;
- 11                  (v) household electronic equipment;
- 12                  (vi) glass;
- 13                  (vii) scrap food;
- 14                  (viii) recoverable fiber or paper; and
- 15                  (ix) textiles;

16           (C) demonstrate, not later than 3 years  
17           after the date of receipt of funds under this  
18           subtitle, reasonable progress toward achieving—

- 19                   (i) a collection rate goal of at least 30  
20                   percent of the total recyclable materials  
21                   available from the solid waste stream in  
22                   the requesting State, county, or municipal  
23                   program; or
- 24                   (ii) a 10-percent increase of collected  
25                   recyclable materials compared to the total

1 solid waste stream in the requesting State,  
2 county, or municipal program; and

3 (D)(i) own, operate, or contract to operate  
4 1 or more of—

5 (I) a curbside recyclables collection  
6 program;

7 (II) a redemption center or drop-off  
8 facility for recyclables; or

9 (III) a materials recovery facility; and  
10 (ii) have in place a quality, environmental,  
11 health, and safety management system (such as  
12 that of the International Standards Organiza-  
13 tion or an equivalent) that includes goals to re-  
14 duce the operational carbon baselines of the  
15 programs.

16 (2) RECYCLING FACILITY.—Funds provided  
17 under subsection (b)(3) shall be provided on a com-  
18 petitive basis to a recycling facility that—

19 (A) processes recyclable material into com-  
20 mercial specification-grade commodities for use  
21 as raw material feed stock at recovery facilities,  
22 including for use as—

23 (i) a replacement or substitute for a  
24 virgin raw material; or

1 (ii) a replacement or substitute for a  
2 product made, in whole or in part, from a  
3 virgin raw material;

4 (B) has a verifiable carbon baseline; and

5 (C)(i) has an environmental, health and  
6 safety, and quality management system (such  
7 as that of the International Standards Organi-  
8 zation or an equivalent) that includes goals to  
9 reduce the operational carbon baseline of the  
10 recycling facility per unit of material processed;  
11 or

12 (ii) is subject to reporting requirements es-  
13 tablished under section 713 of the Clean Air  
14 Act.

15 (3) MANUFACTURING FACILITY.—Funds pro-  
16 vided under subsection (b)(4) shall be provided on a  
17 competitive basis to a manufacturing facility that—

18 (A) can report on a verifiable carbon base-  
19 line that is consistent with applicable reporting  
20 requirements; and

21 (B) has an environmental, health and safe-  
22 ty, and quality management system (such as  
23 that of the International Standards Organi-  
24 zation or an equivalent) that includes goals to re-  
25 duce the operational carbon baseline of the

1 manufacturing facility per unit of material  
2 processed.

3 (d) REPORTING.—Each State that distributes funds  
4 under this section shall submit to the Administrator, in  
5 accordance with such requirements as the Administrator  
6 may prescribe, a report that includes—

7 (1) a list of entities receiving funding under  
8 this section, including entities receiving such funding  
9 from units of local government pursuant to sub-  
10 section (b)(2);

11 (2) the amount of funding received by each  
12 such recipient;

13 (3) the specific purposes for which the funding  
14 was conveyed to each such recipient; and

15 (4) documentation of the quantity of net recy-  
16 clable material that was collected and processed and  
17 greenhouse gas emissions that were reduced or  
18 avoided accordingly, through use of the funding,  
19 based on a lifecycle calculation developed by the Ad-  
20 ministrator.

21 (e) METHODOLOGY AND DECISIONMAKING.—The Ad-  
22 ministrator, as appropriate—

23 (1) shall develop and periodically update  
24 lifecycle methods to quantify the relationship be-  
25 tween waste management decisions, including recy-

1       cling and waste reduction, greenhouse gas reduc-  
2       tions, and energy use reductions, for purposes that  
3       include—

4               (A) helping to support decisions under  
5       Federal, State, and municipal recycling and  
6       waste management programs, including—

7                   (i) estimating greenhouse gas and en-  
8       ergy benefits of increasing collection or  
9       adding new materials to recycling pro-  
10      grams;

11                  (ii) comparing the benefits of recy-  
12      cling and waste reduction to other green-  
13      house gas and energy use reduction strate-  
14      gies;

15                  (iii) optimizing waste management  
16      strategies to maximize greenhouse gas re-  
17      ductions and energy use reductions; and

18                  (iv) public education; and

19               (B) designing products to optimize waste  
20      reduction and recycling opportunities and use of  
21      recycled materials in the manufacturing proc-  
22      ess;

23               (2) may collect data to support the development  
24      of the methods described in paragraph (1); and

1           (3) to improve national consistency, shall, in  
2       consultation with appropriate State and local rep-  
3       resentatives and municipal recycling programs, iden-  
4       tify best practices to promote improvement in, and  
5       support State efforts in improving, municipal recy-  
6       cling and resource recovery programs.

7   **SEC. 155. SUPPLEMENTAL AGRICULTURE AND FORESTRY**  
8                   **GREENHOUSE GAS REDUCTION AND RENEW-**  
9                   **ABLE ENERGY PROGRAM.**

10       (a) AGRICULTURAL GREENHOUSE GAS REDUC-  
11   TIONS.—

12           (1) ESTABLISHMENT.—

13               (A) IN GENERAL.—The Secretary of Agri-  
14       culture (referred to in this section as the “Sec-  
15       retary”), in coordination with the Secretary of  
16       the Interior, shall establish a Greenhouse Gas  
17       Reduction Incentives Program (referred to in  
18       this section as the “program”) to provide finan-  
19       cial assistance to owners and operators of agri-  
20       cultural land (including land on which specialty  
21       crops are produced and private or public land  
22       used for grazing) and forest land for projects  
23       and activities that measurably increase carbon  
24       sequestration or reduce greenhouse gas emis-  
25       sions.

1 (B) SHARED AUTHORITY.—The Secretary  
2 shall delegate to the Secretary of the Interior  
3 the authority to carry out projects on land  
4 under the jurisdiction of or operated by the De-  
5 partment of the Interior.

6 (2) PRIORITY.—In carrying out the program,  
7 the Secretary shall give priority to projects or activi-  
8 ties that—

9 (A) reduce greenhouse gas emissions or in-  
10 crease sequestration of greenhouse gases, and  
11 achieve significant other environmental benefits,  
12 such as the improvements of water or air qual-  
13 ity or natural resources; and

14 (B) reduce greenhouse gas emissions or se-  
15 quester carbon in agricultural and forestry op-  
16 erations where there are limited recognized op-  
17 portunities to achieve such emission reductions  
18 or sequestration.

19 (3) ELIGIBLE PROJECTS AND ACTIVITIES.—Eli-  
20 gible projects and payments shall include those  
21 that—

22 (A) reflect the comparable amount that the  
23 owners or operators would receive in the offset  
24 market if not for compliance with environ-  
25 mental laws that preclude the owners and oper-

1           ators from being eligible for receiving an offset  
2           credit under a Federal law enacted for the pur-  
3           pose of regulating greenhouse gas emissions;

4                   (B) provide greenhouse gas emission bene-  
5           fits, but do not receive an offset credit or qual-  
6           ify for an early action allowance under a Fed-  
7           eral law enacted for the purpose of regulating  
8           greenhouse gas emissions, including projects  
9           and activities that provide an opportunity to  
10          demonstrate and test new or uncertain methods  
11          to reduce or sequester emissions;

12                   (C) reward early adopters, including pro-  
13          ducers that practice no-till agriculture, and en-  
14          sure that individuals and entities that took ac-  
15          tion prior to the implementation of a Federal  
16          law enacted for the purpose of regulating green-  
17          house gas emissions are not placed at a com-  
18          petitive disadvantage, including giving consider-  
19          ation to owners or operators located in jurisdic-  
20          tions with more stringent environmental laws  
21          (including regulations), compliance with which  
22          precludes the owners or operators from partici-  
23          pating such an offset market;

1 (D) provide incentives for supplemental  
2 greenhouse gas emission reductions on private  
3 forest land of the United States;

4 (E) prevent conversion of land, including  
5 native grassland, native prairie, rangeland,  
6 cropland, or forested land, that would increase  
7 greenhouse gas emissions or a loss of carbon se-  
8 questration; or

9 (F) support action on Federal, State, or  
10 tribal land.

11 (4) REQUIREMENT.—Financial incentives and  
12 support provided by the Secretary for a project or  
13 activity under this section shall, to the maximum ex-  
14 tent practicable, be directly proportional to the  
15 quantity and duration of greenhouse gas emissions  
16 reduced or carbon sequestered (except with respect  
17 to projects and activities that provide adaptation  
18 benefits).

19 (5) OTHER PROJECTS.—The Secretary shall  
20 consider projects and activities that complement and  
21 leverage existing conservation, forestry, and energy  
22 program expenditures to provide measurable emis-  
23 sion reduction and sequestration benefits that other-  
24 wise may not take place or continue to exist.

1           (6) ELIGIBILITY.—An owner or operator shall  
2       not be prohibited from participating in the program  
3       established under this section due to participation of  
4       the owner or operator in other Federal or State con-  
5       servation or agricultural assistance programs.

6           (7) FORMS OF ASSISTANCE.—The Secretary  
7       may use any of the following to provide assistance  
8       under this section:

9           (A) Permanent conservation easements, for  
10       which the Secretary shall give priority in pro-  
11       viding assistance under this section.

12          (B) Carbon sequestration or carbon miti-  
13       gation contracts between the owner or operator  
14       and the Secretary for the performance of  
15       projects or activities that provide a measurable  
16       reduction in greenhouse gas emissions or se-  
17       quester carbon.

18          (C) Financial incentives through timber  
19       harvest contracts.

20          (D) Financial incentives through grazing  
21       contracts.

22          (E) Grants.

23          (F) Such other forms of assistance as the  
24       Secretary determines to be appropriate.

1           (8) REVERSALS.—The Secretary shall specify  
2       methods to address intentional or unintentional re-  
3       versal of carbon sequestration or greenhouse gas  
4       emission reductions that occur during the term of a  
5       contract or easement under this section.

6           (9) ACCOUNTING SYSTEMS.—In carrying out  
7       this section, the Secretary shall develop and imple-  
8       ment—

9           (A) a national accounting system for car-  
10       bon stocks, sequestration, and greenhouse gas  
11       emissions that may be used to assess progress  
12       in implementing this section at a national level;  
13       and

14          (B) credible reporting and accounting sys-  
15       tems to ensure that incentives provided under  
16       this section are achieving stated objectives.

17          (10) PROGRAM MEASUREMENT, MONITORING,  
18       AND VERIFICATION.—The Secretary, in consultation  
19       with the Administrator—

20           (A) shall establish and implement protocols  
21       that provide reasonable monitoring and  
22       verification of compliance with terms associated  
23       with assistance provided under this section, in-  
24       cluding field sampling of actual performance, to

1 develop annual estimates of emission reductions  
2 achieved under the program;

3 (B) shall report annually the total number  
4 of tons of carbon dioxide sequestered or the  
5 total number of tons of emissions avoided  
6 through incentives provided under this section;  
7 and

8 (C) not later than 2 years after the date  
9 of enactment of this Act, and at least every 18  
10 months thereafter, submit to Congress and  
11 make available to the public on the website of  
12 the Department of Agriculture a report that in-  
13 cludes—

14 (i) an estimate of annual and cumu-  
15 lative reductions generated through the  
16 program under this section, determined  
17 using standardized measures (including  
18 economic efficiency); and

19 (ii) a summary of any changes to the  
20 program, in accordance with this section,  
21 that will be made as a result of program  
22 measurement, monitoring, and verification  
23 conducted under this section.

24 (b) RESEARCH PROGRAM.—The Secretary shall es-  
25 tablish by rule a program to conduct research to develop

1 additional projects and activities for crops to find addi-  
2 tional techniques and methods to reduce greenhouse gas  
3 emissions or sequester greenhouse gases that may or may  
4 not meet criteria for a Federal law enacted for the purpose  
5 of regulating greenhouse gas emissions.

6 **SEC. 156. ECONOMIC DEVELOPMENT CLIMATE CHANGE**  
7 **FUND.**

8 (a) IN GENERAL.—Title II of the Public Works and  
9 Economic Development Act of 1965 (42 U.S.C. 3141 et  
10 seq.) is amended by adding at the end the following:

11 **“SEC. 219. ECONOMIC DEVELOPMENT CLIMATE CHANGE**  
12 **FUND.**

13 “(a) IN GENERAL.—On the application of an eligible  
14 recipient, the Secretary may provide technical assistance,  
15 make grants, enter into contracts, or otherwise provide  
16 amounts for projects—

17 “(1) to promote energy efficiency to enhance  
18 economic competitiveness;

19 “(2) to increase the use of renewable energy re-  
20 sources to support sustainable economic development  
21 and job growth;

22 “(3) to support the development of conventional  
23 energy resources to produce alternative transpor-  
24 tation fuels, electricity and heat;

1           “(4) to develop energy efficient or environ-  
2           mentally sustainable infrastructure;

3           “(5) to promote environmentally sustainable  
4           economic development practices and models;

5           “(6) to support development of energy effi-  
6           ciency and alternative energy development plans,  
7           studies or analysis, including enhancement of new  
8           and existing Comprehensive Economic Development  
9           Strategies funded under this Act; and

10          “(7) to supplement other Federal grants, loans,  
11          or loan guarantees for purposes described in para-  
12          graphs (1) through (6).

13          “(b) FEDERAL SHARE.—The Federal share of the  
14          cost of any project carried out under this section shall not  
15          exceed 80 percent, except that the Federal share of a Fed-  
16          eral grant, loan, or loan guarantee provided under sub-  
17          section (a)(7) may be 100 percent.

18          “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
19          is authorized to be appropriated to carry out this section  
20          \$50,000,000 for each of fiscal years 2009 through 2013,  
21          to remain available until expended.”.

22          (b) CONFORMING AMENDMENT.—The table of con-  
23          tents contained in section 1(b) of the Public Works and  
24          Economic Development Act of 1965 (42 U.S.C. 3141 et

1 seq.)is amended by inserting after the item relating to sec-  
2 tion 218 the following:

“Sec. 219. Economic Development Climate Change Fund.”.

3 **SEC. 157. STUDY OF RISK-BASED PROGRAMS ADDRESSING**  
4 **VULNERABLE AREAS.**

5 (a) IN GENERAL.—The Administrator, or the heads  
6 of such other Federal agencies as the President may des-  
7 ignate, shall conduct a study and, not later than 2 years  
8 after the date of enactment of this Act, submit to Con-  
9 gress a report regarding risk-based policies and programs  
10 addressing vulnerable areas.

11 (b) REQUIREMENTS.—The report shall

12 (1) review and assess Federal predisaster miti-  
13 gation, emergency response, and flood insurance  
14 policies and programs that affect areas vulnerable to  
15 the impacts of climate change;

16 (2) describe strategies for better addressing  
17 such vulnerabilities and provide implementation rec-  
18 ommendations;

19 (3) assess whether the policies and programs  
20 described in paragraph (1) support the State and  
21 tribal response and adaptation goals and objectives  
22 identified under this Act;

23 (4) identify, and make recommendations to re-  
24 solve, inconsistencies in Federal policies and pro-  
25 grams in effect as of the date of enactment of this

1 Act that address areas vulnerable to climate change;  
2 and  
3 (5) identify annual cost savings to the Federal  
4 Government associated with the implementation of  
5 the strategies and recommendations contained in the  
6 report.

7 **SEC. 158. EFFICIENT BUILDINGS PROGRAM.**

8 (a) IN GENERAL.—The Administrator shall establish  
9 and carry out a program, to be known as the “Efficient  
10 Buildings Program”, to achieve greenhouse gas reductions  
11 by providing assistance to owners of buildings in the  
12 United States as a reward for—

13 (1) constructing highly efficient buildings in the  
14 United States; or

15 (2) increasing the efficiency of existing build-  
16 ings in the United States.

17 (b) REQUIREMENTS.—The Administrator shall pro-  
18 vide assistance under this section to owners of buildings  
19 in the United States based on the extent to which projects  
20 relating to the buildings of the owners result in verifiable,  
21 additional, and enforceable improvements in energy per-  
22 formance—

23 (1) in new or renovated buildings that dem-  
24 onstrate exemplary performance by achieving—

1 (A) a minimum score of 75 on the  
2 benchmarking tool of the Energy Star program  
3 established by section 324A of the Energy Pol-  
4 icy and Conservation Act (42 U.S.C. 6294a); or

5 (B) an equivalent score on an established  
6 energy performance benchmarking metric se-  
7 lected by the Administrator; and

8 (2) in retrofitted existing buildings that dem-  
9 onstrate—

10 (A) substantial improvement in the score  
11 or rating on the benchmarking tool described in  
12 paragraph (1)(A) by a minimum of 30 points;  
13 or

14 (B) an equivalent improvement using an  
15 established performance benchmarking metric  
16 selected by the Administrator.

17 (c) PRIORITY.—In providing assistance under this  
18 section, the Administrator shall give priority to projects—

19 (1) completed by building owners with a proven  
20 track record of building energy performance; or

21 (2) that result in measurable greenhouse gas  
22 reduction benefits not encompassed within the  
23 metrics of the Energy Star program described in  
24 subsection (b)(1)(A).

1     **Subtitle F—Energy Efficiency and**  
2                     **Renewable Energy**

3     **SEC. 161. RENEWABLE ENERGY.**

4             (a) DEFINITIONS.—In this section:

5                     (1) RENEWABLE ENERGY.—The term “renew-  
6             able energy” means electric energy generated from  
7             solar, wind, biomass, landfill gas, ocean (including  
8             tidal, wave, current, and thermal), geothermal, mu-  
9             nicipal solid waste, or new hydroelectric generation  
10            capacity achieved from increased efficiency or addi-  
11            tions of new capacity at an existing hydroelectric  
12            project.

13                    (2) RENEWABLE PORTFOLIO STANDARD.—The  
14            term ““renewable portfolio standard”” means a state  
15            statute that requires electricity providers to obtain a  
16            minimum percentage of their power from renewable  
17            energy resources by a certain date.

18            (b) GRANTS.—The Administrator, in consultation  
19            with the Secretaries of Energy, Interior, and Agriculture,  
20            may provide grants for projects to increase the quantity  
21            of energy a State uses from renewable sources under State  
22            renewable portfolio standard laws.

23            (c) ELIGIBILITY.—The Administrator shall review for  
24            approval projects applications that are—

1           (1) submitted by State and local governments,  
2       Indian tribes, public utilities, regional energy co-  
3       operatives, or individual energy producers from  
4       states with a binding Renewable Portfolio Standard;  
5       or

6           (2) submitted by State and local governments,  
7       Indian tribes, public utilities, or regional energy co-  
8       operatives from states with nonbinding goals for  
9       adoption of renewable energy requirements.

10       (d) PRIORITY.—The Administrator shall give priority  
11 to project applications that are—

12           (1) submitted by States with a binding renew-  
13       able portfolio standard;

14           (2) cost-effective in achieving greater renewable  
15       energy production in each State.

16       (e) CERTIFICATION.—

17           (1) IN GENERAL.—The Administrator shall no-  
18       tify in writing the Governor of each eligible State as  
19       described in section (c) at the time at which the Ad-  
20       ministrator begins review of a project application re-  
21       ceived from an eligible entity within the State.

22           (2) CERTIFICATION.—The Governor shall cer-  
23       tify in writing within 30 days of receipt of the Ad-  
24       ministrator's notification described in subsection (1)  
25       that the project application—

1 (A) will assist the State in reaching renew-  
2 able portfolio standard targets under applicable  
3 state laws; and

4 (B) has secured non-Federal funding  
5 sources that, in conjunction with the requested  
6 grant amount, will be sufficient to complete the  
7 renewable energy project.

8 (f) RULEMAKING.—

9 (1) IN GENERAL.—Not later than 90 days after  
10 the date of enactment of this Act, the Administrator  
11 shall initiate rulemaking procedures necessary to im-  
12 plement this section.

13 (2) FINAL RULES; ACCEPTANCE OF APPLICA-  
14 TIONS.—Not later than 90 days after the close of  
15 the public comment period relating to the rule-  
16 making described in paragraph (1), the Adminis-  
17 trator shall—

18 (A) promulgate final regulations to carry  
19 out this section; and

20 (B) begin accepting project applications for  
21 review.

22 (g) REPORTING.—Not later than 180 days after the  
23 date of enactment of this Act, and every 180 days there-  
24 after, the Administrator shall submit to the Committee on  
25 Energy and Commerce of the House of Representatives

1 and the Committee on Environment and Public Works of  
2 the Senate a report specifying, with respect to the pro-  
3 gram under this section—

- 4 (1) the project applications received;
- 5 (2) the project applications approved;
- 6 (3) the amount of funding allocated per project;
- 7 and
- 8 (4) the cumulative benefits of the grant pro-  
9 gram.

10 (h) GRANT AMOUNT.—A grant provided under this  
11 section may be in an amount that does not exceed 50 per-  
12 cent of the total cost of the renewable energy project to  
13 be funded by the grant.

14 (i) AUTHORIZATION.—There are authorized to be ap-  
15 propriated such sums as are necessary to carry out this  
16 section.

17 **SEC. 162. ADVANCED BIOFUELS.**

18 (a) FINDINGS.—Congress finds that—

- 19 (1) advanced, environmentally sustainable  
20 biofuels can help promote a safe, secure, and domes-  
21 tic source of low-carbon fuel;
- 22 (2) such biofuels can—
  - 23 (A) benefit consumers and farmers;
  - 24 (B) assist in maintaining fuel supplies; and

1 (C) help to keep commodity prices afford-  
2 able;

3 (3) a coordinated research and development ef-  
4 fort is needed to help accelerate commercial-scale de-  
5 velopment of advanced, environmentally sustainable  
6 biofuels; and

7 (4) facilitating the commercial production of  
8 advanced, environmentally sustainable biofuels can  
9 help to make the United States a leader in devel-  
10 oping new fuel technologies.

11 (b) DEFINITIONS.—In this section:

12 (1) ADVANCED GREEN BIOFUEL.—The term  
13 “advanced green biofuel” means an advanced biofuel  
14 (as defined in section 211(o)(1) of the Clean Air Act  
15 (42 U.S.C. 7545(o)(1))) that the Administrator de-  
16 termines—

17 (A) has lifecycle greenhouse gas emissions  
18 that are at least 60 percent less than the base-  
19 line lifecycle greenhouse gas emissions;

20 (B) is made from advanced renewable bio-  
21 mass; and

22 (C) minimizes biorefinery water require-  
23 ments to the maximum extent achievable, tak-  
24 ing into consideration costs and other appro-  
25 priate factors.

1           (2) ADVANCED RENEWABLE BIOMASS.—The  
2       term “advanced renewable biomass” means renew-  
3       able biomass that is produced using sustainable  
4       practices, as determined by the Administrator, in  
5       consultation with the Secretary of Agriculture, tak-  
6       ing into consideration factors such as—

7           (A) the maintenance and enhancement of  
8       the quality and productivity of the soil;

9           (B) the conservation of soil, water, energy,  
10      natural resources, and fish and wildlife habitat;

11          (C) the maintenance and enhancement of  
12      the quality of surface water and groundwater;

13          (D) the protection of the health and safety  
14      of individuals involved in the production system;

15          (E) the promotion of the well-being of ani-  
16      mals;

17          (F) the increase in employment opportuni-  
18      ties in the agricultural sector; and

19          (G) prevention of the introduction of  
20      invasive species, including consideration of a re-  
21      view by the Invasive Species Council established  
22      by Executive Order 13112 (64 Fed. Reg. 6183  
23      (February 3, 1999)).

1           (3) PROGRAM.—The term “Program” means  
2           the 1,000,000,000-Gallon Challenge Grant Program  
3           established under subsection (c)(1).

4           (4) RENEWABLE BIOMASS.—The term “renew-  
5           able biomass” has the meaning given the term in  
6           section 211(o)(1) of the Clean Air Act (42 U.S.C.  
7           7545(o)(1)).

8           (c) 1,000,000,000-GALLON CHALLENGE GRANT  
9           PROGRAM.—

10           (1) ESTABLISHMENT.—The Administrator shall  
11           establish within the Environmental Protection Agen-  
12           cy a program, to be known as the “1,000,000,000-  
13           Gallon Challenge Grant Program”, under which the  
14           Administrator shall provide grants in accordance  
15           with this subsection.

16           (2) APPLICATIONS.—

17           (A) IN GENERAL.—During each calendar  
18           year for the period described in subparagraph  
19           (B), the Administrator shall solicit applications  
20           for grants under the Program from owners and  
21           operators of projects that, as determined by the  
22           Administrator, have the potential, in the aggre-  
23           gate, to produce up to 500,000,000 gallons in  
24           annual domestic production capacity of ad-  
25           vanced green biofuels.

1 (B) DESCRIPTION OF PERIOD.—The period  
2 referred to in subparagraph (A) is the period  
3 that—

4 (i) begins on the date of establishment  
5 of the Program; and

6 (ii) ends on the date on which, as de-  
7 termined by the Administrator, the Pro-  
8 gram supports projects that have the po-  
9 tential to produce, or are producing, not  
10 less than 1,000,000,000 gallons in annual  
11 domestic production capacity of advanced  
12 green biofuels.

13 (C) ADJUSTMENTS.—

14 (i) DEFINITION OF ADJUSTMENT PE-  
15 RIOD.—In this subparagraph, the term  
16 “adjustment period” means the period  
17 that—

18 (I) begins on the date of estab-  
19 lishment of the Program; and

20 (II) ends on the earlier of, as de-  
21 termined by the Administrator—

22 (aa) the date on which the  
23 Program supports projects that  
24 have the potential to produce, or  
25 are producing, not less than

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1 1,000,000,000 gallons in annual  
2 domestic production capacity of  
3 advanced green biofuels; and

4 (bb) the date on which the  
5 Program achieves the annual do-  
6 mestic production capacity tar-  
7 gets of the Program.

8 (ii) SOLICITATION OF APPLICA-  
9 TIONS.—For any calendar year during the  
10 adjustment period for which an application  
11 for a grant under the Program is with-  
12 drawn, or for which a recipient of a grant  
13 under the Program fails to meet the do-  
14 mestic production capacity targets of the  
15 recipient (as determined by the Adminis-  
16 trator), the Administrator shall solicit ad-  
17 ditional applications for grants under the  
18 Program.

19 (D) APPLICATION POLICY.—The grant so-  
20 licitation process of the Program shall provide  
21 for, as determined by the Administrator—

22 (i) simplified, standardized, and time-  
23 ly solicitation of applications; and

24 (ii) a simplified, standardized funding  
25 process that requires—

1 (I) timely receipt and review of  
2 applications; and

3 (II) protection of proprietary in-  
4 formation provided in applications.

5 (3) TYPES OF GRANTS.—In carrying out the  
6 Program, the Administrator shall provide 4 types of  
7 grants, as follows:

8 (A) RESEARCH AND DEVELOPMENT  
9 GRANTS.—

10 (i) IN GENERAL.—A research and de-  
11 velopment grant may be provided under  
12 the Program to a project that, as deter-  
13 mined by the Administrator, will assist  
14 biofuel developers in producing advanced  
15 green biofuels by facilitating—

16 (I) the development of tech-  
17 nologies to produce advanced green  
18 biofuels;

19 (II) the creation of technologies  
20 used in facilities that produce ad-  
21 vanced green biofuels; or

22 (III) the production of advanced  
23 green biofuels, including renewable  
24 biomass.

1 (ii) LIMITATION.—The amount of a  
2 research and development grant provided  
3 under the Program shall not exceed the  
4 lesser of—

5 (I) an amount equal to 80 per-  
6 cent of the cost of the project; or

7 (II) \$2,000,000.

8 (B) PLANNING GRANTS.—

9 (i) IN GENERAL.—A planning grant  
10 may be provided under the Program to a  
11 project that, as determined by the Admin-  
12 istrator, will assist biofuel developers in  
13 producing advanced green biofuels by fa-  
14 cilitating the development and finalization  
15 of project plans and contracts that dem-  
16 onstrate that—

17 (I) the project has the potential  
18 for commercial viability; and

19 (II) the project is likely to be  
20 operational by not later than 3 years  
21 after the date on which the planning  
22 grant is provided.

23 (ii) LIMITATION.—The amount of a  
24 planning grant provided under the Pro-  
25 gram shall not exceed the lesser of—

1 (I) an amount equal to 80 per-  
2 cent of the cost of the project; or

3 (II) \$2,000,000.

4 (C) TRANSLATIONAL GRANTS.—

5 (i) IN GENERAL.—A translational  
6 grant, which helps to create successful  
7 technological innovations and the commer-  
8 cial use of those innovations, may be pro-  
9 vided under the Program to a project that,  
10 as determined by the Administrator will  
11 assist biofuel developers in producing ad-  
12 vanced green biofuels, including from the  
13 development of a basic proof-of-concept for  
14 the project to the establishment of a pilot-  
15 scale advanced green biofuel production fa-  
16 cility through a phased process, as de-  
17 scribed in clause (ii).

18 (ii) PHASES.—The phases referred to  
19 in clause (i) are the following:

20 (I) PHASE I.—A project shall be  
21 considered to be in phase I for pur-  
22 poses of this subparagraph if the pur-  
23 pose of the project is to determine the  
24 scientific and technical merit and fea-  
25 sibility of ideas that appear to have

1 commercial potential, as described in  
2 subclause (II).

3 (II) PHASE II.—A project shall  
4 be considered to be in phase II for  
5 purposes of this subparagraph if the  
6 purpose of the project is to advance  
7 the development of a project that  
8 meets particular Program needs,  
9 based on the scientific and technical  
10 merit and feasibility demonstrated in  
11 the application for the project (as evi-  
12 denced by phase I of the project), tak-  
13 ing into consideration, among other  
14 things, the commercial potential of the  
15 project, as evidenced by—

16 (aa) the record of success of  
17 the applicable biofuel developer in  
18 commercializing the results of re-  
19 search;

20 (bb) the existence of phase  
21 II-appropriate funding commit-  
22 ments from the private sector or  
23 a funding source other than the  
24 Program;

1 (cc) the existence of commit-  
2 ments for phase III of the  
3 project; and

4 (dd) the presence of other  
5 indicators of the commercial po-  
6 tential of the project.

7 (III) PHASE III.—A project shall  
8 be considered to be in phase III for  
9 purposes of this clause if—

10 (aa) the project has com-  
11 pleted phases I and II; and

12 (bb) commercial application  
13 of, or the continuation of work  
14 on, the project will be funded by  
15 the private sector or a funding  
16 source other than the Program.

17 (iii) LIMITATION.—The amount of a  
18 translational grant provided under the Pro-  
19 gram shall not exceed the lesser of—

20 (I) an amount equal to 80 per-  
21 cent of the cost of the project; or

22 (II) \$8,000,000.

23 (D) CONSTRUCTION GRANTS.—

24 (i) IN GENERAL.—A construction  
25 grant may be provided under the Program

1 to a project that, as determined by the Ad-  
2 ministrator—

3 (I) will assist biofuel developers  
4 in producing advanced green biofuels  
5 by paying construction costs and  
6 other costs;

7 (II) demonstrates the potential  
8 for commercial success; and

9 (III) will commence construction  
10 by not later than 1 year after the date  
11 on which the construction grant is  
12 provided.

13 (ii) LIMITATION.—The amount of a  
14 construction grant provided under the Pro-  
15 gram shall not exceed an amount equal to  
16 60 percent of the cost of the project.

17 (4) SELECTION.—

18 (A) RESEARCH AND DEVELOPMENT  
19 GRANTS.—In evaluating applications for re-  
20 search and development grants under the Pro-  
21 gram, the Administrator shall take into consid-  
22 eration—

23 (i) the potential of a project for com-  
24 mercial viability;

1 (ii) the potential of the project to pro-  
2 vide environmental and public health bene-  
3 fits;

4 (iii) the potential of the project to use  
5 existing fuel delivery and distribution sys-  
6 tems; and

7 (iv) such other factors as the Admin-  
8 istrator determines to be appropriate.

9 (B) PLANNING GRANTS.—In evaluating ap-  
10 plications for planning grants under the Pro-  
11 gram, the Administrator shall take into consid-  
12 eration—

13 (i) the potential of a project for com-  
14 mercial viability;

15 (ii) the potential of the project to pro-  
16 vide environmental and public health bene-  
17 fits;

18 (iii) the potential of the project to use  
19 existing fuel delivery and distribution sys-  
20 tems;

21 (iv) the scalability of the project; and

22 (v) such other factors as the Adminis-  
23 trator determines to be appropriate.

24 (C) TRANSLATIONAL GRANTS.—In evalu-  
25 ating applications for translational grants under

1 the Program, the Administrator shall take into  
2 consideration—

3 (i) the potential of a project for com-  
4 mercial viability;

5 (ii) the potential of the project to pro-  
6 vide environmental and public health bene-  
7 fits;

8 (iii) the potential of the project to use  
9 existing fuel delivery and distribution sys-  
10 tems;

11 (iv) the scalability of the project; and

12 (v) such other factors as the Adminis-  
13 trator determines to be appropriate.

14 (D) CONSTRUCTION GRANTS.—In evalu-  
15 ating applications for construction grants under  
16 the Program, the Administrator shall take into  
17 consideration—

18 (i) the potential of a project for com-  
19 mercial success;

20 (ii) the potential of the project to pro-  
21 vide environmental and public health bene-  
22 fits;

23 (iii) the potential of the project to use  
24 existing fuel delivery and distribution sys-  
25 tems;

- 1 (iv) the scalability of the project;  
2 (v) the readiness of the project to  
3 commence construction by not later than 1  
4 year after the date on which the construc-  
5 tion grant is provided; and  
6 (vi) such other factors as the Admin-  
7 istrator determines to be appropriate.

8 (E) EXERCISE OF DISCRETION IN FUND-  
9 ING PROJECTS.—The Administrator shall not  
10 exclude an application from consideration under  
11 this paragraph solely on the basis that the  
12 project that is the subject of the application  
13 uses, or proposes to use, any item described in  
14 section 211(o)(1)(I) of the Clean Air Act (42  
15 U.S.C. 7545(o)(1)(I)).

16 (5) COORDINATION WITH COMPLEMENTARY  
17 PROGRAMS.—

18 (A) DEFINITION OF COMPLEMENTARY  
19 PROGRAM.—In this paragraph, the term “com-  
20plementary program” means a grant program  
21 under any other provision of law (including a  
22 regulation) under which a recipient of a grant  
23 under the Program receives, or has the poten-  
24 tial to receive, funds to assist the project of the  
25 recipient to achieve environmental performance

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1 standards equivalent to, or greater than, the  
2 standards required under the Program.

3 (B) EFFECT OF PROGRAM.—

4 (i) IN GENERAL.—A grant provided to  
5 a recipient under the Program—

6 (I) shall be provided in addition  
7 to any grant provided to the recipient  
8 under a complementary program; and

9 (II) shall not be diminished as a  
10 result of receipt by the recipient of  
11 funds under any complementary pro-  
12 gram.

13 (ii) AMOUNT OF OTHER GRANTS.—Re-  
14 ceipt of a grant under the Program shall  
15 not affect the amount the recipient is oth-  
16 erwise eligible to receive under any com-  
17plementary program.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
19 authorized to be appropriated to carry out this section  
20 \$500,000,000 for the period of fiscal years 2010 through  
21 2014.

22 **SEC. 163. ENERGY EFFICIENCY IN BUILDING CODES.**

23 (a) ENERGY EFFICIENCY TARGETS.—

24 (1) RULEMAKING TO ESTABLISH TARGETS.—

25 The Administrator, or such other agency head or

1 heads as may be designated by the President, in  
2 consultation with the Director of the National Insti-  
3 tute of Standards and Technology, shall promulgate  
4 regulations establishing building code energy effi-  
5 ciency targets for the national average percentage  
6 improvement of buildings' energy performance. Such  
7 regulations shall establish a national building code  
8 energy efficiency target for residential buildings and  
9 commercial buildings when built to a code meeting  
10 the target, beginning not later than January 1, 2014  
11 and applicable each calendar year through December  
12 31, 2030.

13 (b) NATIONAL ENERGY EFFICIENCY BUILDING  
14 CODES.—

15 (1) RULEMAKING TO ESTABLISH NATIONAL  
16 CODES.—The Administrator, or such other agency  
17 head or heads as may be designated by the Presi-  
18 dent, shall promulgate regulations establishing na-  
19 tional energy efficiency building codes for residential  
20 and commercial buildings. Such regulations shall be  
21 sufficient to meet the national building code energy  
22 efficiency targets established under subsection (a) in  
23 the most cost-effective manner, and may include pro-  
24 visions for State adoption of the national building  
25 code standards and certification of State programs

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1 (c) ANNUAL REPORTS.—The Administrator, or such  
2 other agency head or heads as may be designated by the  
3 President, shall annually submit to Congress, and publish  
4 in the Federal Register, a report on—

5 (1) the status of national energy efficiency  
6 building codes;

7 (2) the status of energy efficiency building code  
8 adoption and compliance in the States;

9 (3) the implementation of and compliance with  
10 regulations promulgated under this section;

11 (4) the status of Federal and State enforcement  
12 of building codes; and

13 (5) impacts of action under this section, and  
14 potential impacts of further action, on lifetime en-  
15 ergy use by buildings, including resulting energy and  
16 cost savings.

17 **SEC. 164. RETROFIT FOR ENERGY AND ENVIRONMENTAL**  
18 **PERFORMANCE.**

19 (a) DEFINITIONS.—In this section:

20 (1) ASSISTED HOUSING.—The term “assisted  
21 housing” means those properties receiving project-  
22 based assistance pursuant to section 202 of the  
23 Housing Act of 1959 (12 U.S.C. 1701q), section  
24 811 of the Cranston-Gonzalez National Affordable  
25 Housing Act (42 U.S.C. 8013), section 8 of the

1 United States Housing Act of 1937 (42 U.S.C.  
2 1437f), or similar programs.

3 (2) NONRESIDENTIAL BUILDING.—The term  
4 “nonresidential building” means a building with a  
5 primary use or purpose other than residential hous-  
6 ing, including any building used for commercial of-  
7 fices, schools, academic and other public and private  
8 institutions, nonprofit organizations including faith-  
9 based organizations, hospitals, hotels, and other non-  
10 residential purposes. Such buildings shall include  
11 mixed-use properties used for both residential and  
12 nonresidential purposes in which more than half of  
13 building floor space is nonresidential.

14 (3) PERFORMANCE-BASED BUILDING RETROFIT  
15 PROGRAM.—The term “performance-based building  
16 retrofit program” means a program that determines  
17 building energy efficiency success based on actual  
18 measured savings after a retrofit is complete, as evi-  
19 denced by energy invoices or evaluation protocols.

20 (4) PRESCRIPTIVE BUILDING RETROFIT PRO-  
21 GRAM.—The term “prescriptive building retrofit pro-  
22 gram” means a program that projects building ret-  
23 rofit energy efficiency success based on the known  
24 effectiveness of measures prescribed to be included  
25 in a retrofit.

(5) PUBLIC HOUSING.—The term “public housing” means properties receiving assistance under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

5 (6) RECOMMISSIONING;  
6 RETROCOMMISSIONING.—The terms “recommis-  
7 sioning” and “retrocommissioning” have the mean-  
8 ing given those terms in section 543(f)(1) of the Na-  
9 tional Energy Conservation Policy Act (42 U.S.C.  
10 8253(f)(1)).

(7) REEP PROGRAM.—The term “REEP program” means, collectively, the programs to implement the residential and nonresidential policies based on the standards developed under this section, as described in subsection (b).

(8) RESIDENTIAL BUILDING.—The term “residential building” means a building whose primary use is residential. Such buildings shall include single-family homes (both attached and detached), owner-occupied units in larger buildings with their own dedicated space-conditioning systems, apartment buildings, multi-unit condominium buildings, public housing, assisted housing, and buildings used for both residential and nonresidential purposes in

1       which more than half of building floor space is resi-  
2       dential.

3           (9) STATE ENERGY PROGRAM.—The term  
4       “State Energy Program” means the program under  
5       part D of title III of the Energy Policy and Con-  
6       servation Act (42 U.S.C. 6321 et seq.).

7       (b) ESTABLISHMENT.—The Administrator shall de-  
8       velop and implement, in consultation with the Secretary  
9       of Energy, standards for a national energy and environ-  
10      mental building retrofit policy for single-family and multi-  
11      family residences. The Administrator shall develop and  
12      implement, in consultation with the Secretary of Energy  
13      and the Director of Commercial High-Performance Green  
14      Buildings, standards for a national energy and environ-  
15      mental building retrofit policy for nonresidential buildings.

16      (c) PURPOSE.—The purpose of the REEP program  
17      is to facilitate the retrofitting of existing buildings across  
18      the United States to achieve maximum cost-effective en-  
19      ergy efficiency improvements and significant improve-  
20      ments in water use and other environmental attributes.

21      (d) FEDERAL ADMINISTRATION.—

22           (1) EXISTING PROGRAMS.—In creating and op-  
23      erating the REEP program—

24           (A) the Administrator shall make appro-  
25      priate use of existing programs, including the

1 Energy Star program and in particular the En-  
2 vironmental Protection Agency Energy Star for  
3 Buildings program; and

4 (B) the Administrator shall consult with  
5 the Secretary of Energy regarding appropriate  
6 use of existing programs, including delegating  
7 authority to the Director of Commercial High-  
8 Performance Green Buildings appointed under  
9 section 421 of the Energy Independence and  
10 Security Act of 2007 (42 U.S.C. 17081).

11 (2) CONSULTATION AND COORDINATION.—The  
12 Administrator shall consult with and coordinate with  
13 the and the Secretary of Energy and the Secretary  
14 of Housing and Urban Development in carrying out  
15 the REEP program with regard to retrofitting of  
16 public housing and assisted housing. As a result of  
17 such consultation, the Administrator shall establish  
18 standards to ensure that retrofits of public housing  
19 and assisted housing funded pursuant to this section  
20 are cost-effective, including opportunities to address  
21 the potential co-performance of repair and replace-  
22 ment needs that may be supported with other forms  
23 of Federal assistance. Owners of public housing or  
24 assisted housing receiving funding through the  
25 REEP program shall agree to continue to provide

1       affordable housing consistent with the provisions of  
2       the authorizing legislation governing each program  
3       for an additional period commensurate with the  
4       funding received, as determined in accordance with  
5       guidelines established by the Secretary of Housing  
6       and Urban Development.

7               (3) ASSISTANCE.—The Administrator shall pro-  
8       vide consultation and assistance to State and local  
9       agencies for the establishment of revolving loan  
10      funds, loan guarantees, or other forms of financial  
11      assistance under this section.

12      (e) STATE AND LOCAL ADMINISTRATION.—

13              (1) DESIGNATION AND DELEGATION.—A State  
14      may designate one or more agencies or entities, in-  
15      cluding those regulated by the State, to carry out  
16      the purposes of this section, but shall designate one  
17      entity or individual as the principal point of contact  
18      for the Administrator regarding the REEP Pro-  
19      gram. The designated State agency, agencies, or en-  
20      tities may delegate performance of appropriate ele-  
21      ments of the REEP program, upon their request  
22      and subject to State law, to counties, municipalities,  
23      appropriate public agencies, and other divisions of  
24      local government, as well as to entities regulated by  
25      the State. In making any such designation or delega-

1       tion, a State shall give priority to entities that ad-  
2       minister existing comprehensive retrofit programs,  
3       including those under the supervision of State utility  
4       regulators. States shall maintain responsibility for  
5       meeting the standards and requirements of the  
6       REEP program. In any State that elects not to ad-  
7       minister the REEP program, a unit of local govern-  
8       ment may propose to do so within its jurisdiction,  
9       and if the Administrator finds that such local gov-  
10      ernment is capable of administering the program,  
11      the Administrator may provide assistance to that  
12      local government, prorated according to the popu-  
13      lation of the local jurisdiction relative to the popu-  
14      lation of the State, for purposes of the REEP pro-  
15      gram.

16           (2) EMPLOYMENT.—States and local govern-  
17      ment entities may administer a REEP program in  
18      a manner that authorizes public or regulated inves-  
19      tor-owned utilities, building auditors and inspectors,  
20      contractors, nonprofit organizations, for-profit com-  
21      panies, and other entities to perform audits and ret-  
22      rofit services under this section. A State may pro-  
23      vide incentives for retrofits without direct participa-  
24      tion by the State or its agents, so long as the result-  
25      ing savings are measured and verified. A State or

1 local administrator of a REEP program shall seek  
2 to ensure that sufficient qualified entities are avail-  
3 able to support retrofit activities so that building  
4 owners have a competitive choice among qualified  
5 auditors, raters, contractors, and providers of serv-  
6 ices related to retrofits. Nothing in this section is in-  
7 tended to deny the right of a building owner to  
8 choose the specific providers of retrofit services to  
9 engage for a retrofit project in that owner's building.

10 (3) EQUAL INCENTIVES FOR EQUAL IMPROVE-  
11 MENT.—In general, the States should strive to offer  
12 the same levels of incentives for retrofits that meet  
13 the same efficiency improvement goals, regardless of  
14 whether the State, its agency or entity, or the build-  
15 ing owner has conducted the retrofit achieving the  
16 improvement, provided the improvement is measured  
17 and verified.

18 (f) ADMINISTRATION OF INDIAN HOUSING.—

19 (1) IN GENERAL.—Not later than 180 days  
20 after the date of enactment of this Act, the Sec-  
21 retary of Energy, in consultation with Indian tribes,  
22 the Department of Housing and Urban Develop-  
23 ment, the Department of the Interior, and the De-  
24 partment of Health and Human Services, shall es-  
25 tablish a program and promulgate such regulations

1 as are necessary to assist Indian tribes in carrying  
2 out energy efficiency retrofit programs in accordance  
3 with this section.

4 (2) REVIEW OF EXISTING PROGRAMS.—In car-  
5 rying out paragraph (1), to determine the extent to  
6 which programs in effect as of the date of enactment  
7 of this Act may be used to further the REEP pro-  
8 gram for the benefit of Indian tribes, the Secretary  
9 of Energy shall review those programs, including—

10 (A) the Weatherization Assistance Pro-  
11 gram for Low-Income Persons established  
12 under part A of title IV of the Energy Con-  
13 servation and Production Act (42 U.S.C. 6861  
14 et seq.);

15 (B) programs under the Native American  
16 Housing Assistance and Self-Determination Act  
17 of 1996 (25 U.S.C. 4101 et seq.);

18 (C) the Housing Improvement Program of  
19 the Department of the Interior; and

20 (D) the low-income home energy assistance  
21 program established under the Low-Income  
22 Home Energy Assistance Act of 1981 (42  
23 U.S.C. 8621 et seq.).

24 (g) ELEMENTS OF REEP PROGRAM.—The Adminis-  
25 trator, in consultation with the Secretary of Energy, shall

1 establish goals, guidelines, practices, and standards for ac-  
2 complishing the purpose stated in subsection (c), and shall  
3 annually review and, as appropriate, revise such goals,  
4 guidelines, practices, and standards. The program under  
5 this section shall include the following:

6           (1) Residential Energy Services Network  
7           (RESNET) or Building Performance Institute  
8           (BPI) analyst certification of residential building en-  
9           ergy and environment auditors, inspectors, and rat-  
10          ers, or an equivalent certification system as deter-  
11          mined by the Administrator.

12          (2) BPI certification or licensing by States of  
13          residential building energy and environmental ret-  
14          rofit contractors, or an equivalent certification or li-  
15          censing system as determined by the Administrator.

16          (3) Provision of BPI, RESNET, or other ap-  
17          propriate information on equipment and procedures,  
18          as determined by the Administrator, that contractors  
19          can use to test the energy and environmental effi-  
20          ciency of buildings effectively (such as infrared pho-  
21          tography and pressurized testing, and tests for water  
22          use and indoor air quality).

23          (4) Provision of clear and effective materials to  
24          describe the testing and retrofit processes for typical  
25          buildings.

1           (5) Guidelines for offering and managing pre-  
2       scriptive building retrofit programs and perform-  
3       ance-based building retrofit programs for residential  
4       and nonresidential buildings.

5           (6) Guidelines for applying recommissioning  
6       and retrocommissioning principles to improve a  
7       building's operations and maintenance procedures.

8           (7) A requirement that building retrofits con-  
9       ducted pursuant to a REEP program utilize, espe-  
10      cially in all air-conditioned buildings, roofing mate-  
11      rials with high solar energy reflectance, unless inap-  
12      propriate due to green roof management, solar en-  
13      ergy production, or for other reasons identified by  
14      the Administrator, in order to reduce energy con-  
15      sumption within the building, increase the albedo of  
16      the building's roof, and decrease the heat island ef-  
17      fect in the area of the building, without reduction of  
18      otherwise applicable ceiling insulation standards.

19          (8) Determination of energy savings in a per-  
20      formance-based building retrofit program through—

21           (A) for residential buildings, comparison of  
22           before and after retrofit scores on the Home  
23           Energy Rating System (HERS) Index, where  
24           the final score is produced by an objective third  
25           party;

1 (B) for nonresidential buildings, Environ-  
2 mental Protection Agency Portfolio Manager  
3 benchmarks; or

4 (C) for either residential or nonresidential  
5 buildings, use of an Administrator-approved  
6 simulation program by a contractor with the  
7 appropriate certification, subject to appropriate  
8 software standards and verification of at least  
9 15 percent of all work done, or such other per-  
10 centage as the Administrator may determine.

11 (9) Guidelines for utilizing the Energy Star  
12 Portfolio Manager, the Home Energy Rating System  
13 (HERS) rating system, Home Performance with En-  
14 ergy Star program approvals, and any other tools  
15 associated with the retrofit program.

16 (10) Requirements and guidelines for post-ret-  
17 rofit inspection and confirmation of work and energy  
18 savings.

19 (11) Detailed descriptions of funding options  
20 for the benefit of State and local governments, along  
21 with model forms, accounting aids, agreements, and  
22 guides to best practices.

23 (12) Guidance on opportunities for—

24 (A) rating or certifying retrofitted build-  
25 ings as Energy Star buildings, or as green

1 buildings under a recognized green building rat-  
2 ing system;

3 (B) assigning Home Energy Rating Sys-  
4 tem (HERS) or similar ratings; and

5 (C) completing any applicable building per-  
6 formance labels.

7 (13) Sample materials for publicizing the pro-  
8 gram to building owners, including public service an-  
9 nouncements and advertisements.

10 (14) Processes for tracking the numbers and lo-  
11 cations of buildings retrofitted under the REEP pro-  
12 gram, with information on projected and actual sav-  
13 ings of energy and its value over time.

14 (h) REQUIREMENTS.—As a condition of receiving as-  
15 sistance for the REEP program pursuant to this Act, a  
16 State or qualifying local government shall—

17 (1) adopt the standards for training, certifi-  
18 cation of contractors, certification of buildings, and  
19 post-retrofit inspection as developed by the Adminis-  
20 trator for residential and nonresidential buildings,  
21 respectively, except as necessary to match local con-  
22 ditions, needs, efficiency opportunities, or other local  
23 factors, or to accord with State laws or regulations,  
24 and then only after the Administrator approves such  
25 a variance;

1           (2) establish fiscal controls and accounting pro-  
2           cedures (which conform to generally accepted gov-  
3           ernment accounting principles) sufficient to ensure  
4           proper accounting during appropriate accounting pe-  
5           riods for payments received and disbursements, and  
6           for fund balances; and

7           (3) agree to make 10 percent of assistance re-  
8           ceived to carry out this section available on a pref-  
9           erential basis for retrofit projects proposed for pub-  
10          lic housing and assisted housing, provided that—

11                (A) none of such funds shall be used for  
12                demolition of such housing;

13                (B) such retrofits not shall not be used to  
14                justify any increase in rents charged to resi-  
15                dents of such housing; and

16                (C) owners of such housing shall agree to  
17                continue to provide affordable housing con-  
18                sistent with the provisions of the authorizing  
19                legislation governing each program for an addi-  
20                tional period commensurate with the funding  
21                received; and

22          (4) the Administrator shall conduct or require  
23          each State to have such independent financial audits  
24          of REEP-related funding as the Administrator con-

1       siders necessary or appropriate to carry out the pur-  
2       poses of this section.

3       (i) OPTIONS TO SUPPORT REEP PROGRAM.—The as-  
4       sistance provided under this section shall support the im-  
5       plementation through State REEP programs of alternate  
6       means of creating incentives for, or reducing financial bar-  
7       riers to, improved energy and environmental performance  
8       in buildings, consistent with this section, including—

9               (1) implementing prescriptive building retrofit  
10       programs and performance-based building retrofit  
11       programs;

12              (2) providing credit enhancement, interest rate  
13       subsidies, loan guarantees, or other credit support;

14              (3) providing initial capital for public revolving  
15       fund financing of retrofits;

16              (4) providing funds to support utility-operated  
17       retrofit programs with repayments over time  
18       through utility rates, calibrated to create net positive  
19       cash flow to the building owner, and transferable  
20       from one building owner to the next with the build-  
21       ing's utility services;

22              (5) providing funds to local government pro-  
23       grams to provide REEP services and financial as-  
24       sistance; and

1           (6) other means proposed by State and local  
2           agencies, subject to the approval of the Adminis-  
3           trator.

4           (j) SUPPORT FOR PROGRAM.—

5           (1) INITIAL AWARD LIMITS.—Except as pro-  
6           vided in paragraph (2), State and local REEP pro-  
7           grams may make per-building direct expenditures  
8           for retrofit improvements, or their equivalent in indi-  
9           rect or other forms of financial support, from funds  
10          made available to carry out this section, in amounts  
11          not to exceed the following amounts per unit:

12                   (A) RESIDENTIAL BUILDING PROGRAM.—

13                           (i) AWARDS.—For residential build-  
14                           ings—

15                                   (I) support for a free or low-cost  
16                                   detailed building energy audit that  
17                                   prescribes measures sufficient to  
18                                   achieve at least a 20 percent reduc-  
19                                   tion in energy use, by providing an in-  
20                                   centive equal to the documented cost  
21                                   of such audit, but not more than  
22                                   \$200, in addition to any earned by  
23                                   achieving a 20 percent or greater effi-  
24                                   ciency improvement;

1 (II) a total of \$1,000 for a com-  
2 bination of measures, prescribed in an  
3 audit conducted under subclause (I),  
4 designed to reduce energy consump-  
5 tion by more than 10 percent, and  
6 \$2,000 for a combination of measures  
7 prescribed in such an audit, designed  
8 to reduce energy consumption by more  
9 than 20 percent;

10 (III) \$3,000 for demonstrated  
11 savings of 20 percent, pursuant to a  
12 performance-based building retrofit  
13 program; and

14 (IV) \$1,000 for each additional 5  
15 percentage points of energy savings  
16 achieved beyond savings for which  
17 funding is provided under subclause  
18 (II) or (III).

19 Funding shall not be provided under  
20 clauses (II) and (III) for the same energy  
21 savings.

22 (ii) MAXIMUM PERCENTAGE.—Awards  
23 under clause (i) shall not exceed 50 per-  
24 cent of retrofit costs for each building. For  
25 buildings with multiple residential units,

1 awards under clause (i) shall not be great-  
2 er than 50 percent of the total cost of ret-  
3 rofitting the building, prorated among indi-  
4 vidual residential units on the basis of rel-  
5 ative costs of the retrofit. In the case of  
6 public housing and assisted housing, the  
7 50 percent contribution matching the con-  
8 tribution from REEP program funds may  
9 come from any other source, including  
10 other Federal funds.

11 (iii) ADDITIONAL AWARDS.—Addi-  
12 tional awards may be provided for pur-  
13 poses of increasing energy efficiency, for  
14 buildings achieving at least 20 percent en-  
15 ergy savings using funding provided under  
16 clause (i), in the form of grants of not  
17 more than \$600 for measures projected or  
18 measured (using an appropriate method  
19 approved by the Administrator) to achieve  
20 at least 35 percent potable water savings  
21 through equipment or systems with an es-  
22 timated service life of not less than 7  
23 years, and not more than an additional  
24 \$20 may be provided for each additional

1                   one percent of such savings, up to a max-  
2                   imum total grant of \$1,200.

3                   (B)   NONRESIDENTIAL   BUILDING   PRO-  
4                   GRAM.—

5                   (i)   AWARDS.—For   nonresidential  
6                   buildings—

7                   (I) support for a free or low-cost  
8                   detailed building energy audit that  
9                   prescribes, as part of a energy-reduc-  
10                  ing measures sufficient to achieve at  
11                  least a 20 percent reduction in energy  
12                  use, by providing an incentive equal to  
13                  the documented cost of such audit,  
14                  but not more than \$500, in addition  
15                  to any award earned by achieving a  
16                  20 percent or greater efficiency im-  
17                  provement;

18                  (II) \$0.15 per square foot of ret-  
19                  rofit area for demonstrated energy use  
20                  reductions from 20 percent to 30 per-  
21                  cent;

22                  (III) \$0.75 per square foot for  
23                  demonstrated energy use reductions  
24                  from 30 percent to 40 percent;

1 (IV) \$1.60 per square foot for  
2 demonstrated energy use reductions  
3 from 40 percent to 50 percent; and

4 (V) \$2.50 per square foot for  
5 demonstrated energy use reductions  
6 exceeding 50 percent.

7 (ii) MAXIMUM PERCENTAGE.—  
8 Amounts provided under subclauses (II)  
9 through (V) of clause (i) combined shall  
10 not exceed 50 percent of the total retrofit  
11 cost of a building. In nonresidential build-  
12 ings with multiple units, such awards shall  
13 be prorated among individual units on the  
14 basis of relative costs of the retrofit.

15 (iii) ADDITIONAL AWARDS.—Addi-  
16 tional awards may be provided, for build-  
17 ings achieving at least 20 percent energy  
18 savings using funding provided under  
19 clause (i), as follows:

20 (I) WATER.—For purposes of in-  
21 creasing energy efficiency, grants may  
22 be made for whole building potable  
23 water use reduction (using an appro-  
24 priate method approved by the Ad-  
25 ministrator) for up to 50 percent of

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1 the total retrofit cost, including  
2 amounts up to—

3 (aa) \$24.00 per thousand  
4 gallons per year of potable water  
5 savings of 40 percent or more;

6 (bb) \$27.00 per thousand  
7 gallons per year of potable water  
8 savings of 50 percent or more;  
9 and

10 (cc) \$30.00 per thousand  
11 gallons per year of potable water  
12 savings of 60 percent or more.

13 (II) ENVIRONMENTAL IMPROVE-  
14 MENTS.—Additional awards of up to  
15 \$1,000 may be granted for the inclu-  
16 sion of other environmental attributes  
17 that the Administrator, in consulta-  
18 tion with the Secretary, identifies as  
19 contributing to energy efficiency. Such  
20 attributes may include, but are not  
21 limited to waste diversion and the use  
22 of environmentally preferable mate-  
23 rials (including salvaged, renewable,  
24 or recycled materials, and materials  
25 with no or low-VOC content). The Ad-

1                    administrator may recommend that  
2                    States develop such standards as are  
3                    necessary to account for local or re-  
4                    gional conditions that may affect the  
5                    feasibility or availability of identified  
6                    resources and attributes.

7                    (iv) INDOOR AIR QUALITY MINIMUM.—  
8                    Nonresidential buildings receiving incen-  
9                    tives under this section must satisfy at a  
10                   minimum the most recent version of  
11                   ASHRAE Standard 62.1 for ventilation, or  
12                   the equivalent as determined by the Ad-  
13                   ministrator. A State may issue a waiver  
14                   from this requirement to a building project  
15                   on a showing that such compliance is in-  
16                   feasible due to the physical constraints of  
17                   the building's existing ventilation system,  
18                   or such other limitations as may be speci-  
19                   fied by the Administrator.

20                   (C) DISASTER DAMAGED BUILDINGS.—Any  
21                   source of funds, including Federal funds pro-  
22                   vided through the Robert T. Stafford Disaster  
23                   Relief and Emergency Assistance Act, shall  
24                   qualify as the building owner's 50 percent con-  
25                   tribution, in order to match the contribution of

1 REEP funds, so long as the REEP funds are  
2 only used to improve the energy efficiency of  
3 the buildings being reconstructed. In addition,  
4 the appropriate Federal agencies providing as-  
5 sistance to building owners through the Robert  
6 T. Stafford Disaster Relief and Emergency As-  
7 sistance Act shall make information available,  
8 following a disaster, to building owners rebuild-  
9 ing disaster damaged buildings with assistance  
10 from the Act, that REEP funds may be used  
11 for energy efficiency improvements.

12 (D) HISTORIC BUILDINGS.—Notwith-  
13 standing subparagraphs (A) and (B), a building  
14 in or eligible for the National Register of His-  
15 toric Places shall be eligible for awards under  
16 this paragraph in amounts up to 120 percent of  
17 the amounts set forth in subparagraphs (A) and  
18 (B).

19 (E) SUPPLEMENTAL SUPPORT.—State and  
20 local governments may supplement the per-  
21 building expenditures under this paragraph  
22 with funding from other sources.

23 (2) ADJUSTMENT.—The Administrator may ad-  
24 just the specific dollar amounts provided under para-  
25 graph (1) in years subsequent to the second year

1 after the date of enactment of this Act, and every  
2 2 years thereafter, as the Administrator determines  
3 necessary to achieve optimum cost-effectiveness and  
4 to maximize incentives to achieve energy efficiency  
5 within the total building award amounts provided in  
6 that paragraph, and shall publish and hold constant  
7 such revised limits for at least 2 years.

8 (k) REPORT TO CONGRESS.—The Administrator shall  
9 conduct an annual assessment of the achievements of the  
10 REEP program in each State, shall prepare an annual re-  
11 port of such achievements and any recommendations for  
12 program modifications, and shall provide such report to  
13 Congress at the end of each fiscal year during which fund-  
14 ing or other resources were made available to the States  
15 for the REEP Program.

16 **SEC. 165. CERTIFIED STOVES PROGRAM.**

17 (a) DEFINITIONS.—In this section:

18 (1) AGENCY.—The term “Agency” means the  
19 Environmental Protection Agency.

20 (2) CERTIFIED STOVE.—

21 (A) IN GENERAL.—The term “certified  
22 stove” means a wood stove or pellet stove that  
23 meets the standards of performance for new  
24 residential wood heaters under subpart AAA of  
25 part 60 of subchapter C of chapter I of title 40,

1 Code of Federal Regulations (or successor regu-  
2 lations), as certified by the Administrator.

3 (B) INCLUSION.—The term “certified  
4 stove” includes a pellet stove or fireplace insert  
5 that uses pellets for fuel that are exempt from  
6 testing by the Administrator but meet the same  
7 standards of performance as wood stoves.

8 (3) ELIGIBLE ENTITY.—The term “eligible enti-  
9 ty” means—

10 (A) a State, a local government, or a feder-  
11 ally recognized Indian tribe;

12 (B) an Alaskan Native village or regional  
13 or village corporation (as defined in, or estab-  
14 lished under, the Alaskan Native Claims Settle-  
15 ment Act (43 U.S.C. 1601 et seq.)); and

16 (C) a nonprofit organization or institution  
17 that—

18 (i) represents or provides pollution re-  
19 duction or educational services relating to  
20 wood smoke minimization to persons, orga-  
21 nizations, or communities; or

22 (ii) has, as the principal purpose of  
23 the organization or institution, the pro-  
24 motion of air quality or energy efficiency.

1           (4) WOOD STOVE OR PELLET STOVE.—The  
2       term “wood stove or pellet stove” means a wood  
3       stove, pellet stove, or fireplace insert that uses wood  
4       or pellets for fuel.

5       (b) ESTABLISHMENT.—The Administrator shall es-  
6       tablish and carry out a program to assist in the replace-  
7       ment of wood stoves or pellet stoves that do not meet the  
8       standards of performance described in subsection (a)(2)  
9       by—

10           (1) requiring that each wood stove or pellet  
11       stove sold in the United States on and after the date  
12       of enactment of this Act meet the standards of per-  
13       formance described in subsection (a)(2);

14           (2) requiring that no wood stove or pellet stove  
15       replaced under the program is sold or returned to  
16       active service, but that it is instead destroyed and  
17       recycled, to the maximum extent practicable;

18           (3) providing funds to an eligible entity to re-  
19       place a wood stove or pellet stove that does not meet  
20       the standards of performance described in subsection  
21       (a)(2) with a certified stove, including funds to pay  
22       for—

23           (A) installation of a replacement certified  
24       stove; and

1 (B) necessary replacement of or repairs to  
2 ventilation, flues, chimneys, or other applicable  
3 items necessary for safe installation of a re-  
4 placement certified stove;

5 (4) in addition to any funds that may be appro-  
6 priated for the program under this section, using ex-  
7 isting Federal, State, and local programs and incen-  
8 tives, to the maximum extent practicable;

9 (5) prioritizing the replacement of wood stoves  
10 or pellet stoves manufactured before July 1, 1990;  
11 and

12 (6) carrying out such other activities as the Ad-  
13 ministrator determines appropriate to facilitate the  
14 replacement of wood stoves or pellet stoves that do  
15 not meet the standards of performance described in  
16 subsection (a)(2).

17 (c) EPA AUTHORITY TO ACCEPT WOOD STOVE OR  
18 PELLET STOVE REPLACEMENT SUPPLEMENTAL ENVI-  
19 RONMENTAL PROJECTS.—

20 (1) IN GENERAL.—Notwithstanding sections  
21 1301 and 3302 of title 31, United States Code, the  
22 Administrator may accept a wood stove or pellet  
23 stove replacement supplemental environmental  
24 project as part of a settlement of any alleged viola-  
25 tion of environmental law if the project—

1 (A) protects human health or the environ-  
2 ment;

3 (B) is related to the underlying alleged vio-  
4 lation;

5 (C) does not constitute activities that the  
6 defendant would otherwise be legally required to  
7 perform; and

8 (D) does not provide funds for the staff of  
9 the Agency or for contractors to carry out the  
10 internal operations of the Agency.

11 (2) CERTIFICATION.—

12 (A) IN GENERAL.—In any settlement  
13 agreement regarding an alleged violation of en-  
14 vironmental law under which a defendant  
15 agrees to perform a wood stove or pellet stove  
16 replacement supplemental environmental  
17 project, the Administrator shall require the de-  
18 fendant to include in the settlement documents  
19 a certification under penalty of law that the de-  
20 fendant would have agreed to perform a com-  
21 parably valued, alternative project other than a  
22 wood stove or pellet stove replacement supple-  
23 mental environmental project if the Adminis-  
24 trator were precluded by law from accepting a

1 wood stove or pellet stove replacement supple-  
2 mental environmental project.

3 (B) EFFECT OF OMISSION.—A failure by  
4 the Administrator to include the certification  
5 described in subparagraph (A) in a settlement  
6 agreement shall not—

7 (i) create a cause of action against the  
8 United States under the Clean Air Act (42  
9 U.S.C. 7401 et seq.) or any other law; or  
10 (ii) create a basis for overturning a  
11 settlement agreement entered into by the  
12 United States.

13 (d) REGULATIONS.—The Administrator may promul-  
14 gate such regulations as are necessary to carry out the  
15 program established under subsection (b).

16 (e) FUNDING.—

17 (1) AUTHORIZATION OF APPROPRIATIONS.—  
18 There are authorized to be appropriated to carry out  
19 the program established under subsection (b)  
20 \$20,000,000 for the period of fiscal years 2010  
21 through 2014.

22 (2) DESIGNATED USE.—Of amounts appro-  
23 priated pursuant to this subsection—

24 (A) 25 percent shall be designated for use  
25 to carry out the program established under sub-

1 section (b) on land held in trust for the benefit  
2 of a federally recognized Indian tribe;

3 (B) 3 percent shall be designated for use  
4 to carry out the program in Alaskan Native vil-  
5 lages or regional or village corporations (as de-  
6 fined in, or established under, the Alaskan Na-  
7 tive Claims Settlement Act (43 U.S.C. 1601 et  
8 seq.)); and

9 (C) 72 percent shall be designated for use  
10 to carry out the program nationwide.

11 (3) REGULATORY PROGRAMS.—

12 (A) IN GENERAL.—No grant or loan pro-  
13 vided under subsection (b) shall be used to fund  
14 the costs of emission reductions that are man-  
15 dated under Federal, State, or local law.

16 (B) MANDATED MEASURES.—For purposes  
17 of subparagraph (A), voluntary or elective emis-  
18 sion reduction measures shall not be considered  
19 mandated, regardless of whether the reductions  
20 are included in the implementation plan of a  
21 State.

22 **SEC. 166. RENEWABLE FUEL STANDARD.**

23 (a) DEFINITIONS.—Section 211(o)(1) of the Clean  
24 Air Act (42 U.S.C. 7545(o)(1)) is amended—

1           (1) in subparagraph (B)(ii)(VII), by striking  
2       “cellulosic” and inserting “advanced green”;  
3           (2) by striking subparagraph (E);  
4           (3) by redesignating subparagraphs (C) and  
5       (D) as subparagraphs (D) and (E), respectively; and  
6           (4) by inserting after subparagraph (B) the fol-  
7       lowing:

8           “(C) ADVANCED GREEN BIOFUEL.—The  
9       term ‘advanced green biofuel’ means renewable  
10      fuel that—

11           “(i) is derived from renewable bio-  
12      mass; and

13           “(ii) has lifecycle greenhouse gas  
14      emissions that are at least 60 percent less  
15      than the baseline lifecycle greenhouse gas  
16      emissions.”.

17       (b) STANDARD.—Section 211(o) of the Clean Air Act  
18   (42 U.S.C. 7545(o)) is amended—

19       (1) in paragraph (2)—

20           (A) in subparagraph (A)(i), by striking  
21      “cellulosic” and inserting “advanced green”;  
22      and

23           (B) in subparagraph (B)—

24           (i) in clause (i)(III)—

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1 (I) in the subclause heading, by  
2 striking “CELLULOSIC” and inserting  
3 “ADVANCED GREEN”;

4 (II) by striking “cellulosic” and  
5 inserting “advanced green”; and

6 (III) in the heading of the right  
7 column, by striking “**cellulosic**”  
8 and inserting “**advanced green**”;

9 (ii) in clause (ii)(III), by striking “cel-  
10 lulosic” and inserting “advanced green”;  
11 and

12 (iii) in clause (iv)—

13 (I) in the clause heading, by  
14 striking “CELLULOSIC” and inserting  
15 “ADVANCED GREEN”; and

16 (II) by striking “cellulosic” and  
17 inserting “advanced green”;

18 (2) in paragraphs (3)(A), (4)(A), and (4)(B),  
19 by striking “cellulosic” each place it appears and in-  
20 serting “advanced green”; and

21 (3) in paragraph (7)(D)—

22 (A) in the subparagraph heading, by strik-  
23 ing “CELLULOSIC” and inserting “ADVANCED  
24 GREEN”; and

1 (B) by striking “cellulosic” each place it  
2 appears and inserting “advanced green”.

3 **Subtitle G—Emission Reductions**  
4 **From Public Transportation Ve-**  
5 **hicles**

6 **SEC. 171. SHORT TITLE.**

7 This subtitle may be cited as the “Green Taxis Act  
8 of 2009”.

9 **SEC. 172. STATE FUEL ECONOMY REGULATION FOR TAXI-**  
10 **CABS.**

11 Section 32919 of title 49, United States Code, is  
12 amended by adding at the end the following new sub-  
13 section:

14 “(d) TAXICABS.—Notwithstanding subsection (a), a  
15 State or political subdivision of a State may prescribe re-  
16 quirements for fuel economy for taxicabs and other auto-  
17 mobiles if such requirements are at least as stringent as  
18 applicable Federal requirements and if such taxicabs and  
19 other automobiles—

20 “(1) are automobiles that are capable of trans-  
21 porting not more than 10 individuals, including the  
22 driver;

23 “(2) are commercially available or are designed  
24 and manufactured pursuant to a contract with such  
25 State or political subdivision of such State;

1           “(3) are operated for hire pursuant to an oper-  
2           ating or regulatory license, permit, or other author-  
3           ization issued by such State or political subdivision  
4           of such State;

5           “(4) provide local transportation for a fare de-  
6           termined on the basis of the time or distance trav-  
7           eled or a combination of time and distance traveled;  
8           and

9           “(5) do not exclusively provide transportation to  
10          and from airports.”.

11 **SEC. 173. STATE REGULATION OF MOTOR VEHICLE EMIS-**  
12 **SIONS FOR TAXICABS.**

13          Section 209 of the Clean Air Act (42 U.S.C. 7543)  
14 is amended by adding at the end the following new sub-  
15 section:

16          “(f) TAXICABS.—(1) Notwithstanding subsection (a),  
17 a State or political subdivision thereof may adopt and en-  
18 force standards for the control of emissions from new  
19 motor vehicles that are taxicabs and other vehicles if such  
20 standards will be, in the aggregate, at least as protective  
21 of public health and welfare as applicable Federal stand-  
22 ards and if such taxicabs and other vehicles—

23               “(A) are passenger motor vehicles that are  
24               capable of transporting not more than 10 indi-  
25               viduals, including the driver;

1           “(B) are commercially available or are de-  
2           signed and manufactured pursuant to a con-  
3           tract with such State or political subdivision  
4           thereof;

5           “(C) are operated for hire pursuant to an  
6           operating or regulatory license, permit, or other  
7           authorization issued by such State or political  
8           subdivision thereof;

9           “(D) provide local transportation for a fare  
10          determined on the basis of the time or distance  
11          traveled or a combination of time and distance  
12          traveled; and

13          “(E) do not exclusively provide transpor-  
14          tation to and from airports.

15          “(2) If each standard of a State or political subdivi-  
16          sion thereof is at least as stringent as the comparable ap-  
17          plicable Federal standard, such standard of such State or  
18          political subdivision thereof shall be deemed at least as  
19          protective of health and welfare as such Federal standards  
20          for purposes of this subsection.”.

21           **Subtitle H—Clean Energy and**  
22           **Natural Gas**

23   **SEC. 181. CLEAN ENERGY AND ACCELERATED EMISSION**  
24           **REDUCTION PROGRAM.**

25          (a) ESTABLISHMENT.—

1           (1) IN GENERAL.—The Administrator shall es-  
2       tablish a program to promote dispatchable power  
3       generation projects that can accelerate the reduction  
4       of power sector carbon dioxide and other greenhouse  
5       gas emissions.

6           (2) USE OF FUNDS.—Funds provided under  
7       this section shall be used by the Administrator to  
8       make incentive payments to owners or operators of  
9       eligible projects.

10       (b) REGULATIONS.—Not later than 90 days after the  
11      date of enactment of this Act, the Administrator shall pro-  
12      mulgate regulations providing for incentives, pursuant to  
13      the requirements of this section.

14       (c) GOAL.—Not later than 3 years after the date of  
15      enactment of this Act, the Administrator shall provide in-  
16      centives for eligible projects that generate 300,000  
17      gigawatt-hours of electricity per year.

18       (d) CRITERIA FOR ELIGIBLE PROJECTS.—To be eli-  
19      gible for funding under this section a project must—

20           (1) reduce emissions below the 2007 average  
21       greenhouse gas emissions per megawatt-hour of the  
22       United States electric power sector by the quantity  
23       specified in subsection (f); and

24           (2) not receive an investment or production  
25       credit in—

1 (A) the year in which the project is placed  
 2 in service; or

3 (B) calendar year 2009, notwithstanding  
 4 the year in which the project was placed in  
 5 service.

6 (e) PRIORITY.—The Administrator shall give priority  
 7 to eligible projects from the following categories:

8 (1) Power generation projects designed to inte-  
 9 grate intermittent renewable power into the bulk-  
 10 power system.

11 (2) Energy storage projects used to support re-  
 12 newable energy.

13 (3) Power generation projects with carbon cap-  
 14 ture and sequestration that are not eligible for other  
 15 assistance under this Act.

16 (4) Projects that achieve the greatest reduction  
 17 in greenhouse gas emissions per dollar of incentive  
 18 payment.

19 (f) EMISSION REDUCTION CRITERIA.—For the pur-  
 20 poses of subsection (d), the applicable emission reduction  
 21 quantity shall be determined in accordance with the fol-  
 22 lowing table:

Calendar years	Percentage below 2007 average green- house gas emissions per MWh of United States electric power sector
2010 through 2020 .....	25 percent
2021 through 2025 .....	40 percent
2026 through 2030 .....	65 percent

1 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to the Administrator  
3 such sums as are necessary to carry out this section for  
4 each of fiscal years 2010 through 2030.

5 **SEC. 182. ADVANCED NATURAL GAS TECHNOLOGIES.**

6 (a) DEFINITIONS.—In this section:

7 (1) CORPORATION.—

8 (A) IN GENERAL.—The term “corpora-  
9 tion” means any corporation, joint-stock com-  
10 pany, partnership, limited liability company, as-  
11 sociation, business trust, or other organized  
12 group of persons, regardless of incorporation.

13 (B) EXCLUSION.—The term “corporation”  
14 does not include a municipality.

15 (2) ELIGIBLE ENTITY.—

16 (A) IN GENERAL.—The term “eligible enti-  
17 ty” means an entity that is eligible to receive a  
18 grant under subsection (b).

19 (B) INCLUSIONS.—The term “eligible enti-  
20 ty” includes a corporation, an eligible research  
21 entity, an industry entity, a municipality, a mu-  
22 nicipal natural gas distribution system, and a  
23 natural gas distribution company.

24 (3) ELIGIBLE RESEARCH ENTITY.—

1 (A) IN GENERAL.—The term “eligible re-  
2 search entity” means an entity that is experi-  
3 enced in planning, conducting, and imple-  
4 menting natural gas research, development,  
5 demonstration, and deployment projects.

6 (B) INCLUSIONS.—The term “eligible re-  
7 search entity” includes a research institution  
8 and an institution of higher education.

9 (4) INDUSTRY ENTITY.—

10 (A) IN GENERAL.—The term “industry en-  
11 tity” means the persons and municipalities col-  
12 lectively engaged in the delivery of natural gas  
13 for consumption in the United States (such as  
14 natural gas distribution companies and munic-  
15 ipal natural gas distribution systems).

16 (B) EXCLUSION.—The term “industry en-  
17 tity” does not include any natural gas cus-  
18 tomer.

19 (5) MUNICIPALITY.—The term “municipality”  
20 means a city, county, or other political subdivision or  
21 agency of a State.

22 (6) MUNICIPAL NATURAL GAS DISTRIBUTION  
23 SYSTEM.—The term “municipal natural gas distribu-  
24 tion system” means a municipality engaged in the  
25 business of delivering natural gas for consumption to

1 residential, commercial, industrial, and other natural  
2 gas customers.

3 (7) NATURAL GAS.—

4 (A) IN GENERAL.—The term “natural  
5 gas” means a mixture of hydrocarbon and non-  
6 hydrocarbon gases, primarily methane, that  
7 have been produced from geological formations  
8 or by any other means.

9 (B) INCLUSION.—The term “natural gas”  
10 includes renewable biogas.

11 (8) NATURAL GAS DISTRIBUTION COMPANY.—  
12 The term “natural gas distribution company” means  
13 a person engaged in the business of distributing nat-  
14 ural gas for consumption to residential, commercial,  
15 industrial, or other natural gas customers.

16 (b) GRANT PROGRAMS.—

17 (1) NATURAL GAS ELECTRICITY GENERATION  
18 GRANTS.—The Administrator, in consultation with  
19 Secretary of Energy, may provide to eligible entities  
20 research and development grants to support the de-  
21 ployment of low greenhouse-gas-emitting end-use  
22 technologies, including carbon capture and seques-  
23 tration technologies, for natural gas electricity gen-  
24 eration.

1           (2) NATURAL GAS RESIDENTIAL AND COMMER-  
2           CIAL TECHNOLOGY GRANTS.—The Administrator  
3           shall establish a program to provide to eligible enti-  
4           ties grants to advance the commercial demonstration  
5           or early development of low greenhouse-gas-emitting  
6           end-use technologies fueled by natural gas, including  
7           carbon capture and storage, for residential and com-  
8           mercial purposes, through research, development,  
9           demonstration, and deployment of those tech-  
10          nologies.

11          (c) REPORTING.—Not later than 180 days after the  
12          date of enactment of this Act, and every 180 days there-  
13          after, the Secretary of Energy shall submit to the Com-  
14          mittee on Energy and Commerce of the House of Rep-  
15          resentatives and the Senate Committees on Energy and  
16          Natural Resources and Environment and Public Works of  
17          the Senate a report that describes the status and results  
18          of activities carried out under subsection (b).

19          (d) AUTHORIZATION.—There are authorized to be ap-  
20          propriated such sums as are necessary to carry out this  
21          section.

1                   **TITLE II—RESEARCH**  
2                   **Subtitle A—Energy Research**

3   **SEC. 201. ADVANCED ENERGY RESEARCH.**

4           (a) IN GENERAL.—The Administrator shall establish  
5   a program to provide grants for advanced energy research.

6           (b) DISTRIBUTION.—The Administrator shall dis-  
7   tribute grants on a competitive basis to institutions of  
8   higher education, companies, research foundations, trade  
9   and industry research collaborations, or consortia of such  
10   entities, or other appropriate research and development  
11   entities.

12          (c) SELECTION OF PROPOSALS.—In selecting pro-  
13   posals for funding under this section, the Administrator  
14   shall prioritize applications that—

15               (1) enhance the economic and energy security  
16               of the United States through the development of en-  
17               ergy technologies that result in—

18                       (A) reductions of imports of energy from  
19                       foreign sources;

20                       (B) reductions of energy-related emissions,  
21                       including greenhouse gases; and

22                       (C) improvements in the energy efficiency  
23                       of all economic sectors; and

1           (2) ensure that the United States maintains a  
2           technological lead in developing and deploying ad-  
3           vanced energy technologies.

4           (d) RESPONSIBILITIES.—The Administrator shall be  
5           responsible for assessing the success of programs and ter-  
6           minating programs carried out under this section that are  
7           not achieving the goals of the programs.

8           (e) ASSISTANCE.—Assistance provided under this  
9           section shall be used to supplement, and not to supplant,  
10          any other Federal resources available to carry out activi-  
11          ties described in this section.

12          (f) AUTHORIZATION.—There are authorized to be ap-  
13          propriated such sums as are necessary to carry out this  
14          section.

15       **Subtitle B—Drinking Water Adap-**  
16       **tation, Technology, Education,**  
17       **and Research**

18       **SEC. 211. EFFECTS OF CLIMATE CHANGE ON DRINKING**  
19       **WATER UTILITIES.**

20          (a) FINDINGS.—Congress finds that—

21               (1) the consensus among climate scientists is  
22               overwhelming that climate change is occurring more  
23               rapidly than can be attributed to natural causes, and  
24               that significant impacts to the water supply are al-  
25               ready occurring;

1           (2) among the first and most critical of those  
2           impacts will be change to patterns of precipitation  
3           around the world, which will affect water availability  
4           for the most basic drinking water and domestic  
5           water needs of populations in many areas of the  
6           United States;

7           (3) drinking water utilities throughout the  
8           United States, as well as those in Europe, Australia,  
9           and Asia, are concerned that extended changes in  
10          precipitation will lead to extended droughts;

11          (4) supplying water is highly energy-intensive  
12          and will become more so as climate change forces  
13          more utilities to turn to alternative supplies;

14          (5) energy production consumes a significant  
15          percentage of the fresh water resources of the  
16          United States;

17          (6) since 2003, the drinking water industry of  
18          the United States has sponsored, through a non-  
19          profit water research foundation, various studies to  
20          assess the impacts of climate change on drinking  
21          water supplies;

22          (7) those studies demonstrate the need for a  
23          comprehensive program of research into the full  
24          range of impacts on drinking water utilities, includ-

1       ing impacts on water supplies, facilities, and cus-  
2       tomers;

3           (8) that nonprofit water research foundation is  
4       also coordinating internationally with other drinking  
5       water utilities on shared research projects and has  
6       hosted international workshops with counterpart Eu-  
7       ropean and Asian water research organizations to  
8       develop a unified research agenda for applied re-  
9       search on adaptive strategies to address climate  
10      change impacts;

11           (9) research data in existence as of the date of  
12      enactment of this Act—

13           (A) summarize the best available scientific  
14      evidence on climate change;

15           (B) identify the implications of climate  
16      change for the water cycle and the availability  
17      and quality of water resources; and

18           (C) provide general guidance on planning  
19      and adaptation strategies for water utilities;  
20      and

21           (10) given uncertainties about specific climate  
22      changes in particular areas, drinking water utilities  
23      need to prepare for a wider range of likely possibili-  
24      ties in managing and delivery of water.

1 (b) IN GENERAL.—The Administrator, in cooperation  
2 with the Secretary of Commerce, the Secretary of Energy,  
3 and the Secretary of the Interior, shall establish and pro-  
4 vide funding for a program of directed and applied re-  
5 search, to be conducted through a nonprofit drinking  
6 water research foundation and sponsored by water utili-  
7 ties, to assist the utilities in adapting to the effects of cli-  
8 mate change.

9 (c) RESEARCH AREAS.—The research conducted in  
10 accordance with subsection (b) shall include research  
11 into—

12 (1) water quality impacts and solutions, includ-  
13 ing research—

14 (A) to address probable impacts on raw  
15 water quality resulting from—

16 (i) erosion and turbidity from extreme  
17 precipitation events;

18 (ii) watershed vegetation changes; and

19 (iii) increasing ranges of pathogens,  
20 algae, and nuisance organisms resulting  
21 from warmer temperatures; and

22 (B) on mitigating increasing damage to  
23 watersheds and water quality by evaluating ex-  
24 treme events, such as wildfires and hurricanes,

1 to learn and develop management approaches to  
2 mitigate—

3 (i) permanent watershed damage;

4 (ii) quality and yield impacts on  
5 source waters; and

6 (iii) increased costs of water treat-  
7 ment;

8 (2) impacts on groundwater supplies from car-  
9 bon sequestration, including research to evaluate po-  
10 tential water quality consequences of carbon seques-  
11 tration in various regional aquifers, soil conditions,  
12 and mineral deposits;

13 (3) water quantity impacts and solutions, in-  
14 cluding research—

15 (A) to evaluate climate change impacts on  
16 water resources throughout hydrological basins  
17 of the United States;

18 (B) to improve the accuracy and resolution  
19 of climate change models at a regional level;

20 (C) to identify and explore options for in-  
21 creasing conjunctive use of aboveground and  
22 underground storage of water; and

23 (D) to optimize operation of existing and  
24 new reservoirs in diminished and erratic periods  
25 of precipitation and runoff;

1           (4) infrastructure impacts and solutions for  
2       water treatment and wastewater treatment facilities  
3       and underground pipelines, including research—

4           (A) to evaluate and mitigate the impacts of  
5       sea level rise on—

6           (i) near-shore facilities;

7           (ii) soil drying and subsidence;

8           (iii) reduced flows in water and waste-  
9       water pipelines; and

10          (iv) extreme flows in wastewater sys-  
11       tems; and

12          (B) on ways of increasing the resilience of  
13       existing infrastructure, planning cost-effective  
14       responses to adapt to climate change, and de-  
15       veloping new design standards for future infra-  
16       structure that include the use of energy con-  
17       servation measures and renewable energy in  
18       new construction to the maximum extent prac-  
19       ticable;

20       (5) desalination, water reuse, and alternative  
21       supply technologies, including research—

22           (A) to improve and optimize existing mem-  
23       brane technologies, and to identify and develop  
24       breakthrough technologies, to enable the use of

1 seawater, brackish groundwater, treated waste-  
2 water, and other impaired sources;

3 (B) into new sources of water through  
4 more cost-effective water treatment practices in  
5 recycling and desalination; and

6 (C) to improve technologies for use in—

7 (i) managing and minimizing the vol-  
8 ume of desalination and reuse concentrate  
9 streams; and

10 (ii) minimizing the environmental im-  
11 pacts of seawater intake at desalination fa-  
12 cilities;

13 (6) energy efficiency and greenhouse gas mini-  
14 mization, including research—

15 (A) on optimizing the energy efficiency of  
16 water supply and wastewater operations and  
17 improving water efficiency in energy production  
18 and management; and

19 (B) to identify and develop renewable, car-  
20 bon-neutral energy options for the water supply  
21 and wastewater industry;

22 (7) regional and hydrological basin cooperative  
23 water management solutions, including research  
24 into—

1 (A) institutional mechanisms for greater  
2 regional cooperation and use of water ex-  
3 changes, banking, and transfers; and

4 (B) the economic benefits of sharing risks  
5 of shortage across wider areas;

6 (8) utility management, decision support sys-  
7 tems, and water management models, including re-  
8 search—

9 (A) into improved decision support systems  
10 and modeling tools for use by water utility  
11 managers to assist with increased water supply  
12 uncertainty and adaptation strategies posed by  
13 climate change;

14 (B) to provide financial tools, including  
15 new rate structures, to manage financial re-  
16 sources and investments, because increased con-  
17 servation practices may diminish revenue and  
18 increase investments in infrastructure; and

19 (C) to develop improved systems and mod-  
20 els for use in evaluating—

21 (i) successful alternative methods for  
22 conservation and demand management;  
23 and

24 (ii) climate change impacts on  
25 groundwater resources;

1           (9) reducing greenhouse gas emissions and im-  
2           proving energy demand management, including re-  
3           search to improve energy efficiency in water collec-  
4           tion, production, transmission, treatment, distribu-  
5           tion, and disposal to provide more sustainability and  
6           means to assist drinking water utilities in reducing  
7           the production of greenhouse gas emissions in the  
8           collection, production, transmission, treatment, dis-  
9           tribution, and disposal of drinking water;

10          (10) water conservation and demand manage-  
11          ment, including research—

12                (A) to develop strategic approaches to  
13                water demand management that offer the low-  
14                est-cost, noninfrastructural options to serve  
15                growing populations or manage declining sup-  
16                plies, primarily through—

17                       (i) efficiencies in water use and re-  
18                       allocation of the saved water;

19                       (ii) demand management tools;

20                       (iii) economic incentives; and

21                       (iv) water-saving technologies; and

22                (B) into efficiencies in water management  
23                through integrated water resource management  
24                that incorporates—

1 (i) supply-side and demand-side proc-  
2 esses;

3 (ii) continuous adaptive management;  
4 and

5 (iii) the inclusion of stakeholders in  
6 decisionmaking processes; and

7 (11) communications, education, and public ac-  
8 ceptance, including research—

9 (A) into improved strategies and ap-  
10 proaches for communicating with customers, de-  
11 cisionmakers, and other stakeholders about the  
12 implications of climate change on water supply  
13 and water management;

14 (B) to develop effective communication ap-  
15 proaches—

16 (i) to gain public acceptance of alter-  
17 native water supplies and new policies and  
18 practices, including conservation and de-  
19 mand management; and

20 (ii) to gain public recognition and ac-  
21 ceptance of increased costs; and

22 (C) to create and maintain a clearinghouse  
23 of climate change information for water utili-  
24 ties, academic researchers, stakeholders, gov-  
25 ernment agencies, and research organizations.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$25,000,000 for each of fiscal years 2010 through 2020.

4 **TITLE III—TRANSITION AND**  
5 **ADAPTATION**  
6 **Subtitle A—Green Jobs and Worker**  
7 **Transition**

8 **PART 1—GREEN JOBS**

9 **SEC. 301. CLEAN ENERGY CURRICULUM DEVELOPMENT**  
10 **GRANTS.**

11 (a) AUTHORIZATION.—The Secretary of Education is  
12 authorized to award grants, on a competitive basis, to eli-  
13 gible partnerships to develop programs of study (con-  
14 taining the information described in section 122(c)(1)(A)  
15 of the Carl D. Perkins Career and Technical Education  
16 Act of 2006 (20 U.S.C. 2342)), that are focused on emerg-  
17 ing careers and jobs in the fields of clean energy, renew-  
18 able energy, energy efficiency, climate change mitigation,  
19 and climate change adaptation. The Secretary of Edu-  
20 cation shall consult with the Secretary of Labor and the  
21 Secretary of Energy prior to the issuance of a solicitation  
22 for grant applications.

23 (b) ELIGIBLE PARTNERSHIPS.—For purposes of this  
24 section, an eligible partnership shall include—

1           (1) at least 1 local educational agency eligible  
2           for funding under section 131 of the Carl D. Per-  
3           kins Career and Technical Education Act of 2006  
4           (20 U.S.C. 2351) or an area career and technical  
5           education school or education service agency de-  
6           scribed in such section;

7           (2) at least 1 postsecondary institution eligible  
8           for funding under section 132 of such Act (20  
9           U.S.C. 2352); and

10          (3) representatives of the community including  
11          business, labor organizations, and industry that have  
12          experience in fields as described in subsection (a).

13          (c) APPLICATION.—An eligible partnership seeking a  
14          grant under this section shall submit an application to the  
15          Secretary at such time and in such manner as the Sec-  
16          retary may require. Applications shall include—

17               (1) a description of the eligible partners and  
18               partnership, the roles and responsibilities of each  
19               partner, and a demonstration of each partner's ca-  
20               pacity to support the program;

21               (2) a description of the career area or areas  
22               within the fields as described in subsection (a) to be  
23               developed, the reason for the choice, and evidence of  
24               the labor market need to prepare students in that  
25               area;

1           (3) a description of the new or existing program  
2           of study and both secondary and postsecondary com-  
3           ponents;

4           (4) a description of the students to be served by  
5           the new program of study;

6           (5) a description of how the program of study  
7           funded by the grant will be replicable and dissemi-  
8           nated to schools outside of the partnership, including  
9           urban and rural areas;

10          (6) a description of applied learning that will be  
11          incorporated into the program of study and how it  
12          will incorporate or reinforce academic learning;

13          (7) a description of how the program of study  
14          will be delivered;

15          (8) a description of how the program will pro-  
16          vide accessibility to students, especially economically  
17          disadvantaged, low performing, and urban and rural  
18          students;

19          (9) a description of how the program will ad-  
20          dress placement of students in nontraditional fields  
21          as described in section 3(20) of the Carl D. Perkins  
22          Career and Technical Education Act of 2006 (20  
23          U.S.C. 2302(20)); and

24          (10) a description of how the applicant proposes  
25          to consult or has consulted with a labor organiza-

1       tion, labor management partnership, apprenticeship  
2       program, or joint apprenticeship and training pro-  
3       gram that provides education and training in the  
4       field of study for which the applicant proposes to de-  
5       velop a curriculum.

6       (d) PRIORITY.—The Secretary shall give priority to  
7       applications that—

8               (1) use online learning or other innovative  
9       means to deliver the program of study to students,  
10      educators, and instructors outside of the partner-  
11      ship; and

12             (2) focus on low performing students and spe-  
13      cial populations as defined in section 3(29) of the  
14      Carl D. Perkins Career and Technical Education  
15      Act of 2006 (20 U.S.C. 2302(29)).

16      (e) PEER REVIEW.—The Secretary shall convene a  
17      peer review process to review applications for grants under  
18      this section and to make recommendations regarding the  
19      selection of grantees. Members of the peer review com-  
20      mittee shall include—

21             (1) educators who have experience imple-  
22      menting curricula with comparable purposes; and

23             (2) business and industry experts in fields as  
24      described in subsection (a).

1 (f) USES OF FUNDS.—Grants awarded under this  
2 section shall be used for the development, implementation,  
3 and dissemination of programs of study (as described in  
4 section 122(c)(1)(A) of the Carl D. Perkins Career and  
5 Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in  
6 career areas related to clean energy, renewable energy, en-  
7 ergy efficiency, climate change mitigation, and climate  
8 change adaptation.

9 **SEC. 302. DEVELOPMENT OF INFORMATION AND RE-**  
10 **SOURCES CLEARINGHOUSE FOR VOCA-**  
11 **TIONAL EDUCATION AND JOB TRAINING IN**  
12 **RENEWABLE ENERGY SECTORS.**

13 (a) DEVELOPMENT OF CLEARINGHOUSE.—Not later  
14 than 18 months after the date of enactment of this Act,  
15 the Secretary of Labor, in collaboration with the Secretary  
16 of Energy and the Secretary of Education, shall develop  
17 an internet based information and resources clearinghouse  
18 to aid career and technical education and job training pro-  
19 grams for the renewable energy sectors. In establishing  
20 the clearinghouse, the Secretary shall—

21 (1) collect and provide information that ad-  
22 dresses the consequences of rapid changes in tech-  
23 nology and regional disparities for renewable energy  
24 training programs and provides best practices for

1 training and education in light of such changes and  
2 disparities;

3 (2) place an emphasis on facilitating collabora-  
4 tion between the renewable energy industry and job  
5 training programs and on identifying industry and  
6 technological trends and best practices, to better  
7 help job training programs maintain quality and rel-  
8 evance; and

9 (3) place an emphasis on assisting programs  
10 that cater to high-demand middle-skill, trades, man-  
11 ufacturing, contracting, and consulting careers.

12 (b) SOLICITATION AND CONSULTATION.—In devel-  
13 oping the clearinghouse pursuant to subsection (a), the  
14 Secretary shall solicit information and expertise from busi-  
15 nesses and organizations in the renewable energy sector  
16 and from institutions of higher education, career and tech-  
17 nical schools, and community colleges that provide train-  
18 ing in the renewable energy sectors. The Secretary shall  
19 solicit a comprehensive peer review of the clearinghouse  
20 by such entities not less than once every 2 years. Nothing  
21 in this subsection should be interpreted to require the di-  
22 vulgence of proprietary or competitive information.

23 (c) CONTENTS OF CLEARINGHOUSE.—

24 (1) SEPARATE SECTION FOR EACH RENEWABLE  
25 ENERGY SECTOR.—The clearinghouse shall contain

1 separate sections developed for each of the following  
2 renewable energy sectors:

3 (A) Solar energy systems.

4 (B) Wind energy systems.

5 (C) Energy transmission systems.

6 (D) Geothermal systems of energy and  
7 heating.

8 (E) Energy efficiency technical training.

9 (2) ADDITIONAL REQUIREMENTS.—In addition  
10 to the information required in subsection (a), each  
11 section of the clearinghouse shall include information  
12 on basic environmental science and processes needed  
13 to understand renewable energy systems, Federal  
14 government and industry resources, and points of  
15 contact to aid institutions in the development of  
16 placement programs for apprenticeships and post  
17 graduation opportunities, and information and tips  
18 about a green workplace, energy efficiency, and rel-  
19 evant environmental topics and information on avail-  
20 able industry recognized certifications in each area.

21 (d) DISSEMINATION.—The clearinghouse shall be  
22 made available via the Internet to the general public. No-  
23 tice of the completed clearinghouse and any major revi-  
24 sions thereto shall also be provided—

25 (1) to each Member of Congress; and

1           (2) on the websites of the Departments of Edu-  
2           cation, Energy, and Labor.

3           (e) REVISION.—The Secretary of Labor shall revise  
4           and update the clearinghouse on a regular basis to ensure  
5           its relevance.

6   **SEC. 303. GREEN CONSTRUCTION CAREERS DEMONSTRA-**  
7                           **TION PROJECT.**

8           (a) ESTABLISHMENT AND AUTHORITY.—The Sec-  
9           retary of Labor, in consultation with the Secretary of En-  
10          ergy, shall, not later than 180 days after the enactment  
11          of this Act, establish a Green Construction Careers dem-  
12          onstration project by rules, regulations, and guidance in  
13          accordance with the provisions of this section. The purpose  
14          of the demonstration project shall be to promote middle  
15          class careers and quality employment practices in the  
16          green construction sector among targeted workers and to  
17          advance efficiency and performance on construction  
18          projects related to this Act. In order to advance these pur-  
19          poses, the Secretary shall identify projects, including resi-  
20          dential retrofitting projects, funded directly by or assisted  
21          in whole or in part by or through the Federal Government  
22          pursuant to this Act or by any other entity established  
23          in accordance with this Act, to which all of the following  
24          shall apply.

1           (b) REQUIREMENTS.—The Secretaries may establish  
2 such terms and conditions for the demonstration projects  
3 as the Secretaries determine are necessary to meet the  
4 purposes of subsection (a), including establishing min-  
5 imum proportions of hours to be worked by targeted work-  
6 ers on such projects. The Secretaries may require the con-  
7 tractors and subcontractors performing construction serv-  
8 ices on the project to comply with the terms and conditions  
9 as a condition of receiving funding or assistance from the  
10 Federal Government under this Act.

11          (c) EVALUATION.—The Secretaries shall evaluate the  
12 demonstration projects against the purposes of this section  
13 at the end of 3 years from initiation of the demonstration  
14 project. If the Secretaries determine that the demonstra-  
15 tion projects have been successful, the Secretaries may  
16 identify further projects to which of the provisions of this  
17 section shall apply.

18          (d) GAO REPORT.—The Comptroller General shall  
19 prepare and submit a report to the Committee on Health,  
20 Education, Labor, and Pensions and the Committee on  
21 Energy and Natural Resources of the Senate and the  
22 Committee on Education and Labor and the Committee  
23 on Energy and Commerce of the House of Representatives  
24 not later than 5 years after the date of enactment of this  
25 Act, which shall advise the committees of the results of

1 the demonstration projects and make appropriate rec-  
2 ommendations.

3 (e) DEFINITION AND DESIGNATION OF TARGETED  
4 WORKERS.—As used in this section, the term “targeted  
5 worker” means an individual who resides in the same  
6 labor market area (as defined in section 101(18) of the  
7 Workforce Investment Act of 1998 (29 U.S.C. 2801(18)))  
8 as the project and who—

9 (1) is a member of a targeted group, within the  
10 meaning of section 51 of the Internal Revenue Code  
11 of 1986, other than an individual described in sub-  
12 section (d)(1)(C) of such section;

13 (2)(A) resides in a census tract in which not  
14 less than 20 percent of the households have incomes  
15 below the Federal poverty guidelines; or

16 (B) is a member of a family that received a  
17 total family income that, during the 2-year period  
18 prior to employment on the project or admission to  
19 the pre-apprenticeship program, did not exceed 200  
20 percent of the Federal poverty guidelines (exclusive  
21 of unemployment compensation, child support pay-  
22 ments, payments described in section 101(25)(A) of  
23 the Workforce Investment Act (29 U.S.C.  
24 2801(25)(A)), and old-age and survivors insurance

1        benefits received under section 202 of the Social Se-  
2        curity Act (42 U.S.C. 402); or

3            (3) is a displaced homemaker, as such term is  
4        defined in section 3(10) of the Carl D. Perkins Ca-  
5        reer and Technical Education Act of 2006 (20  
6        U.S.C. 2302(10)).

7        (f) QUALIFIED PRE-APPRENTICESHIP PROGRAM.—A  
8        qualified pre-apprenticeship program is a pre-apprentice-  
9        ship program that has demonstrated an ability to recruit,  
10       train, and prepare for admission to apprenticeship pro-  
11       grams individuals who are targeted workers.

12       (g) QUALIFIED APPRENTICESHIP AND OTHER  
13       TRAINING PROGRAMS.—

14            (1) PARTICIPATION BY EACH CONTRACTOR RE-  
15        QUIRED.—Each contractor and subcontractor that  
16        seeks to provide construction services on projects  
17        identified by the Secretaries pursuant to subsection  
18        (a) shall submit adequate assurances with its bid or  
19        proposal that it participates in a qualified appren-  
20        ticeship or other training program, with a written  
21        arrangement with a qualified pre-apprenticeship pro-  
22        gram, for each craft or trade classification of worker  
23        that it intends to employ to perform work on the  
24        project.

1           (2) DEFINITION OF QUALIFIED APPRENTICE  
2 SHIP OR OTHER TRAINING PROGRAM.—

3           (A) IN GENERAL.—For purposes of this  
4 section, the term “qualified apprenticeship or  
5 other training program” means an apprentice-  
6 ship or other training program that qualifies as  
7 an employee welfare benefit plan, as defined in  
8 section 3(1) of the Employee Retirement In-  
9 come Security Act of 1974 (29 U.S.C.  
10 1002(1)).

11           (B) CERTIFICATION OF OTHER PROGRAMS  
12 IN CERTAIN LOCALITIES.—In the event that the  
13 Secretary of Labor certifies that a qualified ap-  
14 prenticeship or other training program (as de-  
15 fined in subparagraph (A)) for a craft or trade  
16 classification of workers that a prospective con-  
17 tractor or subcontractor intends to employ, is  
18 not operated in the locality where the project  
19 will be performed, an apprenticeship or other  
20 training program that is not an employee wel-  
21 fare benefit plan (as defined in such section)  
22 may be certified by the Secretary as a qualified  
23 apprenticeship or other training program pro-  
24 vided it is registered with the Office of Appren-  
25 ticeship of the Department of Labor, or a State

1           apprenticeship agency recognized by the Office  
2           of Apprenticeship for Federal purposes.

3           (h) FACILITATING COMPLIANCE.—The Secretary  
4 may require Federal contracting agencies, recipients of  
5 Federal assistance, and any other entity established in ac-  
6 cordance with this Act to require contractors to enter into  
7 an agreement in a manner comparable with the standards  
8 set forth in sections 3 and 4 of Executive Order 13502  
9 in order to achieve the purposes of this section, including  
10 any requirements established by subsection (b).

11          (i) LIMITATION.—The requirements of this section  
12 shall not apply to any project funded under this Act in  
13 American Samoa, Guam, the Commonwealth of the North-  
14 ern Mariana Islands, the Commonwealth of Puerto Rico,  
15 or the United States Virgin Islands, unless participation  
16 is requested by the governor of such territories within 1  
17 year of the promulgation of rules under this Act.

18                   **PART 2—CLIMATE CHANGE WORKER**

19                   **ADJUSTMENT ASSISTANCE**

20           **SEC. 311. PETITIONS, ELIGIBILITY REQUIREMENTS, AND**  
21                   **DETERMINATIONS.**

22           (a) PETITIONS.—

23                   (1) FILING.—A petition for certification of eli-  
24           gibility to apply for adjustment assistance for a

1 group of workers under this part may be filed by  
2 any of the following:

3 (A) The group of workers.

4 (B) The certified or recognized union or  
5 other duly authorized representative of such  
6 workers.

7 (C) Employers of such workers, one-stop  
8 operators or one-stop partners (as defined in  
9 section 101 of the Workforce Investment Act of  
10 1998 (29 U.S.C. 2801)), including State em-  
11 ployment security agencies, or the State dis-  
12 located worker unit established under title I of  
13 such Act, on behalf of such workers.

14 The petition shall be filed simultaneously with the  
15 Secretary of Labor and with the Governor of the  
16 State in which such workers' employment site is lo-  
17 cated.

18 (2) ACTION BY GOVERNORS.—Upon receipt of a  
19 petition filed under paragraph (1), the Governor  
20 shall—

21 (A) ensure that rapid response activities  
22 and appropriate core and intensive services (as  
23 described in section 134 of the Workforce In-  
24 vestment Act of 1998 (29 U.S.C. 2864)) au-  
25 thorized under other Federal laws are made

1           available to the workers covered by the petition  
2           to the extent authorized under such laws; and  
3           (B) assist the Secretary in the review of  
4           the petition by verifying such information and  
5           providing such other assistance as the Secretary  
6           may request.

(3) ACTION BY THE SECRETARY.—Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register and on the website of the Department of Labor that the Secretary has received the petition and initiated an investigation.

(4) HEARINGS.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under paragraph (3) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

20 (b) ELIGIBILITY.—

(1) IN GENERAL.—A group of workers shall be certified by the Secretary as eligible to apply for adjustment assistance under this part pursuant to a petition filed under subsection (a) if—

25 (A) the group of workers is employed in—

1 (i) energy producing and transforming  
2 industries;

3 (ii) industries dependent upon energy  
4 industries;

5 (iii) energy-intensive manufacturing  
6 industries;

7 (iv) consumer goods manufacturing;

8 or

9 (v) other industries whose employment  
10 the Secretary determines has been ad-  
11 versely affected by any requirement of title  
12 VII of the Clean Air Act;

13 (B) the Secretary determines that a sig-  
14 nificant number or proportion of the workers in  
15 such workers' employment site have become to-  
16 tally or partially separated, or are threatened to  
17 become totally or partially separated from em-  
18 ployment; and

19 (C) the sales, production, or delivery of  
20 goods or services have decreased as a result of  
21 any requirement of title VII of the Clean Air  
22 Act, including—

23 (i) the shift from reliance upon fossil  
24 fuels to other sources of energy, including  
25 renewable energy, that results in the clos-

1           ing of a facility or layoff of employees at  
2           a facility that mines, produces, processes,  
3           or utilizes fossil fuels to generate elec-  
4           tricity;

5               (ii) a substantial increase in the cost  
6           of energy required for a manufacturing fa-  
7           cility to produce items whose prices are  
8           competitive in the marketplace, to the ex-  
9           tent the cost is not offset by assistance  
10          provided to the facility pursuant to title  
11          VII of the Clean Air Act; or

12               (iii) other documented occurrences  
13          that the Secretary determines are indica-  
14          tors of an adverse impact on an industry  
15          described in subparagraph (A) as a result  
16          of any requirement of title VII of the  
17          Clean Air Act.

18               (2) WORKERS IN PUBLIC AGENCIES.—A group  
19          of workers in a public agency shall be certified by  
20          the Secretary as eligible to apply for climate change  
21          adjustment assistance pursuant to a petition filed if  
22          the Secretary determines that a significant number  
23          or proportion of the workers in the public agency  
24          have become totally or partially separated from em-  
25          ployment, or are threatened to become totally or

1 partially separated as a result of any requirement of  
2 title VII of the Clean Air Act.

3 (3) ADVERSELY AFFECTED SERVICE WORK-  
4 ERS.—A group of workers shall be certified as eligi-  
5 ble to apply for climate change adjustment assist-  
6 ance pursuant to a petition filed if the Secretary de-  
7 termines that—

8 (A) a significant number or proportion of  
9 the service workers at an employment site  
10 where a group of workers has been certified by  
11 the Secretary as eligible to apply for adjustment  
12 assistance under this part pursuant to para-  
13 graph (1) have become totally or partially sepa-  
14 rated from employment, or are threatened to  
15 become totally or partially separated; and

16 (B) a loss of business in the firm providing  
17 service workers to an employment site is di-  
18 rectly attributable to one or more of the docu-  
19 mented occurrences listed in paragraph (1)(C).

20 (c) AUTHORITY TO INVESTIGATE AND COLLECT IN-  
21 FORMATION.—

22 (1) IN GENERAL.—The Secretary shall, in de-  
23 termining whether to certify a group of workers  
24 under subsection (d), obtain information the Sec-  
25 retary determines to be necessary to make the cer-

1       tification, through questionnaires and in such other  
2       manner as the Secretary determines appropriate  
3       from—

4               (A) the workers' employer;

5               (B) officials of certified or recognized  
6       unions or other duly authorized representatives  
7       of the group of workers; or

8               (C) one-stop operators or one-stop partners  
9       (as defined in section 101 of the Workforce In-  
10      vestment Act of 1998 (29 U.S.C. 2801)).

11       (2) VERIFICATION OF INFORMATION.—The Sec-  
12      retary shall require an employer, union, or one-stop  
13      operator or partner to certify all information ob-  
14      tained under paragraph (1) from the employer,  
15      union, or one-stop operator or partner (as the case  
16      may be) on which the Secretary relies in making a  
17      determination under subsection (d), unless the Sec-  
18      retary has a reasonable basis for determining that  
19      such information is accurate and complete without  
20      being certified.

21       (3) PROTECTION OF CONFIDENTIAL INFORMA-  
22      TION.—The Secretary may not release information  
23      obtained under paragraph (1) that the Secretary  
24      considers to be confidential business information un-  
25      less the employer submitting the confidential busi-

1       ness information had notice, at the time of submis-  
2       sion, that the information would be released by the  
3       Secretary, or the employer subsequently consents to  
4       the release of the information. Nothing in this para-  
5       graph shall be construed to prohibit the Secretary  
6       from providing such confidential business informa-  
7       tion to a court in camera or to another party under  
8       a protective order issued by a court.

9       (d) DETERMINATION BY THE SECRETARY OF  
10      LABOR.—

11           (1) IN GENERAL.—As soon as possible after the  
12      date on which a petition is filed under subsection  
13      (a), but in any event not later than 40 days after  
14      that date, the Secretary, in consultation with the  
15      Secretary of Energy and the Administrator, as nec-  
16      essary, shall determine whether the petitioning  
17      group meets the requirements of subsection (b) and  
18      shall issue a certification of eligibility to apply for  
19      assistance under this part covering workers in any  
20      group which meets such requirements. Each certifi-  
21      cation shall specify the date on which the total or  
22      partial separation began or threatened to begin.  
23      Upon reaching a determination on a petition, the  
24      Secretary shall promptly publish a summary of the  
25      determination in the Federal Register and on the

1 website of the Department of Labor, together with  
2 the Secretary's reasons for making such determina-  
3 tion.

4 (2) ONE YEAR LIMITATION.—A certification  
5 under this section shall not apply to any worker  
6 whose last total or partial separation from the em-  
7 ployment site before the worker's application under  
8 section 312(a) occurred more than 1 year before the  
9 date of the petition on which such certification was  
10 granted.

11 (3) REVOCATION OF CERTIFICATION.—When-  
12 ever the Secretary determines, with respect to any  
13 certification of eligibility of the workers of an em-  
14 ployment site, that total or partial separations from  
15 such site are no longer a result of the factors speci-  
16 fied in subsection (b)(1), the Secretary shall termi-  
17 nate such certification and promptly have notice of  
18 such termination published in the Federal Register  
19 and on the website of the Department of Labor, to-  
20 gether with the Secretary's reasons for making such  
21 determination. Such termination shall apply only  
22 with respect to total or partial separations occurring  
23 after the termination date specified by the Secretary.

24 (e) INDUSTRY NOTIFICATION OF ASSISTANCE.—  
25 Upon receiving a notification of a determination under

1 subsection (d) with respect to a domestic industry the Sec-  
2 retary of Labor shall notify the representatives of the do-  
3 mestic industry affected by the determination, employers  
4 publicly identified by name during the course of the pro-  
5 ceeding relating to the determination, and any certified  
6 or recognized union or, to the extent practicable, other  
7 duly authorized representative of workers employed by  
8 such representatives of the domestic industry, of—

9 (1) the adjustment assistance, training, and  
10 other benefits available under this part;

11 (2) the manner in which to file a petition and  
12 apply for such benefits;

13 (3) the availability of assistance in filing such  
14 petitions;

15 (4) notify the Governor of each State in which  
16 one or more employers in such industry are located  
17 of the Secretary's determination and the identity of  
18 the employers; and

19 (5) upon request, provide any assistance that is  
20 necessary to file a petition under subsection (a).

21 (f) BENEFIT INFORMATION TO WORKERS, PRO-  
22 VIDERS OF TRAINING.—

23 (1) IN GENERAL.—The Secretary shall provide  
24 full information to workers about the adjustment as-  
25 sistance, training, and other benefits available under

1       this part and about the petition and application pro-  
2       cedures, and the appropriate filing dates, for such  
3       assistance, training and services. The Secretary shall  
4       provide whatever assistance is necessary to enable  
5       groups of workers to prepare petitions or applica-  
6       tions for program benefits. The Secretary shall make  
7       every effort to insure that cooperating State agen-  
8       cies fully comply with the agreements entered into  
9       under section 312(a) and shall periodically review  
10      such compliance. The Secretary shall inform the  
11      State Board for Vocational Education or equivalent  
12      agency, the one-stop operators or one-stop partners  
13      (as defined in section 101 of the Workforce Invest-  
14      ment Act of 1998 (29 U.S.C. 2801)), and other pub-  
15      lic or private agencies, institutions, and employers,  
16      as appropriate, of each certification issued under  
17      subsection (d) and of projections, if available, of the  
18      needs for training under as a result of such certifi-  
19      cation.

20           (2) NOTICE BY MAIL.—The Secretary shall pro-  
21      vide written notice through the mail of the benefits  
22      available under this part to each worker whom the  
23      Secretary has reason to believe is covered by a cer-  
24      tification made under subsection (d)—

1 (A) at the time such certification is made,  
2 if the worker was partially or totally separated  
3 from the adversely affected employment before  
4 such certification; or

5 (B) at the time of the total or partial sepa-  
6 ration of the worker from the adversely affected  
7 employment, if subparagraph (A) does not  
8 apply.

9 (3) NEWSPAPERS; WEBSITE.—The Secretary  
10 shall publish notice of the benefits available under  
11 this part to workers covered by each certification  
12 made under subsection (d) in newspapers of general  
13 circulation in the areas in which such workers reside  
14 and shall make such information available on the  
15 website of the Department of Labor.

16 **SEC. 312. PROGRAM BENEFITS.**

17 (a) CLIMATE CHANGE ADJUSTMENT ASSISTANCE.—

18 (1) ELIGIBILITY.—Payment of climate change  
19 adjustment assistance shall be made to an adversely  
20 affected worker covered by a certification under sec-  
21 tion 311(b) who files an application for such assist-  
22 ance for any week of unemployment which begins on  
23 or after the date of such certification, if the fol-  
24 lowing conditions are met:

1           (A) Such worker's total or partial separa-  
2           tion before the worker's application under this  
3           part occurred—

4                 (i) on or after the date, as specified in  
5                 the certification under which the worker is  
6                 covered, on which total or partial separa-  
7                 tion began or threatened to begin in the  
8                 adversely affected employment;

9                 (ii) before the expiration of the 2-year  
10                period beginning on the date on which the  
11                determination under section 311(d) was  
12                made; and

13               (iii) before the termination date, if  
14               any, determined pursuant to section  
15               311(d)(3).

16           (B) Such worker had, in the 52-week pe-  
17           riod ending with the week in which such total  
18           or partial separation occurred, at least 26  
19           weeks of full-time employment or 1,040 hours  
20           of part time employment in adversely affected  
21           employment, or, if data with respect to weeks of  
22           employment are not available, equivalent  
23           amounts of employment computed under regu-  
24           lations prescribed by the Secretary. For the

1           purposes of this paragraph, any week in which  
2           such worker—

3                   (i) is on employer-authorized leave for  
4                   purposes of vacation, sickness, injury, ma-  
5                   ternity, or inactive duty or active duty  
6                   military service for training;

7                   (ii) does not work because of a dis-  
8                   ability that is compensable under a work-  
9                   men's compensation law or plan of a State  
10                  or the United States;

11                  (iii) had his employment interrupted  
12                  in order to serve as a full-time representa-  
13                  tive of a labor organization in such firm; or

14                  (iv) is on call-up for purposes of active  
15                  duty in a reserve status in the Armed  
16                  Forces of the United States, provided such  
17                  active duty is "Federal service" as defined  
18                  in section 8521(a)(1) of title 5, United  
19                  States Code,

20           shall be treated as a week of employment.

21                  (C) Such worker is enrolled in a training  
22                  program approved by the Secretary under sub-  
23                  section (b)(2).

24           (2) INELIGIBILITY FOR CERTAIN OTHER BENE-  
25           FITS.—An adversely affected worker receiving a pay-

1       ment under this section shall be ineligible to receive  
2       any other form of unemployment insurance for the  
3       period in which such worker is receiving climate  
4       change adjustment assistance under this section.

5               (3) REVOCATION.—If—

6                       (A) the Secretary determines that—

7                               (i) the adversely affected worker—

8                                       (I) has failed to begin participa-  
9                                       tion in the training program the en-  
10                                      rollment in which meets the require-  
11                                     ment of paragraph (1)(C); or

12                                    (II) has ceased to participate in  
13                                   such training program before com-  
14                                   pleting such training program; and

15                               (ii) there is no justifiable cause for  
16                               such failure or cessation; or

17                       (B) the certification made with respect to  
18                       such worker under section 311(d) is revoked  
19                       under paragraph (3) of such section,

20       no adjustment assistance may be paid to the ad-  
21       versely affected worker under this part for the week  
22       in which such failure, cessation, or revocation oc-  
23       curred, or any succeeding week, until the adversely  
24       affected worker begins or resumes participation in a

1 training program approved by the Secretary under  
2 subsection (b)(2).

3 (4) WAIVERS OF TRAINING REQUIREMENTS.—

4 The Secretary may issue a written statement to an  
5 adversely affected worker waiving the requirement to  
6 be enrolled in training described in subsection (b)(2)  
7 if the Secretary determines that it is not feasible or  
8 appropriate for the worker, because of 1 or more of  
9 the following reasons:

10 (A) RECALL.—The worker has been noti-  
11 fied that the worker will be recalled by the em-  
12 ployer from which the separation occurred.

13 (B) MARKETABLE SKILLS.—

14 (i) IN GENERAL.—The worker pos-  
15 sesses marketable skills for suitable em-  
16 ployment (as determined pursuant to an  
17 assessment of the worker, which may in-  
18 clude the profiling system under section  
19 303(j) of the Social Security Act (42  
20 U.S.C. 503(j)), carried out in accordance  
21 with guidelines issued by the Secretary)  
22 and there is a reasonable expectation of  
23 employment at equivalent wages in the  
24 foreseeable future.

1 (ii) MARKETABLE SKILLS DEFINED.—

2 For purposes of clause (i), the term “mar-  
3 ketable skills” may include the possession  
4 of a postgraduate degree from an institu-  
5 tion of higher education (as defined in sec-  
6 tion 102 of the Higher Education Act of  
7 1965 (20 U.S.C. 1002)) or an equivalent  
8 institution, or the possession of an equiva-  
9 lent postgraduate certification in a special-  
10 ized field.

11 (C) RETIREMENT.—The worker is within 2  
12 years of meeting all requirements for entitle-  
13 ment to either—

14 (i) old-age insurance benefits under  
15 title II of the Social Security Act (42  
16 U.S.C. 401 et seq.) (except for application  
17 therefor); or

18 (ii) a private pension sponsored by an  
19 employer or labor organization.

20 (D) HEALTH.—The worker is unable to  
21 participate in training due to the health of the  
22 worker, except that a waiver under this sub-  
23 paragraph shall not be construed to exempt a  
24 worker from requirements relating to the avail-  
25 ability for work, active search for work, or re-

1           fusal to accept work under Federal or State un-  
2           employment compensation laws.

3           (E) ENROLLMENT UNAVAILABLE.—The  
4           first available enrollment date for the training  
5           of the worker is within 60 days after the date  
6           of the determination made under this para-  
7           graph, or, if later, there are extenuating cir-  
8           cumstances for the delay in enrollment, as de-  
9           termined pursuant to guidelines issued by the  
10          Secretary.

11          (F) TRAINING NOT AVAILABLE.—Training  
12          described in subsection (b)(2) is not reasonably  
13          available to the worker from either govern-  
14          mental agencies or private sources (which may  
15          include area career and technical education  
16          schools, as defined in section 3 of the Carl D.  
17          Perkins Career and Technical Education Act of  
18          2006 (20 U.S.C. 2302), and employers), no  
19          training that is suitable for the worker is avail-  
20          able at a reasonable cost, or no training funds  
21          are available.

22          (5) WEEKLY AMOUNTS.—The climate change  
23          adjustment assistance payable to an adversely af-  
24          fected worker for a week of unemployment shall be  
25          an amount equal to 70 percent of the average weekly

1 wage of such worker, but in no case shall such  
2 amount exceed the average weekly wage for all work-  
3 ers in the State where the adversely affected worker  
4 resides.

5 (6) MAXIMUM DURATION OF BENEFITS.—An el-  
6 igible worker may receive a climate change adjust-  
7 ment assistance under this subsection for a period of  
8 not longer than 156 weeks.

9 (b) EMPLOYMENT SERVICES AND TRAINING.—

10 (1) INFORMATION AND EMPLOYMENT SERV-  
11 ICES.—The Secretary shall make available, directly  
12 or through agreements with the States under section  
13 313(a) to adversely affected workers covered by a  
14 certification under section 311(a) the following in-  
15 formation and employment services:

16 (A) Comprehensive and specialized assess-  
17 ment of skill levels and service needs, including  
18 through—

19 (i) diagnostic testing and use of other  
20 assessment tools; and

21 (ii) in-depth interviewing and evalua-  
22 tion to identify employment barriers and  
23 appropriate employment goals.

24 (B) Development of an individual employ-  
25 ment plan to identify employment goals and ob-

1           jectives, and appropriate training to achieve  
2           those goals and objectives.

3           (C) Information on training available in  
4           local and regional areas, information on indi-  
5           vidual counseling to determine which training is  
6           suitable training, and information on how to  
7           apply for such training.

8           (D) Information on training programs and  
9           other services provided by a State pursuant to  
10          title I of the Workforce Investment Act of 1998  
11          (29 U.S.C. 2801 et seq.) and available in local  
12          and regional areas, information on individual  
13          counseling to determine which training is suit-  
14          able training, and information on how to apply  
15          for such training.

16          (E) Information on how to apply for finan-  
17          cial aid, including referring workers to edu-  
18          cational opportunity centers described in section  
19          402F of the Higher Education Act of 1965 (20  
20          U.S.C. 1070a–16), where applicable, and noti-  
21          fying workers that the workers may request fi-  
22          nancial aid administrators at institutions of  
23          higher education (as defined in section 102 of  
24          such Act (20 U.S.C. 1002)) to use the adminis-  
25          trators’ discretion under section 479A of such

1 Act (20 U.S.C. 1087tt) to use current year in-  
2 come data, rather than preceding year income  
3 data, for determining the amount of need of the  
4 workers for Federal financial assistance under  
5 title IV of such Act (20 U.S.C. 1070 et seq.).

6 (F) Short-term prevocational services, in-  
7 cluding development of learning skills, commu-  
8 nications skills, interviewing skills, punctuality,  
9 personal maintenance skills, and professional  
10 conduct to prepare individuals for employment  
11 or training.

12 (G) Individual career counseling, including  
13 job search and placement counseling, during the  
14 period in which the individual is receiving cli-  
15 mate change adjustment assistance or training  
16 under this part, and after receiving such train-  
17 ing for purposes of job placement.

18 (H) Provision of employment statistics in-  
19 formation, including the provision of accurate  
20 information relating to local, regional, and na-  
21 tional labor market areas, including—

22 (i) job vacancy listings in such labor  
23 market areas;

24 (ii) information on jobs skills nec-  
25 essary to obtain jobs identified in job va-

1                   cancy listings described in subparagraph  
2                   (A);

3                   (iii) information relating to local occu-  
4                   pations that are in demand and earnings  
5                   potential of such occupations; and

6                   (iv) skills requirements for local occu-  
7                   pations described in subparagraph (C).

8                   (I) Information relating to the availability  
9                   of supportive services, including services relat-  
10                  ing to child care, transportation, dependent  
11                  care, housing assistance, and need-related pay-  
12                  ments that are necessary to enable an indi-  
13                  vidual to participate in training.

14                  (2) TRAINING.—

15                  (A) APPROVAL OF AND PAYMENT FOR  
16                  TRAINING.—If the Secretary determines, with  
17                  respect to an adversely affected worker that—

18                         (i) there is no suitable employment  
19                         (which may include technical and profes-  
20                         sional employment) available for an ad-  
21                         versely affected worker;

22                         (ii) the worker would benefit from ap-  
23                         propriate training;

1 (iii) there is a reasonable expectation  
2 of employment following completion of  
3 such training;

4 (iv) training approved by the Sec-  
5 retary is reasonably available to the worker  
6 from either governmental agencies or pri-  
7 vate sources (including area career and  
8 technical education schools, as defined in  
9 section 3 of the Carl D. Perkins Career  
10 and Technical Education Act of 2006 (20  
11 U.S.C. 2302), and employers);

12 (v) the worker is qualified to under-  
13 take and complete such training; and

14 (vi) such training is suitable for the  
15 worker and available at a reasonable cost,  
16 the Secretary shall approve such training for  
17 the worker. Upon such approval, the worker  
18 shall be entitled to have payment of the costs  
19 of such training (subject to the limitations im-  
20 posed by this section) paid on the worker's be-  
21 half by the Secretary directly or through a  
22 voucher system.

23 (B) DISTRIBUTION.—The Secretary shall  
24 establish procedures for the distribution of the  
25 funds to States to carry out the training pro-

grams approved under this paragraph, and shall  
make an initial distribution of the funds made  
available as soon as practicable after the begin-  
ning of each fiscal year.

5 (C) ADDITIONAL RULES REGARDING AP-  
6 PROVAL OF AND PAYMENT FOR TRAINING.—

(i) For purposes of applying subparagraph (A)(iii), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under such subparagraph.

(ii) If the costs of training an adversely affected worker are paid by the Secretary under subparagraph (A), no other payment for such costs may be made under any other provision of Federal law. No payment may be made under subparagraph (A) of the costs of training an adversely affected worker or an adversely affected incumbent worker if such costs—

23 (I) have already been paid under  
24 any other provision of Federal law; or

1 (II) are reimbursable under any  
2 other provision of Federal law and a  
3 portion of such costs have already  
4 been paid under such other provision  
5 of Federal law.

6 The provisions of this clause shall not  
7 apply to, or take into account, any funds  
8 provided under any other provision of Fed-  
9 eral law which are used for any purpose  
10 other than the direct payment of the costs  
11 incurred in training a particular adversely  
12 affected worker, even if such use has the  
13 effect of indirectly paying or reducing any  
14 portion of the costs involved in training the  
15 adversely affected worker.

16 (D) TRAINING PROGRAMS.—The training  
17 programs that may be approved under subpara-  
18 graph (A) include—

19 (i) employer-based training, includ-  
20 ing—

21 (I) on-the-job training if ap-  
22 proved by the Secretary under sub-  
23 section (c); and

24 (II) joint labor-management ap-  
25 prenticeship programs;

1 (ii) any training program provided by  
2 a State pursuant to title I of the Work-  
3 force Investment Act of 1998 (29 U.S.C.  
4 2801 et seq.);

5 (iii) any programs in career and tech-  
6 nical education described in section 3(5) of  
7 the Carl D. Perkins Career and Technical  
8 Education Act of 2006 (20 U.S.C.  
9 2302(5));

10 (iv) any program of remedial edu-  
11 cation;

12 (v) any program of prerequisite edu-  
13 cation or coursework required to enroll in  
14 training that may be approved under this  
15 paragraph;

16 (vi) any training program for which  
17 all, or any portion, of the costs of training  
18 the worker are paid—

19 (I) under any Federal or State  
20 program other than this part; or

21 (II) from any source other than  
22 this part;

23 (vii) any training program or  
24 coursework at an accredited institution of  
25 higher education (described in section 102

1 of the Higher Education Act of 1965 (20  
2 U.S.C. 1002)), including a training pro-  
3 gram or coursework for the purpose of—

4 (I) obtaining a degree or certifi-  
5 cation; or

6 (II) completing a degree or cer-  
7 tification that the worker had pre-  
8 viously begun at an accredited institu-  
9 tion of higher education; and

10 (viii) any other training program ap-  
11 proved by the Secretary.

12 (3) SUPPLEMENTAL ASSISTANCE.—The Sec-  
13 retary may, as appropriate, authorize supplemental  
14 assistance that is necessary to defray reasonable  
15 transportation and subsistence expenses for separate  
16 maintenance in a case in which training for a worker  
17 is provided in a facility that is not within commuting  
18 distance of the regular place of residence of the  
19 worker.

20 (c) ON-THE-JOB TRAINING REQUIREMENTS.—

21 (1) IN GENERAL.—The Secretary may approve  
22 on-the-job training for any adversely affected worker  
23 if—

24 (A) the Secretary determines that on-the-  
25 job training—

1 (i) can reasonably be expected to lead  
2 to suitable employment with the employer  
3 offering the on-the-job training;

4 (ii) is compatible with the skills of the  
5 worker;

6 (iii) includes a curriculum through  
7 which the worker will gain the knowledge  
8 or skills to become proficient in the job for  
9 which the worker is being trained; and

10 (iv) can be measured by benchmarks  
11 that indicate that the worker is gaining  
12 such knowledge or skills; and

13 (B) the State determines that the on-the-  
14 job training program meets the requirements of  
15 clauses (iii) and (iv) of subparagraph (A).

16 (2) MONTHLY PAYMENTS.—The Secretary shall  
17 pay the costs of on-the-job training approved under  
18 paragraph (1) in monthly installments.

19 (3) CONTRACTS FOR ON-THE-JOB TRAINING.—

20 (A) IN GENERAL.—The Secretary shall en-  
21 sure, in entering into a contract with an em-  
22 ployer to provide on-the-job training to a work-  
23 er under this subsection, that the skill require-  
24 ments of the job for which the worker is being  
25 trained, the academic and occupational skill

1 level of the worker, and the work experience of  
2 the worker are taken into consideration.

3 (B) TERM OF CONTRACT.—Training under  
4 any such contract shall be limited to the period  
5 of time required for the worker receiving on-  
6 the-job training to become proficient in the job  
7 for which the worker is being trained, but may  
8 not exceed 156 weeks in any case.

9 (4) EXCLUSION OF CERTAIN EMPLOYERS.—The  
10 Secretary shall not enter into a contract for on-the-  
11 job training with an employer that exhibits a pattern  
12 of failing to provide workers receiving on-the-job  
13 training from the employer with—

14 (A) continued, long-term employment as  
15 regular employees; and

16 (B) wages, benefits, and working condi-  
17 tions that are equivalent to the wages, benefits,  
18 and working conditions provided to regular em-  
19 ployees who have worked a similar period of  
20 time and are doing the same type of work as  
21 workers receiving on-the-job training from the  
22 employer.

23 (d) ADMINISTRATIVE AND EMPLOYMENT SERVICES  
24 FUNDING.—

1           (1) ADMINISTRATIVE FUNDING.—In addition to  
2           any funds made available to a State to carry out this  
3           section for a fiscal year, the State shall receive for  
4           the fiscal year a payment in an amount that is equal  
5           to 15 percent of the amount of such funds and  
6           shall—

7                   (A) use not more than  $\frac{2}{3}$  of such payment  
8                   for the administration of the climate change ad-  
9                   justment assistance for workers program under  
10                  this part, including for—

11                           (i) processing waivers of training re-  
12                           quirements under subsection (a)(4); and

13                           (ii) collecting, validating, and report-  
14                           ing data required under this part; and

15                   (B) use not less than  $\frac{1}{3}$  of such payment  
16                   for information and employment services under  
17                   subsection (b)(1).

18           (2) EMPLOYMENT SERVICES FUNDING.—

19                   (A) IN GENERAL.—In addition to any  
20                   funds made available to a State to carry out  
21                   subsection (b)(2) and the payment under para-  
22                   graph (1) for a fiscal year, the Secretary shall  
23                   provide to the State for the fiscal year a reason-  
24                   able payment for the purpose of providing em-  
25                   ployment and services under subsection (b)(1).

1 (B) VOLUNTARY RETURN OF FUNDS.—A

2 State that receives a payment under subpara-  
3 graph (A) may decline or otherwise return such  
4 payment to the Secretary.

5 (e) JOB SEARCH ASSISTANCE.—The Secretary of  
6 Labor may provide adversely affected workers one-time  
7 job search assistance in accordance with regulations pre-  
8 scribed by the Secretary. Any job search assistance pro-  
9 vided shall be available only under the following cir-  
10 cumstances and conditions:

11 (1) The worker is no longer eligible for the cli-  
12 mate change adjustment assistance under subsection  
13 (a) and has completed the training program required  
14 by subsection (b)(1)(E).

15 (2) The Secretary determines that the worker  
16 cannot reasonably be expected to secure suitable em-  
17 ployment in the commuting area in which the worker  
18 resides.

19 (3) Assistance granted shall provide reimburse-  
20 ment to the worker of all necessary job search ex-  
21 penses as prescribed by the Secretary in regulations.  
22 Such reimbursement under this subsection may not  
23 exceed \$1,500 for any worker.

24 (f) RELOCATION ASSISTANCE AUTHORIZED.—

1           (1) IN GENERAL.—Any adversely affected work-  
2           er covered by a certification issued under section  
3           311 may file an application for relocation assistance  
4           with the Secretary, and the Secretary may grant the  
5           relocation assistance, subject to the terms and condi-  
6           tions of this subsection.

7           (2) CONDITIONS FOR GRANTING ASSISTANCE.—  
8           Relocation assistance may be granted if all of the  
9           following terms and conditions are met:

10           (A) ASSIST AN ADVERSELY AFFECTED  
11           WORKER.—The relocation assistance will assist  
12           an adversely affected worker in relocating with-  
13           in the United States.

14           (B) LOCAL EMPLOYMENT NOT AVAIL-  
15           ABLE.—The Secretary determines that the  
16           worker cannot reasonably be expected to secure  
17           suitable employment in the commuting area in  
18           which the worker resides.

19           (C) TOTAL SEPARATION.—The worker is  
20           totally separated from employment at the time  
21           relocation commences.

22           (D) SUITABLE EMPLOYMENT OBTAINED.—  
23           The worker—

24                   (i) has obtained suitable employment  
25                   affording a reasonable expectation of long-

1 term duration in the area in which the  
2 worker wishes to relocate; or

3 (ii) has obtained a bona fide offer of  
4 such employment.

5 (E) APPLICATION.—The worker filed an  
6 application with the Secretary at such time and  
7 in such manner as the Secretary shall specify  
8 by regulation.

9 (3) AMOUNT OF ASSISTANCE.—Relocation as-  
10 sistance granted to a worker under paragraph (1)  
11 includes—

12 (A) all reasonable and necessary expenses  
13 (including, subsistence and transportation ex-  
14 penses at levels not exceeding amounts pre-  
15 scribed by the Secretary in regulations) in-  
16 curred in transporting the worker, the worker's  
17 family, and household effects; and

18 (B) a lump sum equivalent to 3 times the  
19 worker's average weekly wage, up to a max-  
20 imum payment of \$1,500.

21 (4) LIMITATIONS.—Relocation assistance may  
22 not be granted to a worker unless—

23 (A) the relocation occurs within 182 days  
24 after the filing of the application for relocation  
25 assistance; or

1 (B) the relocation occurs within 182 days  
2 after the conclusion of training, if the worker  
3 entered a training program approved by the  
4 Secretary under subsection (b)(2).

5 (g) HEALTH INSURANCE CONTINUATION.—Not later  
6 than 1 year after the date of enactment of this Act, the  
7 Secretary of Labor shall prescribe regulations to provide,  
8 for the period in which an adversely affected worker is  
9 participating in a training program described in sub-  
10 section (b)(2), 80 percent of the monthly premium of any  
11 health insurance coverage that an adversely affected work-  
12 er was receiving from such worker’s employer prior to the  
13 separation from employment described in section 311(b),  
14 to be paid to any health care insurance plan designated  
15 by the adversely affected worker receiving assistance  
16 under this section.

17 **SEC. 313. GENERAL PROVISIONS.**

18 (a) AGREEMENTS WITH STATES.—

19 (1) IN GENERAL.—The Secretary is authorized  
20 on behalf of the United States to enter into an  
21 agreement with any State, or with any State agency  
22 (referred to in this section as “cooperating States”  
23 and “cooperating State agencies” respectively).  
24 Under such an agreement, the cooperating State or  
25 cooperating State agency—

1 (A) as agent of the United States, shall re-  
2 ceive applications for, and shall provide, pay-  
3 ments on the basis provided in this part;

4 (B) in accordance with paragraph (6),  
5 shall make available to adversely affected work-  
6 ers covered by a certification under section  
7 311(d) the employment services described in  
8 section 312(b)(1);

9 (C) shall make any certifications required  
10 under section 311(d); and

11 (D) shall otherwise cooperate with the Sec-  
12 retary and with other State and Federal agen-  
13 cies in providing payments and services under  
14 this part.

15 Each agreement under this section shall provide the  
16 terms and conditions upon which the agreement may  
17 be amended, suspended, or terminated.

18 (2) FORM AND MANNER OF DATA.—Each  
19 agreement under this section shall—

20 (A) provide the Secretary with the author-  
21 ity to collect any data the Secretary determines  
22 necessary to meet the requirements of this part;  
23 and

1 (B) specify the form and manner in which  
2 any such data requested by the Secretary shall  
3 be reported.

4 (3) RELATIONSHIP TO UNEMPLOYMENT INSUR-  
5 ANCE.—Each agreement under this section shall  
6 provide that an adversely affected worker receiving  
7 climate change adjustment assistance under this  
8 part shall not be eligible for unemployment insur-  
9 ance otherwise payable to such worker under the  
10 laws of the State.

11 (4) REVIEW.—A determination by a cooper-  
12 ating State agency with respect to entitlement to  
13 program benefits under an agreement is subject to  
14 review in the same manner and to the same extent  
15 as determinations under the applicable State law  
16 and only in that manner and to that extent.

17 (5) COORDINATION.—Any agreement entered  
18 into under this section shall provide for the coordi-  
19 nation of the administration of the provisions for  
20 employment services, training, and supplemental as-  
21 sistance under section 312 and under title I of the  
22 Workforce Investment Act of 1998 (29 U.S.C. 2801  
23 et seq.) upon such terms and conditions as are es-  
24 tablished by the Secretary in consultation with the  
25 States and set forth in such agreement. Any agency

1 of the State jointly administering such provisions  
2 under such agreement shall be considered to be a co-  
3 operating State agency for purposes of this part.

4 (6) RESPONSIBILITIES OF COOPERATING AGEN-  
5 CIES.—Each cooperating State agency shall, in car-  
6 rying out paragraph (1)(B)—

7 (A) advise each worker who applies for un-  
8 employment insurance of the benefits under this  
9 part and the procedures and deadlines for ap-  
10 plying for such benefits;

11 (B) facilitate the early filing of petitions  
12 under section 311(a) for any workers that the  
13 agency considers are likely to be eligible for  
14 benefits under this part;

15 (C) advise each adversely affected worker  
16 to apply for training under section 312(b) be-  
17 fore, or at the same time, the worker applies for  
18 climate change adjustment assistance under  
19 section 312(a);

20 (D) perform outreach to, intake of, and  
21 orientation for adversely affected workers and  
22 adversely affected incumbent workers covered  
23 by a certification under section 312(a) with re-  
24 spect to assistance and benefits available under  
25 this part;

1           (E) make employment services described in  
2           section 312(b)(1) available to adversely affected  
3           workers and adversely affected incumbent work-  
4           ers covered by a certification under section  
5           311(d) and, if funds provided to carry out this  
6           part are insufficient to make such services  
7           available, make arrangements to make such  
8           services available through other Federal pro-  
9           grams; and

10          (F) provide the benefits and reemployment  
11          services under this part in a manner that is  
12          necessary for the proper and efficient adminis-  
13          tration of this part, including the use of state  
14          agency personnel employed in accordance with a  
15          merit system of personnel administration stand-  
16          ards, including—

17               (i) making determinations of eligibility  
18               for, and payment of, climate change read-  
19               justment assistance and health care benefit  
20               replacement amounts;

21               (ii) developing recommendations re-  
22               garding payments as a bridge to retire-  
23               ment and lump sum payments to pension  
24               plans in accordance with this subsection;  
25               and

1 (iii) the provision of reemployment  
2 services to eligible workers, including refer-  
3 ral to training services.

4 (7) SUBMISSION OF CERTAIN INFORMATION.—

5 In order to promote the coordination of workforce  
6 investment activities in each State with activities  
7 carried out under this part, any agreement entered  
8 into under this section shall provide that the State  
9 shall submit to the Secretary, in such form as the  
10 Secretary may require, the description and informa-  
11 tion described in paragraphs (8) and (14) of section  
12 112(b) of the Workforce Investment Act of 1998 (29  
13 U.S.C. 2822(b)) and a description of the State's  
14 rapid response activities under section 134(a)(2)(A)  
15 of that Act (29 U.S.C. 2864(a)(2)(A)).

16 (8) CONTROL MEASURES.—

17 (A) IN GENERAL.—The Secretary shall re-  
18 quire each cooperating State and cooperating  
19 State agency to implement effective control  
20 measures and to effectively oversee the oper-  
21 ation and administration of the climate change  
22 adjustment assistance program under this part,  
23 including by means of monitoring the operation  
24 of control measures to improve the accuracy

1 and timeliness of the data being collected and  
2 reported.

3 (B) DEFINITION.—For purposes of sub-  
4 paragraph (A), the term “control measures”  
5 means measures that—

6 (i) are internal to a system used by a  
7 State to collect data; and

8 (ii) are designed to ensure the accu-  
9 racy and verifiability of such data.

10 (9) DATA REPORTING.—

11 (A) IN GENERAL.—Any agreement entered  
12 into under this section shall require the cooper-  
13 ating State or cooperating State agency to re-  
14 port to the Secretary on a quarterly basis com-  
15 prehensive performance accountability data, to  
16 consist of—

17 (i) the core indicators of performance  
18 described in subparagraph (B)(i);

19 (ii) the additional indicators of per-  
20 formance described in subparagraph  
21 (B)(ii), if any; and

22 (iii) a description of efforts made to  
23 improve outcomes for workers under the  
24 climate change adjustment assistance pro-  
25 gram.

1 (B) CORE INDICATORS DESCRIBED.—

2 (i) IN GENERAL.—The core indicators  
3 of performance described in this subpara-  
4 graph are—

5 (I) the percentage of workers re-  
6 ceiving benefits under this part who  
7 are employed during the second cal-  
8 endar quarter following the calendar  
9 quarter in which the workers cease re-  
10 ceiving such benefits;

11 (II) the percentage of such work-  
12 ers who are employed in each of the  
13 third and fourth calendar quarters fol-  
14 lowing the calendar quarter in which  
15 the workers cease receiving such bene-  
16 fits; and

17 (III) the earnings of such work-  
18 ers in each of the third and fourth  
19 calendar quarters following the cal-  
20 endar quarter in which the workers  
21 cease receiving such benefits.

22 (ii) ADDITIONAL INDICATORS.—The  
23 Secretary and a cooperating State or co-  
24 operating State agency may agree upon  
25 additional indicators of performance for

1           the climate change adjustment assistance  
2           program under this part, as appropriate.

3           (C) STANDARDS WITH RESPECT TO RELI-  
4           ABILITY OF DATA.—In preparing the quarterly  
5           report required by subparagraph (A), each co-  
6           operating State or cooperating State agency  
7           shall establish procedures that are consistent  
8           with guidelines to be issued by the Secretary to  
9           ensure that the data reported are valid and reli-  
10          able.

11          (10) VERIFICATION OF ELIGIBILITY FOR PRO-  
12          GRAM BENEFITS.—

13           (A) IN GENERAL.—An agreement under  
14           this section shall provide that the State shall  
15           periodically redetermine that a worker receiving  
16           benefits under this part who is not a citizen or  
17           national of the United States remains in a sat-  
18           isfactory immigration status. Once satisfactory  
19           immigration status has been initially verified  
20           through the immigration status verification sys-  
21           tem described in section 1137(d) of the Social  
22           Security Act (42 U.S.C. 1320b–7(d)) for pur-  
23           poses of establishing a worker’s eligibility for  
24           unemployment compensation, the State shall  
25           reverify the worker’s immigration status if the

1 documentation provided during initial  
2 verification will expire during the period in  
3 which that worker is potentially eligible to re-  
4 ceive benefits under this part. The State shall  
5 conduct such redetermination in a timely man-  
6 ner, utilizing the immigration status verification  
7 system described in section 1137(d) of the So-  
8 cial Security Act (42 U.S.C. 1320b-7(d)).

9 (B) PROCEDURES.—The Secretary shall  
10 establish procedures to ensure the uniform ap-  
11 plication by the States of the requirements of  
12 this paragraph.

13 (b) ADMINISTRATION ABSENT STATE AGREE-  
14 MENT.—

15 (1) In any State where there is no agreement  
16 in force between a State or its agency under sub-  
17 section (a), the Secretary shall promulgate regula-  
18 tions for the performance of all necessary functions  
19 under section 312, including provision for a fair  
20 hearing for any worker whose application for pay-  
21 ments is denied.

22 (2) A final determination under paragraph (1)  
23 with respect to entitlement to program benefits  
24 under section 312 is subject to review by the courts  
25 in the same manner and to the same extent as is

1 provided by section 205(g) of the Social Security Act  
2 (42 U.S.C. 405(g)).

3 (c) PROHIBITION ON CONTRACTING WITH PRIVATE  
4 ENTITIES.—Neither the Secretary nor a State may con-  
5 tract with any private for-profit or nonprofit entity for the  
6 administration of the climate change adjustment assist-  
7 ance program under this part.

8 (d) PAYMENT TO THE STATES.—

9 (1) IN GENERAL.—The Secretary shall from  
10 time to time certify to the Secretary of the Treasury  
11 for payment to each cooperating State the sums nec-  
12 essary to enable such State as agent of the United  
13 States to make payments provided for by this part.

14 (2) RESTRICTION.—All money paid a State  
15 under this subsection shall be used solely for the  
16 purposes for which it is paid; and money so paid  
17 which is not used for such purposes shall be re-  
18 turned, at the time specified in the agreement under  
19 this section, to the Secretary of the Treasury.

20 (3) BONDS.—Any agreement under this section  
21 may require any officer or employee of the State cer-  
22 tifying payments or disbursing funds under the  
23 agreement or otherwise participating in the perform-  
24 ance of the agreement, to give a surety bond to the  
25 United States in such amount as the Secretary may

1       deem necessary, and may provide for the payment of  
2       the cost of such bond from funds for carrying out  
3       the purposes of this part.

4       (e) LABOR STANDARDS.—

5           (1) PROHIBITION ON DISPLACEMENT.—An indi-  
6       vidual in an apprenticeship program or on-the-job  
7       training program under this part shall not displace  
8       (including a partial displacement, such as a reduc-  
9       tion in the hours of non-overtime work, wages, or  
10      employment benefits) any employed employee.

11          (2) PROHIBITION ON IMPAIRMENT OF CON-  
12      TRACTS.—An apprenticeship program or on-the-job  
13      training program under this Act shall not impair an  
14      existing contract for services or collective bargaining  
15      agreement, and no such activity that would be incon-  
16      sistent with the terms of a collective bargaining  
17      agreement shall be undertaken without the written  
18      concurrence of the labor organization and employer  
19      concerned.

20          (3) ADDITIONAL STANDARDS.—The Secretary,  
21      or a State acting under an agreement described in  
22      subsection (a) may pay the costs of on-the-job train-  
23      ing, notwithstanding any other provision of this sec-  
24      tion, only if—

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1 (A) in the case of training which would be  
2 inconsistent with the terms of a collective bar-  
3 gaining agreement, the written concurrence of  
4 the labor organization concerned has been ob-  
5 tained;

6 (B) the job for which such adversely af-  
7 fected worker is being trained is not being cre-  
8 ated in a promotional line that will infringe in  
9 any way upon the promotional opportunities of  
10 currently employed individuals;

11 (C) such training is not for the same occu-  
12 pation from which the worker was separated  
13 and with respect to which such worker's group  
14 was certified pursuant to section 311(d);

15 (D) the employer is provided reimburse-  
16 ment of not more than 50 percent of the wage  
17 rate of the participant, for the cost of providing  
18 the training and additional supervision related  
19 to the training; and

20 (E) the employer has not received payment  
21 under with respect to any other on-the-job  
22 training provided by such employer which failed  
23 to meet the requirements of subparagraphs (A)  
24 through (D).

1 (f) DEFINITIONS.—As used in this part the following  
2 definitions apply:

3 (1) The term “adversely affected employment”  
4 means employment at an employment site, if work-  
5 ers at such site are eligible to apply for adjustment  
6 assistance under this part.

7 (2) The term “adversely affected worker”  
8 means an individual who has been totally or partially  
9 separated from employment and is eligible to apply  
10 for adjustment assistance under this part.

11 (3) The term “average weekly wage” means  $\frac{1}{13}$   
12 of the total wages paid to an individual in the quar-  
13 ter in which the individual’s total wages were highest  
14 among the first 4 of the last 5 completed calendar  
15 quarters immediately before the quarter in which oc-  
16 curs the week with respect to which the computation  
17 is made. Such week shall be the week in which total  
18 separation occurred, or, in cases where partial sepa-  
19 ration is claimed, an appropriate week, as defined in  
20 regulations prescribed by the Secretary.

21 (4) The term “average weekly hours” means  
22 the average hours worked by the individual (exclud-  
23 ing overtime) in the employment from which he has  
24 been or claims to have been separated in the 52  
25 weeks (excluding weeks during which the individual

1       was sick or on vacation) preceding the week speci-  
2       fied in the last sentence of paragraph (4).

3           (5) The term “benefit period” means, with re-  
4       spect to an individual—

5           (A) the benefit year and any ensuing pe-  
6       riod, as determined under applicable State law,  
7       during which the individual is eligible for reg-  
8       ular compensation, additional compensation, or  
9       extended compensation; or

10          (B) the equivalent to such a benefit year  
11       or ensuing period provided for under the appli-  
12       cable Federal unemployment insurance law.

13          (6) The term “consumer goods manufacturing”  
14       means the electrical equipment, appliance, and com-  
15       ponent manufacturing industry and transportation  
16       equipment manufacturing.

17          (7) The term “employment site” means a single  
18       facility or site of employment.

19          (8) The term “energy-intensive manufacturing  
20       industries” means all industrial sectors, entities, or  
21       groups of entities that meet the energy or green-  
22       house gas intensity criteria in section 763(b)(2)(A)  
23       of the Clean Air Act based on the most recent data  
24       available.

1           (9) The term “energy producing and trans-  
2           forming industries” means the coal mining industry,  
3           oil and gas extraction, electricity power generation,  
4           transmission and distribution, and natural gas dis-  
5           tribution.

6           (10) The term “industries dependent upon en-  
7           ergy industries” means rail transportation and pipe-  
8           line transportation industries.

9           (11) The term “on-the-job training” means  
10          training provided by an employer to an individual  
11          who is employed by the employer.

12          (12) The terms “partial separation” and “par-  
13          tially separated” refer, with respect to an individual  
14          who has not been totally separated, that such indi-  
15          vidual has had—

16                (A) his or her hours of work reduced to 80  
17                percent or less of his average weekly hours in  
18                adversely affected employment; and

19                (B) his or her wages reduced to 80 percent  
20                or less of his average weekly wage in such ad-  
21                versely affected employment.

22          (13) The term “public agency” means a depart-  
23          ment or agency of a State or political subdivision of  
24          a State or of the Federal Government.

1           (14) The term “Secretary” means the Secretary  
2 of Labor.

3           (15) The term “service workers” means work-  
4 ers supplying support or auxiliary services to an em-  
5 ployment site.

6           (16) The term “State” includes the District of  
7 Columbia and the Commonwealth of Puerto Rico:  
8 and the term “United States” when used in the geo-  
9 graphical sense includes such Commonwealth.

10          (17) The term “State agency” means the agen-  
11 cy of the State which administers the State law.

12          (18) The term “State law” means the unem-  
13 ployment insurance law of the State approved by the  
14 Secretary of Labor under section 3304 of the Inter-  
15 nal Revenue Code of 1986.

16          (19) The terms “total separation” and “totally  
17 separated” refer to the layoff or severance of an in-  
18 dividual from employment with an employer in which  
19 adversely affected employment exists.

20          (20) The term “unemployment insurance”  
21 means the unemployment compensation payable to  
22 an individual under any State law or Federal unem-  
23 ployment compensation law, including chapter 85 of  
24 title 5, United States Code, and the Railroad Unem-  
25 ployment Insurance Act (45 U.S.C. 351 et seq.).

1       The terms “regular compensation”, “additional com-  
2       pensation”, and “extended compensation” have the  
3       same respective meanings that are given them in  
4       section 205(2), (3), and (4) of the Federal-State Ex-  
5       tended Unemployment Compensation Act of 1970  
6       (26 U.S.C. 3304 note; Public Law 91–373).

7           (21) The term “week” means a week as defined  
8       in the applicable State law.

9           (22) The term “week of unemployment” means  
10      a week of total, part-total, or partial unemployment  
11      as determined under the applicable State law or  
12      Federal unemployment insurance law.

13      (g) SPECIAL RULE WITH RESPECT TO MILITARY  
14      SERVICE.—

15           (1) IN GENERAL.—Notwithstanding any other  
16      provision of this part, the Secretary may waive any  
17      requirement of this part that the Secretary deter-  
18      mines is necessary to ensure that an adversely af-  
19      fected worker who is a member of a reserve compo-  
20      nent of the Armed Forces and serves a period of  
21      duty described in paragraph (2) is eligible to receive  
22      climate change adjustment assistance, training, and  
23      other benefits under this part in the same manner  
24      and to the same extent as if the worker had not  
25      served the period of duty.

1           (2) PERIOD OF DUTY DESCRIBED.—An ad-  
2       versely affected worker serves a period of duty de-  
3       scribed in this paragraph if, before completing train-  
4       ing under this part, the worker—

5           (A) serves on active duty for a period of  
6       more than 30 days under a call or order to ac-  
7       tive duty of more than 30 days; or

8           (B) in the case of a member of the Army  
9       National Guard of the United States or Air Na-  
10      tional Guard of the United States, performs  
11      full-time National Guard duty under section  
12      502(f) of title 32, United States Code, for 30  
13      consecutive days or more when authorized by  
14      the President or the Secretary of Defense for  
15      the purpose of responding to a national emer-  
16      gency declared by the President and supported  
17      by Federal funds.

18       (h) FRAUD AND RECOVERY OF OVERPAYMENTS.—

19           (1) RECOVERY OF PAYMENTS TO WHICH AN IN-  
20      DIVIDUAL WAS NOT ENTITLED.—If the Secretary or  
21      a court of competent jurisdiction determines that  
22      any person has received any payment under this  
23      part to which the individual was not entitled, such  
24      individual shall be liable to repay such amount to  
25      the Secretary, as the case may be, except that the

1 Secretary shall waive such repayment if such agency  
2 or the Secretary determines that—

3 (A) the payment was made without fault  
4 on the part of such individual; and

5 (B) requiring such repayment would cause  
6 a financial hardship for the individual (or the  
7 individual's household, if applicable) when tak-  
8 ing into consideration the income and resources  
9 reasonably available to the individual (or house-  
10 hold) and other ordinary living expenses of the  
11 individual (or household).

12 (2) MEANS OF RECOVERY.—Unless an overpay-  
13 ment is otherwise recovered, or waived under para-  
14 graph (1), the Secretary shall recover the overpay-  
15 ment by deductions from any sums payable to such  
16 person under this part, under any Federal unem-  
17 ployment compensation law or other Federal law ad-  
18 ministered by the Secretary which provides for the  
19 payment of assistance with respect to unemploy-  
20 ment. Any amount recovered under this section shall  
21 be returned to the Treasury of the United States.

22 (3) PENALTIES FOR FRAUD.—Any person  
23 who—

24 (A) makes a false statement of a material  
25 fact knowing it to be false, or knowingly fails

1 to disclose a material fact, for the purpose of  
2 obtaining or increasing for that person or for  
3 any other person any payment authorized to be  
4 furnished under this part; or

5 (B) makes a false statement of a material  
6 fact knowing it to be false, or knowingly fails  
7 to disclose a material fact, when providing in-  
8 formation to the Secretary during an investiga-  
9 tion of a petition under section 311(c);

10 shall be imprisoned for not more than one year, or fined  
11 under title 18, United States Code, or both, and be ineli-  
12 gible for any further payments under this part.

13 (i) REGULATIONS.—The Secretary shall prescribe  
14 such regulations as may be necessary to carry out the pro-  
15 visions of this part.

16 (j) STUDY ON OLDER WORKERS.—The Secretary  
17 shall conduct a study examine the circumstances of older  
18 adversely affected workers and the ability of such workers  
19 to access their retirement benefits. The Secretary shall  
20 transmit a report to Congress not later than 2 years after  
21 the date of enactment of this Act on the findings of the  
22 study and the Secretary's recommendations on how to en-  
23 sure that adversely affected workers within 2 years of re-  
24 tirement are able to access their retirement benefits.

25 (k) SPENDING LIMIT.—

1           (1) IN GENERAL.—For each fiscal year, the  
2           total amount of funds disbursed for the purposes de-  
3           scribed in section 312 shall not exceed the amount  
4           deposited in that fiscal year into the Worker Transi-  
5           tion Fund established under section 209 of division  
6           B.

7           (2) SUBSEQUENT FISCAL YEARS.—The annual  
8           spending limit for any succeeding fiscal year shall be  
9           increased by the difference, if any, between the  
10          amount of the disbursements for the prior fiscal year  
11          and the spending limitation for that fiscal year.

12          (3) ADMINISTRATION.—

13                (A) IN GENERAL.—The Secretary shall  
14                promulgate rules to ensure that the spending  
15                limit established under this subsection is not ex-  
16                ceeded.

17                (B) RULES.—The rules shall—

18                   (i) provide that workers who receive  
19                   any of the benefits described in section 312  
20                   receive full benefits; and

21                   (ii) include the establishment of a  
22                   waiting list for workers in the event that  
23                   the requests for assistance exceed the  
24                   spending limit.

1     **Subtitle B—International Climate**  
2                     **Change Programs**

3     **SEC. 321. STRATEGIC INTERAGENCY BOARD ON INTER-**  
4                     **NATIONAL CLIMATE INVESTMENT.**

5             (a) ESTABLISHMENT.—

6                     (1) IN GENERAL.—Not later than 90 days after  
7             the date of the enactment of this Act, the President  
8             shall establish the “Strategic Interagency Board on  
9             International Climate Investment” (referred to in  
10            this subtitle as the “Board”).

11                   (2) COMPOSITION.—The Board shall be com-  
12            posed of—

13                             (A) the Secretary of State;

14                             (B) the Administrator of United States  
15             Agency for International Development;

16                             (C) the Secretary of Energy;

17                             (D) the Secretary of the Treasury;

18                             (E) the Secretary of Commerce;

19                             (F) the Secretary of Agriculture;

20                             (G) the Administrator; and

21                             (H) such other relevant officials as the  
22             President may designate.

23             (b) DUTIES.—The duties of the Board shall include  
24     assessing, monitoring, and evaluating the progress and  
25     contributions of relevant departments and agencies of the

1 Federal Government in supporting financing for inter-  
2 national climate change activities.

3 **SEC. 322. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
4 **ESTATION.**

5 Title VII of the Clean Air Act (as amended by section  
6 101 of division B) is amended by adding at the end the  
7 following:

8 **“PART V—SUPPLEMENTAL EMISSION**  
9 **REDUCTIONS**

10 **“SEC. 751. DEFINITIONS.**

11 “In this part:

12 “(1) ADMINISTRATOR.—The term ‘Adminis-  
13 trator’ means the Administrator of the United  
14 States Agency for International Development.

15 “(2) DEFORESTATION.—The term ‘deforest-  
16 ation’ means a change in land use from a forest to  
17 any other land use.

18 “(3) DEGRADATION.—The term ‘degradation’,  
19 with respect to a forest, is any reduction in the car-  
20 bon stock of a forest due to the impact of human  
21 land-use activities.

22 “(4) EMISSION REDUCTIONS.—The term ‘emis-  
23 sion reductions’ means greenhouse gas emission re-  
24 ductions achieved from reduced or avoided deforest-  
25 ation under this title.

1           “(5) LEAKAGE PREVENTION ACTIVITIES.—The  
2           term ‘leakage prevention activities’ means activities  
3           in developing countries that are directed at pre-  
4           serving existing forest carbon stocks, including for-  
5           ested wetlands and peatlands, that might, absent  
6           such activities, be lost through leakage.

7   **“SEC. 752. PURPOSES.**

8           “The purposes of this part are to provide United  
9   States assistance to developing countries—

10           “(1) to develop, implement and improve nation-  
11           ally appropriate greenhouse gas mitigation policies  
12           and actions that reduce deforestation and forest deg-  
13           radation or conserve or restore forest ecosystems, in  
14           a measurable, reportable, and verifiable manner; and

15           “(2) in a manner that is consistent with and  
16           enhances the implementation of complementary  
17           United States policies that support the good govern-  
18           ance of forests, biodiversity conservation, and envi-  
19           ronmentally sustainable development, while taking  
20           local communities, most vulnerable populations and  
21           communities, particularly forest-dependent commu-  
22           nities and indigenous peoples into consideration.

1   **“SEC. 753. EMISSION REDUCTIONS FROM REDUCED DEFOR-**  
2                   **ESTATION.**

3           “(a) IN GENERAL.—Not later than 2 years after the  
4   date of the enactment of this part, the Administrator, in  
5   consultation with the Administrator of the Environmental  
6   Protection Agency, the Secretary of Agriculture, and the  
7   head of any other appropriate agency, shall establish a  
8   program to provide assistance to reduce greenhouse gas  
9   emissions from deforestation in developing countries, in  
10   accordance with this title.

11          “(b) OBJECTIVES.—The objectives of the program es-  
12   tablished under this section shall be—

13               “(1) to reduce greenhouse gas emissions from  
14   deforestation in developing countries by at least  
15   720,000,000 tons of carbon dioxide equivalent in  
16   2020, and a cumulative quantity of at least  
17   6,000,000,000 tons of carbon dioxide equivalent by  
18   December 31, 2025, with additional reductions in  
19   subsequent years;

20               “(2) to assist developing countries in preparing  
21   to participate in international markets for inter-  
22   national offset credits for reduced emissions from  
23   deforestation; and

24               “(3) to preserve existing forest carbon stocks in  
25   countries where such forest carbon may be vulner-  
26   able to international leakage.

1       “(c) NOT ELIGIBLE FOR OFFSET CREDIT.—Activi-  
2 ties that receive support under this part shall not be issued  
3 offset credits for the greenhouse gas emissions reductions  
4 or avoidance, or greenhouse gas sequestration, produced  
5 by such activities.”.

6   **SEC. 323. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**  
7                   **PROGRAM.**

8       (a) PURPOSES.—The purposes of this section are—

9               (1) to assist developing countries in activities  
10       that reduce, sequester, or avoid greenhouse gas  
11       emissions;

12              (2) to encourage those countries to shift toward  
13       low-carbon development, and promote a successful  
14       global agreement under the United Nations Frame-  
15       work Convention on Climate Change, done at New  
16       York on May 9, 1992 (or a successor agreement)  
17       (referred to in this subtitle as the “Convention”);  
18       and

19              (3) to promote robust compliance with and en-  
20       forcement of existing international legal require-  
21       ments for the protection of intellectual property  
22       rights.

23       (b) ESTABLISHMENT OF INTERNATIONAL CLEAN EN-  
24       ERGY DEPLOYMENT PROGRAM.—

1           (1) ESTABLISHMENT.—The Secretary of State,  
2           in consultation with an interagency group designated  
3           by the President, shall establish an International  
4           Clean Energy Deployment Program in accordance  
5           with this section.

6           (2) DISTRIBUTION OF ASSISTANCE.—The Sec-  
7           retary of State, or the head of such other Federal  
8           agency as the President may designate, shall direct  
9           the distribution of funding to carry out the Clean  
10          Energy Technology Program—

11                   (A) in the form of bilateral assistance;

12                   (B) to multilateral funds or international  
13           institutions pursuant to the Convention or an  
14           agreement negotiated under the Convention; or

15                   (C) through a combination of the mecha-  
16           nisms identified under subparagraphs (A) and  
17           (B).

18          (c) DETERMINATION OF QUALIFYING ACTIVITIES.—  
19          Assistance under this subtitle may be provided only to  
20          qualifying entities for clean technology activities (includ-  
21          ing building relevant technical and institutional capacity)  
22          that contribute to substantial, measurable, reportable, and  
23          verifiable reductions, sequestration, or avoidance of green-  
24          house gas emissions.

1 **SEC. 324. INTERNATIONAL CLIMATE CHANGE ADAPTATION**  
2 **AND GLOBAL SECURITY PROGRAM.**

3 (a) PURPOSES.—The purposes of this section are—

4 (1) to provide assistance to the most vulnerable  
5 developing countries, particularly to the most vulner-  
6 able communities and populations in those countries;  
7 and

8 (2) to support the development and implemen-  
9 tation of climate change adaptation programs in a  
10 way that protects and promotes interests of the  
11 United States, to the extent those interests may be  
12 advanced by minimizing, averting, or increasing re-  
13 silience to climate change impacts.

14 (b) INTERNATIONAL CLIMATE CHANGE ADAPTATION  
15 AND GLOBAL SECURITY PROGRAM.—

16 (1) ESTABLISHMENT.—The Secretary of State,  
17 in consultation with the Administrator of the United  
18 States Agency for International Development, the  
19 Secretary of the Treasury, and the Administrator,  
20 shall establish an International Climate Change Ad-  
21 aptation and Global Security Program in accordance  
22 with this section.

23 (2) DISTRIBUTION OF ASSISTANCE.—The Sec-  
24 retary of State, or the head of such other Federal  
25 agency as the President may designate, after con-  
26 sultation with the Secretary of the Treasury, the Ad-

1       ministrator of the United States Agency for Inter-  
2       national Development, and the Administrator, shall  
3       direct the distribution of funding to carry out the  
4       International Climate Change Adaptation and Global  
5       Security Program—

6               (A) in the form of bilateral assistance;

7               (B) to multilateral funds or international  
8       institutions pursuant to the Convention or an  
9       agreement negotiated under the Convention; or  
10              (C) through a combination of the mecha-  
11       nisms identified under subparagraphs (A) and  
12       (B).

13   **SEC. 325. EVALUATION AND REPORTS.**

14       (a) MONITORING, EVALUATION, AND ENFORCE-  
15   MENT.—The Board shall establish and implement a sys-  
16   tem to monitor and evaluate the effectiveness and effi-  
17   ciency of assistance provided under this subtitle by includ-  
18   ing evaluation criteria, such as performance indicators.

19       (b) REPORTS AND REVIEW.—

20              (1) ANNUAL REPORT.—Not later than 1 year  
21       after the date of enactment of this Act, and annually  
22       thereafter, the Board shall submit to the appropriate  
23       committees of Congress a report that describes—

1 (A) the steps Federal agencies have taken,  
2 and the progress made, toward accomplishing  
3 the objectives of this section; and

4 (B) the ramifications of any potentially de-  
5 stabilizing impacts climate change may have on  
6 the interests of the United States.

7 (2) REVIEWS.—Not later than 3 years after the  
8 date of enactment of this Act, and triennially there-  
9 after, the Board, in cooperation with the National  
10 Academy of Sciences and other appropriate research  
11 and development institutions, shall—

12 (A) review the global needs and opportuni-  
13 ties for climate change investment in developing  
14 countries; and

15 (B) submit to Congress a report that de-  
16 scribes the findings of the review.

17 **SEC. 326. REPORT ON CLIMATE ACTIONS OF MAJOR**  
18 **ECONOMIES.**

19 (a) IN GENERAL.—The Secretary of State, in co-  
20 operation with the Board, shall prepare an interagency re-  
21 port on climate change and energy policy of the 5 coun-  
22 tries that, of the countries that are not members of the  
23 Organisation for Economic Co-Operation and Develop-  
24 ment, emit the greatest annual quantity of greenhouse  
25 gases.

1       (b) PURPOSES.—The purposes of the report shall  
2 be—

3           (1) to provide to Congress and the public of the  
4 United States—

5               (A) a better understanding of the actions  
6 the countries described in subsection (a) are  
7 taking to reduce greenhouse gas emissions; and

8               (B) an assessment of the climate change  
9 and energy policy commitments and actions of  
10 those countries; and

11           (2) to identify the means by which the United  
12 States can assist those countries in achieving such  
13 a reduction.

14       (c) SUBMISSION TO CONGRESS.—Not later than 15  
15 months after the date of enactment of this Act, the Sec-  
16 retary of State shall submit to the appropriate committees  
17 of Congress the report prepared under this section.

1     **Subtitle C—Adapting to Climate**  
2                     **Change**

3                     **PART 1—DOMESTIC ADAPTATION**

4     **Subpart A—National Climate Change Adaptation**  
5                     **Program**

6     **SEC. 341. NATIONAL CLIMATE CHANGE ADAPTATION PRO-**  
7                     **GRAM.**

8         The President shall establish within the United  
9     States Global Change Research Program a National Cli-  
10    mate Change Adaptation Program for the purpose of in-  
11    creasing the overall effectiveness of Federal climate  
12    change adaptation efforts.

13    **SEC. 342. CLIMATE SERVICES.**

14         The Secretary of Commerce, acting through the Ad-  
15    ministrators of the National Oceanic and Atmospheric Ad-  
16    ministration (NOAA), shall establish within NOAA a Na-  
17    tional Climate Service to develop climate information,  
18    data, forecasts, and warnings at national and regional  
19    scales, and to distribute information related to climate im-  
20    pacts to State, local, and tribal governments and the pub-  
21    lic to facilitate the development and implementation of  
22    strategies to reduce society's vulnerability to climate varia-  
23    bility and change.

1       **Subpart B—Public Health and Climate Change**

2       **SEC. 351. SENSE OF CONGRESS ON PUBLIC HEALTH AND**  
3               **CLIMATE CHANGE.**

4       It is the sense of the Congress that the Federal Gov-  
5       ernment, in cooperation with international, State, and  
6       local governments, Indian tribes, concerned public and pri-  
7       vate organizations, and citizens, should use all practicable  
8       means and measures—

9               (1) to assist the efforts of public health and  
10       health care professionals, first responders, States,  
11       Indian tribes, municipalities, and local communities  
12       to incorporate measures to prepare health systems to  
13       respond to the impacts of climate change;

14              (2) to ensure—

15                      (A) that the Nation's health professionals  
16       have sufficient information to prepare for and  
17       respond to the adverse health impacts of cli-  
18       mate change;

19                      (B) the utility and value of scientific re-  
20       search in advancing understanding of—

21                              (i) the health impacts of climate  
22       change; and

23                              (ii) strategies to prepare for and re-  
24       spond to the health impacts of climate  
25       change;

1 (C) the identification of communities vul-  
2 nerable to the health effects of climate change  
3 and the development of strategic response plans  
4 to be carried out by health professionals for  
5 those communities;

6 (D) the improvement of health status and  
7 health equity through efforts to prepare for and  
8 respond to climate change; and

9 (E) the inclusion of health policy in the de-  
10 velopment of climate change responses;

11 (3) to encourage further research, interdiscipli-  
12 nary partnership, and collaboration among stake-  
13 holders in order to—

14 (A) understand and monitor the health im-  
15 pacts of climate change; and

16 (B) improve public health knowledge and  
17 response strategies to climate change;

18 (4) to enhance preparedness activities, and pub-  
19 lic health infrastructure, relating to climate change  
20 and health;

21 (5) to encourage each and every American to  
22 learn about the impacts of climate change on health;  
23 and

1           (6) to assist the efforts of developing nations to  
2       incorporate measures to prepare health systems to  
3       respond to the impacts of climate change.

4   **SEC. 352. RELATIONSHIP TO OTHER LAWS.**

5       Nothing in this subpart in any manner limits the au-  
6   thority provided to or responsibility conferred on any Fed-  
7   eral department or agency by any provision of any law  
8   (including regulations) or authorizes any violation of any  
9   provision of any law (including regulations), including any  
10  health, energy, environmental, transportation, or any  
11  other law or regulation.

12 **SEC. 353. NATIONAL STRATEGIC ACTION PLAN.**

13       (a) REQUIREMENT.—

14           (1) IN GENERAL.—The Secretary of Health and  
15   Human Services, within 2 years after the date of the  
16   enactment of this Act, on the basis of the best avail-  
17   able science, and in consultation pursuant to para-  
18   graph (2), shall publish a strategic action plan to as-  
19   sist health professionals in preparing for and re-  
20   sponding to the impacts of climate change on public  
21   health in the United States and other nations, par-  
22   ticularly developing nations.

23           (2) CONSULTATION.—In developing or making  
24   any revision to the national strategic action plan, the  
25   Secretary shall—

1 (A) consult with the Director of the Cen-  
2 ters for Disease Control and Prevention, the  
3 Administrator of the Environmental Protection  
4 Agency, the Director of the National Institutes  
5 of Health, the Director of the Indian Health  
6 Service, the Secretary of Energy, other appro-  
7 priate Federal agencies, Indian tribes, State  
8 and local governments, public health organiza-  
9 tions, scientists, and other interested stake-  
10 holders; and

11 (B) provide opportunity for public input.

12 (b) CONTENTS.—

13 (1) IN GENERAL.—The Secretary shall assist  
14 health professionals in preparing for and responding  
15 effectively and efficiently to the health effects of cli-  
16 mate change through measures including—

17 (A) developing, improving, integrating, and  
18 maintaining domestic and international disease  
19 surveillance systems and monitoring capacity to  
20 respond to health-related effects of climate  
21 change, including on topics addressing—

22 (i) water, food, and vector borne infec-  
23 tious diseases and climate change;

24 (ii) pulmonary effects, including re-  
25 sponses to aeroallergens;

- 1 (iii) cardiovascular effects, including
- 2 impacts of temperature extremes;
- 3 (iv) air pollution health effects, includ-
- 4 ing heightened sensitivity to air pollution;
- 5 (v) hazardous algal blooms;
- 6 (vi) mental and behavioral health im-
- 7 pacts of climate change;
- 8 (vii) the health of refugees, displaced
- 9 persons, and vulnerable communities;
- 10 (viii) the implications for communities
- 11 vulnerable to health effects of climate
- 12 change, as well as strategies for responding
- 13 to climate change within these commu-
- 14 nities; and
- 15 (ix) local and community-based health
- 16 interventions for climate-related health im-
- 17 pacts;
- 18 (B) creating tools for predicting and moni-
- 19 toring the public health effects of climate
- 20 change on the international, national, regional,
- 21 State, tribal, and local levels, and providing
- 22 technical support to assist in their implementa-
- 23 tion;

1 (C) developing public health communica-  
2 tions strategies and interventions for extreme  
3 weather events and disaster response situations;

4 (D) identifying and prioritizing commu-  
5 nities and populations vulnerable to the health  
6 effects of climate change, and determining ac-  
7 tions and communication strategies that should  
8 be taken to inform and protect these commu-  
9 nities and populations from the health effects of  
10 climate change;

11 (E) developing health communication, pub-  
12 lic education, and outreach programs aimed at  
13 public health and health care professionals, as  
14 well as the general public, to promote prepared-  
15 ness and response strategies relating to climate  
16 change and public health, including the identi-  
17 fication of greenhouse gas reduction behaviors  
18 that are health-promoting; and

19 (F) developing academic and regional cen-  
20 ters of excellence devoted to—

21 (i) researching relationships between  
22 climate change and health;

23 (ii) expanding and training the public  
24 health workforce to strengthen the capacity  
25 of such workforce to respond to and pre-

1           pare for the health effects of climate  
2           change;

3           (iii) creating and supporting academic  
4           fellowships focusing on the health effects  
5           of climate change; and

6           (iv) training senior health ministry of-  
7           ficials from developing nations to strength-  
8           en the capacity of such nations to—

9           (I) prepare for and respond to  
10          the health effects of climate change;  
11          and

12          (II) build an international net-  
13          work of public health professionals  
14          with the necessary climate change  
15          knowledge base;

16          (G) using techniques, including health im-  
17          pact assessments, to assess various climate  
18          change public health preparedness and response  
19          strategies on international, national, State, re-  
20          gional, tribal, and local levels, and make rec-  
21          ommendations as to those strategies that best  
22          protect the public health;

23          (H)(i) assisting in the development, imple-  
24          mentation, and support of State, regional, trib-  
25          al, and local preparedness, communication, and

1 response plans (including with respect to the  
2 health departments of such entities) to antici-  
3 pate and reduce the health threats of climate  
4 change; and

5 (ii) pursuing collaborative efforts to de-  
6 velop, integrate, and implement such plans;

7 (I) creating a program to advance research  
8 as it relates to the effects of climate change on  
9 public health across Federal agencies, including  
10 research to—

11 (i) identify and assess climate change  
12 health effects preparedness and response  
13 strategies;

14 (ii) prioritize critical public health in-  
15 frastructure projects related to potential  
16 climate change impacts that affect public  
17 health; and

18 (iii) coordinate preparedness for cli-  
19 mate change health impacts, including the  
20 development of modeling and forecasting  
21 tools;

22 (J) providing technical assistance for the  
23 development, implementation, and support of  
24 preparedness and response plans to anticipate

1           and reduce the health threats of climate change  
2           in developing nations; and

3                   (K) carrying out other activities deter-  
4           mined appropriate by the Secretary to plan for  
5           and respond to the impacts of climate change  
6           on public health.

7       (c) REVISION.—The Secretary shall revise the na-  
8       tional strategic action plan not later than July 1, 2014,  
9       and every 4 years thereafter, to reflect new information  
10      collected pursuant to implementation of the national stra-  
11      tegic action plan and otherwise, including information  
12      on—

13           (1) the status of critical environmental health  
14      parameters and related human health impacts;

15           (2) the impacts of climate change on public  
16      health; and

17           (3) advances in the development of strategies  
18      for preparing for and responding to the impacts of  
19      climate change on public health.

20      (d) IMPLEMENTATION.—

21           (1) IMPLEMENTATION THROUGH HHS.—The  
22      Secretary shall exercise the Secretary's authority  
23      under this subpart and other provisions of Federal  
24      law to achieve the goals and measures of the na-  
25      tional strategic action plan.

1           (2) OTHER PUBLIC HEALTH PROGRAMS AND  
2     INITIATIVES.—The Secretary and Federal officials of  
3     other relevant Federal agencies shall administer  
4     public health programs and initiatives authorized by  
5     provisions of law other than this subpart, subject to  
6     the requirements of such statutes, in a manner de-  
7     signed to achieve the goals of the national strategic  
8     action plan.

9           (3) SPECIFIC ACTIVITIES.—In furtherance of  
10    the national strategic action plan, the Secretary  
11    shall—

12           (A) conduct scientific research to assist  
13    health professionals in preparing for and re-  
14    sponding to the impacts of climate change on  
15    public health; and

16           (B) provide funding for—

17               (i) research on the health effects of  
18    climate change; and

19               (ii) preparedness planning on the  
20    international, national, State, tribal, re-  
21    gional, and local levels to respond to or re-  
22    duce the burden of health effects of climate  
23    change; and

24           (C) carry out other activities determined  
25    appropriate by the Secretary to prepare for and

1           respond to the impacts of climate change on  
2           public health.

3   **SEC. 354. ADVISORY BOARD.**

4       (a) ESTABLISHMENT.—The Secretary shall establish  
5   a permanent science advisory board comprised of not less  
6   than 10 and not more than 20 members.

7       (b) APPOINTMENT OF MEMBERS.—The Secretary  
8   shall appoint the members of the science advisory board  
9   from among individuals—

10           (1) who have expertise in public health and  
11   human services, climate change, and other relevant  
12   disciplines; and

13           (2) at least  $\frac{1}{2}$  of whom are recommended by  
14   the President of the National Academy of Sciences.

15       (c) FUNCTIONS.—The science advisory board shall—

16           (1) provide scientific and technical advice and  
17   recommendations to the Secretary on the domestic  
18   and international impacts of climate change on pub-  
19   lic health, populations and regions particularly vul-  
20   nerable to the effects of climate change, and strate-  
21   gies and mechanisms to prepare for and respond to  
22   the impacts of climate change on public health; and

23           (2) advise the Secretary regarding the best  
24   science available for purposes of issuing the national  
25   strategic action plan.

1 **SEC. 355. REPORTS.**

2 (a) NEEDS ASSESSMENT.—

3 (1) IN GENERAL.—The Secretary shall seek to  
4 enter into, by not later than 6 months after the date  
5 of the enactment of this Act, an agreement with the  
6 National Research Council and the Institute of Med-  
7 icine to complete a report that—

8 (A) assesses the needs for health profes-  
9 sionals to prepare for and respond to climate  
10 change impacts on public health; and

11 (B) recommends programs to meet those  
12 needs.

13 (2) SUBMISSION.—The agreement under para-  
14 graph (1) shall require the completed report to be  
15 submitted to the Congress and the Secretary and  
16 made publicly available not later than 1 year after  
17 the date of the agreement.

18 (b) CLIMATE CHANGE HEALTH PROTECTION AND  
19 PROMOTION REPORTS.—

20 (1) IN GENERAL.—The Secretary, in consulta-  
21 tion with the advisory board established under sec-  
22 tion 354, shall ensure the issuance of reports to aid  
23 health professionals in preparing for and responding  
24 to the adverse health effects of climate change  
25 that—

1 (A) review scientific developments on  
2 health impacts of climate change; and

3 (B) recommend changes to the national  
4 strategic action plan.

5 (2) SUBMISSION.—The Secretary shall submit  
6 the reports required by paragraph (1) to the Con-  
7 gress and make such reports publicly available not  
8 later than July 1, 2013, and every 4 years there-  
9 after.

10 **SEC. 356. DEFINITIONS.**

11 In this subpart:

12 (1) HEALTH IMPACT ASSESSMENT.—The term  
13 “health impact assessment” means a combination of  
14 procedures, methods, and tools by which a policy,  
15 program, or project may be judged as to its potential  
16 effects on the health of a population, and the dis-  
17 tribution of those effects within the population.

18 (2) NATIONAL STRATEGIC ACTION PLAN.—The  
19 term “national strategic action plan” means the  
20 plan issued and revised under section 353.

21 (3) SECRETARY.—Unless otherwise specified,  
22 the term “Secretary” means the Secretary of Health  
23 and Human Services.

1     **Subpart C—Climate Change Safeguards for Natural**  
2                     **Resources Conservation**

3     **SEC. 361. PURPOSES.**

4         The purposes of this subpart are—

5             (1) to establish an integrated Federal program  
6             that responds to ongoing and expected impacts of  
7             climate change, including, where applicable, ocean  
8             acidification, drought, flooding, and wildfire, by pro-  
9             tecting, restoring, and conserving the natural re-  
10            sources of the United States; and

11            (2) to provide financial support and incentives  
12            for programs, strategies, and activities that respond  
13            to threats of climate change, including, where appli-  
14            cable, ocean acidification, drought, flooding, and  
15            wildfire, by protecting, restoring, and conserving the  
16            natural resources of the United States.

17     **SEC. 362. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
18                     **TATION POLICY.**

19         It is the policy of the Federal Government, in co-  
20         operation with State and local governments, Indian tribes,  
21         and other interested stakeholders, to use all practicable  
22         means to protect, restore, and conserve natural resources  
23         so that natural resources become more resilient, adapt to,  
24         and withstand the ongoing and expected impacts of cli-  
25         mate change, including, where applicable, ocean acidifica-  
26         tion, drought, flooding, and wildfire.

1 **SEC. 363. DEFINITIONS.**

2 In this subpart:

3 (1) ACCOUNT.—The term “Account” means the  
4 Natural Resources Climate Change Adaption Ac-  
5 count established by section 370(a).

6 (2) ADMINISTRATORS.—The term “Administra-  
7 tors” means—

8 (A) the Administrator of the National Oce-  
9 anic and Atmospheric Administration; and

10 (B) the Director of the United States Geo-  
11 logical Survey.

12 (3) BOARD.—The term “Board” means the  
13 Science Advisory Board established by section  
14 367(f)(1).

15 (4) CENTER.—The term “Center” means the  
16 National Climate Change and Wildlife Science Cen-  
17 ter described by section 367(e)(1).

18 (5) COASTAL STATE.—The term “coastal  
19 State” has the meaning given the term “coastal  
20 state” in section 304 of the Coastal Zone Manage-  
21 ment Act of 1972 (16 U.S.C. 1453).

22 (6) CORRIDORS.—The term “corridors” means  
23 areas that—

24 (A) provide connectivity, over different  
25 time scales, of habitats or potential habitats;  
26 and

1 (B) facilitate terrestrial, marine, estuarine,  
2 and freshwater fish, wildlife, or plant movement  
3 necessary for migration, gene flow, or dispersal,  
4 or to respond to the ongoing and expected im-  
5 pacts of climate change, including, where appli-  
6 cable, ocean acidification, drought, flooding,  
7 and wildfire.

8 (7) ECOLOGICAL PROCESSES.—The term “eco-  
9 logical processes” means biological, chemical, or  
10 physical interaction between the biotic and abiotic  
11 components of an ecosystem, including—

- 12 (A) nutrient cycling;
- 13 (B) pollination;
- 14 (C) predator-prey relationships;
- 15 (D) soil formation;
- 16 (E) gene flow;
- 17 (F) disease epizootiology;
- 18 (G) larval dispersal and settlement;
- 19 (H) hydrological cycling;
- 20 (I) decomposition; and
- 21 (J) disturbance regimes, such as fire and  
22 flooding.

23 (8) HABITAT.—The term “habitat” means the  
24 physical, chemical, and biological properties that  
25 fish, wildlife, or plants use for growth, reproduction,

1 survival, food, water, or cover (whether on land, in  
2 water, or in an area or region).

3 (9) INDIAN TRIBE.—The term “Indian tribe”  
4 has the meaning given the term in section 4 of the  
5 Indian Self-Determination and Education Assistance  
6 Act (25 U.S.C. 450b).

7 (10) NATURAL RESOURCES.—The term “nat-  
8 ural resources” means fish, wildlife, plants, habitats,  
9 and terrestrial, freshwater, estuarine, and marine  
10 ecosystems of the United States.

11 (11) NATURAL RESOURCES ADAPTATION.—The  
12 term “natural resources adaptation” means the pro-  
13 tection, restoration, and conservation of natural re-  
14 sources so that natural resources become more resil-  
15 ient, adapt to, and withstand the ongoing and ex-  
16 pected impacts of climate change, including, where  
17 applicable, ocean acidification, drought, flooding,  
18 and wildfire.

19 (12) PANEL.—The term “Panel” means the  
20 Natural Resources Climate Change Adaptation  
21 Panel established under section 365(a).

22 (13) RESILIENCE; RESILIENT.—The terms “re-  
23 silience” and “resilient” mean—

24 (A) the ability to resist or recover from  
25 disturbance; and

1 (B) the ability to preserve diversity, pro-  
2 ductivity, and sustainability.

3 (14) STATE.—The term “State” means—

4 (A) a State of the United States;

5 (B) the District of Columbia;

6 (C) American Samoa;

7 (D) Guam;

8 (E) the Commonwealth of the Northern  
9 Mariana Islands;

10 (F) the Commonwealth of Puerto Rico;

11 and

12 (G) the United States Virgin Islands.

13 (15) STRATEGY.—The term “Strategy” means  
14 the Natural Resources Climate Change Adaptation  
15 Strategy developed under section 366(a).

16 **SEC. 364. COUNCIL ON ENVIRONMENTAL QUALITY.**

17 The Chair of the Council on Environmental Quality  
18 shall—

19 (1) advise the President on implementing and  
20 developing—

21 (A) the Strategy; and

22 (B) the Federal natural resource agency  
23 adaptation plans required by section 368;

24 (2) serve as the Chair of the Panel established  
25 under section 365; and

1           (3) coordinate Federal agency strategies, plans,  
2           programs, and activities relating to protecting, re-  
3           storing, and maintaining natural resources so that  
4           natural resources become more resilient, adapt to,  
5           and withstand the ongoing and expected impacts of  
6           climate change.

7   **SEC. 365. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
8                   **TATION PANEL.**

9           (a) ESTABLISHMENT.—Not later than 90 days after  
10          the date of enactment of this Act, the President shall es-  
11          tablish a Natural Resources Climate Change Adaptation  
12          Panel.

13          (b) DUTIES.—The Panel shall serve as a forum for  
14          interagency consultation on, and the coordination of, the  
15          development and implementation of the Strategy.

16          (c) MEMBERSHIP.—The Panel shall be composed  
17          of—

18               (1) the Administrator of the National Oceanic  
19               and Atmospheric Administration (or a designee);

20               (2) the Chief of the Forest Service (or a des-  
21               ignee);

22               (3) the Director of the National Park Service  
23               (or a designee);

24               (4) the Director of the United States Fish and  
25               Wildlife Service (or a designee);

1           (5) the Director of the Bureau of Land Man-  
2           agement (or a designee);

3           (6) the Director of the United States Geological  
4           Survey (or a designee);

5           (7) the Commissioner of Reclamation (or a des-  
6           ignee); and

7           (8) the Director of the Bureau of Indian Affairs  
8           (or a designee);

9           (9) the Administrator of the Environmental  
10          Protection Agency (or a designee);

11          (10) the Chief of Engineers (or a designee);

12          (11) the Chair of the Council on Environmental  
13          Quality (or a designee);

14          (12) the Administrator of the Federal Emer-  
15          gency Management Agency (or a designee); and

16          (13) the heads of such other Federal agencies  
17          or departments with jurisdiction over natural re-  
18          sources of the United States, as determined by the  
19          President.

20          (d) CHAIRPERSON.—The Chair of the Council on En-  
21          vironmental Quality shall serve as the Chairperson of the  
22          Panel.

1   **SEC. 366. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
2                   **TATION STRATEGY.**

3           (a) IN GENERAL.—Not later than 1 year after the  
4   date of enactment of this Act, the Panel shall develop a  
5   Natural Resources Climate Change Adaptation Strategy—

6               (1) to protect, restore, and conserve natural re-  
7               sources so that natural resources become more resil-  
8               ient, adapt to, and withstand the ongoing and ex-  
9               pected impacts of climate change; and

10              (2) to identify opportunities to mitigate the on-  
11              going and expected impacts of climate change.

12           (b) DEVELOPMENT.—In developing and revising the  
13   Strategy, the Panel shall—

14               (1) base the strategy on the best available  
15               science;

16               (2) develop the strategy in close cooperation  
17               with States and Indian tribes;

18               (3) coordinate with other Federal agencies, as  
19               appropriate;

20               (4) consult with local governments, conservation  
21               organizations, scientists, and other interested stake-  
22               holders; and

23               (5) provide public notice and opportunity for  
24               comment.

1 (c) REVISION.—After the Panel adopts the initial  
2 Strategy, the Panel shall review and revise the Strategy  
3 every 5 years to incorporate—

4 (1) new information regarding the ongoing and  
5 expected impacts of climate change on natural re-  
6 sources; and

7 (2) new advances in the development of strate-  
8 gies that make natural resources more resilient or  
9 able to adapt to the ongoing and expected impacts  
10 of climate change.

11 (d) CONTENTS.—The Strategy shall—

12 (1) assess the vulnerability of natural resources  
13 to climate change, including short-term, medium-  
14 term, long-term, cumulative, and synergistic im-  
15 pacts;

16 (2) describe current research, observation, and  
17 monitoring activities at the Federal, State, tribal,  
18 and local level related to the ongoing and expected  
19 impacts of climate change on natural resources;

20 (3) identify and prioritize research and data  
21 needs;

22 (4) identify natural resources likely to have the  
23 greatest need for protection, restoration, and con-  
24 servation due to the ongoing and expanding impacts  
25 of climate change;

1           (5) include specific protocols for integrating  
2           natural resources adaptation strategies and activities  
3           into the conservation and management of natural re-  
4           sources by Federal departments and agencies to en-  
5           sure consistency across agency jurisdictions;

6           (6) include specific actions that Federal depart-  
7           ments and agencies shall take to protect, conserve,  
8           and restore natural resources to become more resil-  
9           ient, adapt to, and withstand the ongoing and ex-  
10          pected impacts of climate change, including a  
11          timeline to implement those actions;

12          (7) include specific mechanisms for ensuring  
13          communication and coordination—

14                (A) among Federal departments and agen-  
15                cies; and

16                (B) between Federal departments and  
17                agencies and State natural resource agencies,  
18                United States territories, Indian tribes, private  
19                landowners, conservation organizations, and  
20                other countries that share jurisdiction over nat-  
21                ural resources with the United States;

22          (8) include specific actions to develop and im-  
23          plement consistent natural resources inventory and  
24          monitoring protocols through interagency coordina-  
25          tion and collaboration; and

1           (9) include procedures for guiding the develop-  
2           ment of detailed agency- and department-specific ad-  
3           aptation plans required under section 368.

4           (e) IMPLEMENTATION.—Consistent with other laws  
5           and Federal trust responsibilities concerning land of In-  
6           dian tribes, each Federal department or agency rep-  
7           resented on the Panel shall integrate the elements of the  
8           Strategy that relate to conservation, restoration, and man-  
9           agement of natural resources into agency plans, environ-  
10          mental reviews, programs, and activities.

11   **SEC. 367. NATURAL RESOURCES ADAPTATION SCIENCE**  
12                           **AND INFORMATION.**

13          (a) COORDINATION.—Not later than 90 days after  
14          the date of enactment of this Act, the Administrators shall  
15          establish coordinated procedures for developing and pro-  
16          viding science and information necessary to address the  
17          ongoing and expected impacts of climate change on nat-  
18          ural resources.

19          (b) OVERSIGHT.—The National Climate Change and  
20          Wildlife Science Center established under subsection (e)  
21          and the National Climate Service of the National Oceanic  
22          and Atmospheric Administration shall oversee develop-  
23          ment of the procedures.

24          (c) FUNCTIONS.—The Administrators shall—

1           (1) ensure that the procedures required under  
2       subsection (a) avoid duplication; and

3           (2) ensure that the National Oceanic and At-  
4       mospheric Administration and the United States Ge-  
5       ological Survey—

6           (A) provide technical assistance to Federal  
7       departments and agencies, State and local gov-  
8       ernments, Indian tribes, and interested private  
9       landowners that are pursuing the goals of ad-  
10      dressing the ongoing and expected impacts of  
11      climate change on natural resources;

12          (B) conduct and sponsor research to de-  
13      velop strategies that increase the ability of nat-  
14      ural resources to become more resilient, adapt  
15      to, and withstand the ongoing and expected im-  
16      pacts of climate change;

17          (C) provide Federal departments and agen-  
18      cies, State and local governments, Indian tribes,  
19      and interested private landowners with research  
20      products, decision and monitoring tools, and in-  
21      formation to develop strategies that increase  
22      the ability of natural resources to become more  
23      resilient, adapt to, and withstand the ongoing  
24      and expected impacts of climate change; and

1 (D) assist Federal departments and agen-  
2 cies in the development of adaptation plans re-  
3 quired by section 368.

4 (d) SURVEY.—Not later than 1 year after the date  
5 of enactment of this Act, and every 5 years thereafter,  
6 the Secretary of Commerce and the Secretary of the Inte-  
7 rior shall conduct a climate change impact survey that—

8 (1) identifies natural resources considered likely  
9 to be adversely affected by climate change;

10 (2) includes baseline monitoring and ongoing  
11 trend analysis;

12 (3) with input from stakeholders, identifies and  
13 prioritizes necessary monitoring and research that is  
14 most relevant to the needs of natural resource man-  
15 agers to address the ongoing and expected impacts  
16 of climate change and to promote resilience; and

17 (4) identifies the decision tools necessary to de-  
18 velop strategies that increase the ability of natural  
19 resources to become more resilient, adapt to, and  
20 withstand the ongoing and expected impacts of cli-  
21 mate change.

22 (e) NATIONAL CLIMATE CHANGE AND WILDLIFE  
23 SCIENCE CENTER.—

24 (1) ESTABLISHMENT.—The Secretary of the In-  
25 terior shall establish the National Climate Change

1       and Wildlife Science Center within the United States  
2       Geological Survey.

3           (2) FUNCTIONS.—In collaboration with Federal  
4       and State natural resources agencies and depart-  
5       ments, Indian tribes, universities, and other partner  
6       organizations, the Center shall—

7           (A) assess and synthesize current physical  
8       and biological knowledge;

9           (B) prioritize scientific gaps in such knowl-  
10      edge in order to forecast the ecological impacts  
11      of climate change, including, where applicable,  
12      ocean acidification, drought, flooding, and wild-  
13      fire on fish and wildlife at the ecosystem, habi-  
14      tat, community, population, and species levels;

15          (C) develop and improve tools to identify,  
16      evaluate, and link scientific approaches and  
17      models that forecast the impacts of climate  
18      change, including, where applicable, ocean acidi-  
19      fication, drought, flooding, and wildfire on fish,  
20      wildlife, plants, and associated habitats, includ-  
21      ing—

22           (i) monitoring;

23           (ii) predictive models;

24           (iii) vulnerability analyses;

25           (iv) risk assessments; and

1 (v) decision support systems that help  
2 managers make informed decisions;

3 (D) develop and evaluate tools to adapt-  
4 ively manage and monitor the effects of climate  
5 change (including tools for the collection of  
6 data) on fish and wildlife on the national, re-  
7 gional, and local level; and

8 (E) develop capacities for sharing stand-  
9 ardized data and the synthesis of the data de-  
10 scribed in subparagraph (D).

11 (f) SCIENCE ADVISORY BOARD.—

12 (1) ESTABLISHMENT.—Not later than 180 days  
13 after the date of enactment of this Act, the Sec-  
14 retary of Commerce and the Secretary of the Inte-  
15 rior shall establish and appoint the members of the  
16 Science Advisory Board.

17 (2) MEMBERSHIP.—The Board shall be com-  
18 prised of not fewer than 10 and not more than 20  
19 members—

20 (A) who have expertise in fish, wildlife,  
21 plant, aquatic, and coastal and marine biology,  
22 ecology, climate change, including, where appli-  
23 cable, ocean acidification, drought, flooding,  
24 and wildfire, and other relevant scientific dis-  
25 ciplines;

1 (B) who represent a balanced membership  
2 among Federal, State, tribal, and local rep-  
3 resentatives, universities, and conservation or-  
4 ganizations; and

5 (C) at least  $\frac{1}{2}$  of whom are recommended  
6 by the President of the National Academy of  
7 Sciences.

8 (3) DUTIES.—The Board shall—

9 (A) advise the Secretary of Commerce and  
10 the Secretary of the Interior on the state of the  
11 science regarding—

12 (i) the ongoing and expected impacts  
13 of climate change, including, where appli-  
14 cable, ocean acidification, drought, flood-  
15 ing, and wildfire on natural resources; and

16 (ii) scientific strategies and mecha-  
17 nisms for protecting, restoring, and con-  
18 serving natural resources so natural re-  
19 sources become more resilient, adapt to,  
20 and withstand the ongoing and expected  
21 impacts of climate change, including,  
22 where applicable, ocean acidification,  
23 drought, flooding, and wildfire; and

1 (B) identify and recommend priorities for  
2 ongoing research needs on the issues described  
3 in subparagraph (A).

4 (4) COLLABORATION.—The Board shall collabo-  
5 rate with climate change and ecosystem research en-  
6 tities in other Federal agencies and departments.

7 (5) AVAILABILITY TO PUBLIC.—The advice and  
8 recommendations of the Board shall be made avail-  
9 able to the public.

10 **SEC. 368. FEDERAL NATURAL RESOURCE AGENCY ADAPTA-**  
11 **TION PLANS.**

12 (a) DEVELOPMENT.—Not later than 1 year after the  
13 date of development of the Strategy, each department or  
14 agency with representation on the Panel shall—

15 (1) complete an adaptation plan for that de-  
16 partment or agency that—

17 (A) implements the Strategy and is con-  
18 sistent with the natural resources climate  
19 change adaptation policy required by section  
20 362;

21 (B) details the ongoing and expanding ac-  
22 tions of the department or agency, and any  
23 changes in decisionmaking processes necessary  
24 to increase the ability of resources under the ju-  
25 risdiction of the department or agency and, to

1           the maximum extent practicable, resources  
2           under the jurisdiction of other departments and  
3           agencies that may be significantly affected by  
4           decisions of the department or agency, to be-  
5           come more resilient, adapt to, and withstand  
6           the ongoing and expected impacts of climate  
7           change, including, where applicable, ocean acidi-  
8           fication, drought, flooding, and wildfire; and

9           (C) includes a timeline for implementation;

10          (2) provide opportunities for public review and  
11          comment on the adaptation plan, and in the case of  
12          a plan by the Bureau of Indian Affairs, review by  
13          Indian tribes; and

14          (3) submit the plan to the President for ap-  
15          proval.

16          (b) REVIEW BY PRESIDENT AND SUBMISSION TO  
17          CONGRESS.—

18               (1) REVIEW BY PRESIDENT.—The President  
19               shall—

20                   (A) approve an adaptation plan submitted  
21                   under subsection (a)(3) if the plan meets the  
22                   requirements of subsection (c) and is consistent  
23                   with the Strategy; and

24                   (B) decide whether to approve the plan  
25                   within 60 days of submission.

1           (2) DISAPPROVAL.—If the President dis-  
2       approves an adaptation plan, the President shall di-  
3       rect the department or agency to submit a revised  
4       plan within 60 days of that disapproval.

5           (3) SUBMISSION TO CONGRESS.—Not later than  
6       30 days after the date of approval of an adaptation  
7       plan by the President, the department or agency  
8       shall submit the plan to—

9                   (A) the Committee on Natural Resources  
10           of the House of Representatives;

11                   (B) the Committee on Energy and Natural  
12           Resources of the Senate;

13                   (C) the Committee on Environment and  
14           Public Works of the Senate; and

15                   (D) any other committees of the House of  
16           Representatives or the Senate with principal ju-  
17           risdiction over the department or agency.

18       (c) REQUIREMENTS.—Each adaptation plan shall—

19           (1) establish programs for assessing the ongo-  
20       ing and expected impacts of climate change, includ-  
21       ing, where applicable, ocean acidification, drought,  
22       flooding, and wildfire on natural resources under the  
23       jurisdiction of the department or agency preparing  
24       the plan, including—

1 (A) assessment of cumulative and syner-  
2 gistic effects; and

3 (B) programs that identify and monitor  
4 natural resources likely to be adversely affected  
5 and that have need for conservation;

6 (2) identify and prioritize—

7 (A) the strategies of the department or  
8 agency preparing the plan;

9 (B) the specific conservation actions that  
10 address the ongoing and expected impacts of  
11 climate change, including, where applicable,  
12 ocean acidification, drought, flooding, and wild-  
13 fire on natural resources under jurisdiction of  
14 the department or agency preparing the plan;

15 (C) strategies to protect, restore, and con-  
16 serve such resources to become more resilient,  
17 adapt to, and better withstand those impacts,  
18 including—

19 (i) protection, restoration, and con-  
20 servation of terrestrial, marine, estuarine,  
21 and freshwater habitats and ecosystems;

22 (ii) establishment of terrestrial, ma-  
23 rine, estuarine, and freshwater habitat  
24 linkages and corridors;

1 (iii) restoration and conservation of  
2 ecological processes;

3 (iv) protection of a broad diversity of  
4 native species of fish, wildlife, and plant  
5 populations across the ranges of those spe-  
6 cies; and

7 (v) protection of fish, wildlife, and  
8 plant health, recognizing that climate can  
9 alter the distribution and ecology of  
10 parasites, pathogens, and vectors;

11 (3) describe how the department or agency  
12 will—

13 (A) integrate the strategies and conserva-  
14 tion activities into plans, programs, activities,  
15 and actions of the department or agency relat-  
16 ing to the conservation and management of nat-  
17 ural resources; and

18 (B) establish new plans, programs, activi-  
19 ties, and actions, if necessary;

20 (4) establish methods—

21 (A) to assess the effectiveness of strategies  
22 and conservation actions the department or  
23 agency takes to protect, restore, and conserve  
24 natural resources so natural resources become  
25 more resilient, adapt to, and withstand the on-

1 going and expected impacts of climate change;  
2 and

3 (B) to update those strategies and actions  
4 to respond to new information and changing  
5 conditions;

6 (5) describe current and proposed mechanisms  
7 to enhance cooperation and coordination of natural  
8 resources adaptation efforts with other Federal  
9 agencies, State and local governments, Indian tribes,  
10 and nongovernmental stakeholders;

11 (6) include written guidance to resource man-  
12 agers that—

13 (A) explains how managers are expected to  
14 address the ongoing and expected effects of cli-  
15 mate change, including, where applicable, ocean  
16 acidification, drought, flooding, and wildfire;

17 (B) identifies how managers shall obtain  
18 any necessary site-specific information; and

19 (C) reflects best practices shared among  
20 relevant agencies, but recognizes the unique  
21 missions, objectives, and responsibilities of each  
22 agency;

23 (7) identify and assess data and information  
24 gaps necessary to develop natural resources adapta-  
25 tion plans and strategies; and

1           (8) consider strategies that engage youth and  
2     young adults (including youth and young adults  
3     working in full-time or part-time youth service or  
4     conservation corps programs) to provide the youth  
5     and young adults with opportunities for meaningful  
6     conservation and community service and to encour-  
7     age opportunities for employment in the private sec-  
8     tor through partnerships with employers.

9     (d) IMPLEMENTATION.—

10           (1) IN GENERAL.—Upon approval by the Presi-  
11     dent, each department or agency with representation  
12     on the Panel shall, consistent with existing author-  
13     ity, implement the adaptation plan of the depart-  
14     ment or agency through existing and new plans,  
15     policies, programs, activities, and actions.

16           (2) CONSIDERATION OF IMPACTS.—To the max-  
17     imum extent practicable and consistent with existing  
18     authority, natural resource management decisions  
19     made by the department or agency shall consider the  
20     ongoing and expected impacts of climate change, in-  
21     cluding, where applicable, ocean acidification,  
22     drought, flooding, and wildfire on natural resources.

23     (e) REVISION AND REVIEW.—Not less than every 5  
24     years, each department or agency shall review and revise  
25     the adaptation plan of the department or agency to incor-

1 porate the best available science, and other information,  
2 regarding the ongoing and expected impacts of climate  
3 change on natural resources.

4 **SEC. 369. STATE NATURAL RESOURCES ADAPTATION**  
5 **PLANS.**

6 (a) REQUIREMENT.—In order to be eligible for funds  
7 under section 370, not later than 1 year after the develop-  
8 ment of the Strategy, each State shall prepare a State nat-  
9 ural resources adaptation plan detailing current and fu-  
10 ture efforts of the State to address the ongoing and ex-  
11 pected impacts of climate change on natural resources and  
12 coastal areas within the jurisdiction of the State.

13 (b) REVIEW OR APPROVAL.—

14 (1) IN GENERAL.—The Secretary of the Inte-  
15 rior and, as applicable, the Secretary of Commerce  
16 shall review each State adaptation plan, and approve  
17 the plan if the plan—

18 (A) meets the requirements of subsection

19 (c); and

20 (B) is consistent with the Strategy.

21 (2) APPROVAL OR DISAPPROVAL.—The Sec-  
22 retary of the Interior and, as applicable, the Sec-  
23 retary of Commerce shall approve or disapprove the  
24 plan by written notice not later than 180 days after

1 the date of submission of the plan (or a revised  
2 plan).

3 (3) RESUBMISSION.—Not later than 90 days  
4 after the date of resubmission of an adaptation plan  
5 that has been disapproved under paragraph (2), the  
6 Secretary of the Interior and, as applicable, the Sec-  
7 retary of Commerce, shall approve or disapprove the  
8 plan by written notice.

9 (c) CONTENTS.—A State natural resources adapta-  
10 tion plan shall—

11 (1) include strategies for addressing the ongoing  
12 ing and expected impacts of climate change, includ-  
13 ing, where applicable, ocean acidification, drought,  
14 flooding, and wildfire on terrestrial, marine, estua-  
15 rine, and freshwater fish, wildlife, plants, habitats,  
16 ecosystems, wildlife health, and ecological processes  
17 that—

18 (A) describe the ongoing and expected im-  
19 pacts of climate change, including, where appli-  
20 cable, ocean acidification, drought, flooding,  
21 and wildfire on the diversity and health of fish,  
22 wildlife and plant populations, habitats, eco-  
23 systems, and associated ecological processes;

24 (B) establish programs for monitoring the  
25 ongoing and expected impacts of climate

1 change, including, where applicable, ocean acidi-  
2 fication, drought, flooding, and wildfire on fish,  
3 wildlife, and plant populations, habitats, eco-  
4 systems, and associated ecological processes;

5 (C) describe and prioritize proposed con-  
6 servation actions that increase the ability of  
7 fish, wildlife, plant populations, habitats, eco-  
8 systems, and associated ecological processes to  
9 become more resilient, adapt to, and better  
10 withstand those impacts;

11 (D) consider strategies that engage youth  
12 and young adults (including youth and young  
13 adults working in full-time or part-time youth  
14 service or conservation corps programs) to pro-  
15 vide the youth and young adults with opportu-  
16 nities for meaningful conservation and commu-  
17 nity service and to encourage opportunities for  
18 employment in the private sector through part-  
19 nerships with employers;

20 (E) integrate protection and restoration of  
21 resource resilience into agency decision making  
22 and specific conservation actions;

23 (F) include a time frame for implementing  
24 conservation actions for fish, wildlife, and plant

1 populations, habitats, ecosystems, and associ-  
2 ated ecological processes;

3 (G) establish methods—

4 (i) for assessing the effectiveness of  
5 strategies and conservation actions taken  
6 to increase the ability of fish, wildlife, and  
7 plant populations, habitats, ecosystems,  
8 and associated ecological processes to be-  
9 come more resilient, adapt to, and better  
10 withstand the ongoing and expected im-  
11 pacts of climate changes, including, where  
12 applicable, ocean acidification, drought,  
13 flooding, and wildfire; and

14 (ii) for updating strategies and ac-  
15 tions to respond appropriately to new in-  
16 formation or changing conditions;

17 (H) are incorporated into a revision of the  
18 State wildlife action plan (also known as the  
19 State comprehensive wildlife strategy) that has  
20 been—

21 (i) submitted to the United States  
22 Fish and Wildlife Service; and

23 (ii) approved, or is pending approval,  
24 by the United States Fish and Wildlife  
25 Service; and

1 (I) are developed—

2 (i) with the participation of the State  
3 fish and wildlife agency, the State coastal  
4 agency, the State agency responsible for  
5 administration of Land and Water Con-  
6 servation Fund grants, the State Forest  
7 Legacy program coordinator, and other  
8 State agencies considered appropriate by  
9 the Governor of the State;

10 (ii) in coordination with the Secretary  
11 of the Interior, and where applicable, the  
12 Secretary of Commerce;

13 (iii) in coordination with other States  
14 that share jurisdiction over natural re-  
15 sources with the State; and

16 (iv) in coordination with—

17 (I) Indian tribes that located  
18 within the State; and

19 (II) Indian tribes having treaty  
20 rights to natural resources within the  
21 State; and

22 (2) in the case of a coastal State, include strat-  
23 egies for addressing the ongoing and expected im-  
24 pacts of climate change, including, where applicable,

1 ocean acidification, drought, flooding, and wildfire  
2 on a coastal zone that—

3 (A) identify natural resources likely to be  
4 impacted by climate change, and describe the  
5 impacts;

6 (B) identify and prioritize continuing re-  
7 search and data collection needed to address  
8 the impacts, including—

9 (i) acquisition of high-resolution  
10 coastal elevation and nearshore bathymetry  
11 data;

12 (ii) historic shoreline position maps,  
13 erosion rates, and inventories of shoreline  
14 features and structures;

15 (iii) measures and models of relative  
16 rates of sea level rise or lake level changes,  
17 including effects on flooding, storm surge,  
18 inundation, and coastal geological proc-  
19 esses;

20 (iv) measures and models of habitat  
21 loss, including projected losses of coastal  
22 wetlands and potentials for inland migra-  
23 tion of natural shoreline habitats;

24 (v) measures and models of ocean and  
25 coastal species and ecosystem migrations,

1 and changes in species population dynam-  
2 ics;

3 (vi) changes in storm frequency, in-  
4 tensity, or rainfall patterns;

5 (vii) measures and models of saltwater  
6 intrusion into coastal rivers and aquifers;

7 (viii) changes in chemical or physical  
8 characteristics of marine and estuarine  
9 systems, including the presence, extent,  
10 and timing of hypoxic and anoxic condi-  
11 tions;

12 (ix) measures and models of increased  
13 harmful algal blooms; and

14 (x) measures and models of the  
15 spread of invasive species;

16 (C) identify and prioritize adaptation strat-  
17 egies to protect, restore, and conserve natural  
18 resources to enable natural resources to become  
19 more resilient, adapt to, and withstand the on-  
20 going and expected impacts of climate change,  
21 including, where applicable, ocean acidification,  
22 drought, flooding, and wildfire, including—

23 (i) protection, maintenance, and res-  
24 toration of ecologically important coastal  
25 lands, coastal and ocean ecosystems, and

1 species biodiversity and the establishment  
2 of habitat buffer zones, migration cor-  
3 ridors, and climate refugia; and

4 (ii) improved planning, siting policies,  
5 hazard mitigation strategies, and State  
6 property insurance programs;

7 (D) establish programs—

8 (i) for the long-term monitoring of the  
9 ongoing and expected impacts of climate  
10 change, including, where applicable, ocean  
11 acidification, drought, flooding, and wild-  
12 fire on the ocean and coastal zone; and

13 (ii) assess and adjust, when necessary,  
14 the adaptive management strategies;

15 (E) establish performance measures that—

16 (i) assess the effectiveness of adapta-  
17 tion strategies intended to improve resil-  
18 ience and the ability of natural resources  
19 to adapt to and withstand the ongoing and  
20 expected impacts of climate change, includ-  
21 ing, where applicable, ocean acidification,  
22 drought, flooding, and wildfire;

23 (ii) assess the effectiveness of adapta-  
24 tion strategies intended to minimize those  
25 impacts on the coastal zone; and

1 (iii) update the strategies to respond  
2 to new information or changing conditions;  
3 and

4 (F) are developed—

5 (i) with the participation of the State  
6 coastal agency and other appropriate State  
7 agencies; and

8 (ii) in coordination with the Secretary  
9 of Commerce and other appropriate Fed-  
10 eral agencies.

11 (d) PUBLIC INPUT.—In developing the adaptation  
12 plan, a State shall provide for solicitation and consider-  
13 ation of public input and independent scientific input.

14 (e) COORDINATION WITH OTHER PLANS.—The State  
15 adaptation plan shall review research and information  
16 and, where appropriate, integrate the goals and measures  
17 set forth in other natural resources conservation strate-  
18 gies, including—

19 (1) the National Fish Habitat Action Plan;

20 (2) plans under the North American Wetlands  
21 Conservation Act (16 U.S.C. 4401 et seq.);

22 (3) the Federal, State, and local partnership  
23 known as “Partners in Flight”;

1           (4) federally approved coastal zone management  
2       plans under the Coastal Zone Management Act of  
3       1972 (16 U.S.C. 1451 et seq.);

4           (5) federally approved regional fishery manage-  
5       ment plants and habitat conservation activities  
6       under the Magnuson-Stevens Fishery Conservation  
7       and Management Act (16 U.S.C. 1801 et seq.);

8           (6) the National Coral Reef Action Plan;

9           (7) recovery plans for threatened species and  
10      endangered species under section 4(f) of the Endan-  
11      gered Species Act of 1973 (16 U.S.C. 1533(f));

12          (8) habitat conservation plans under section 10  
13      of that Act (16 U.S.C. 1539);

14          (9) other Federal, State, and tribal plans for  
15      imperiled species;

16          (10) State or tribal hazard mitigation plans;

17          (11) State or tribal water management plans;

18          (12) State property insurance programs; and

19          (13) other State-based strategies that com-  
20      prehensively implement adaptation activities to re-  
21      mediate the ongoing and expected effects of climate  
22      change, including, where applicable, ocean acidifica-  
23      tion, drought, flooding, and wildfire, on terrestrial,  
24      marine, and freshwater fish, wildlife, plants, and  
25      other natural resources.

1 (f) UPDATING.—Each State plan shall be updated at  
2 least every 5 years.

3 (g) FUNDING.—

4 (1) IN GENERAL.—Funds allocated to States  
5 under section 370 shall be used only for activities  
6 consistent with a State natural resources adaptation  
7 plan approved by the Secretary of the Interior and,  
8 as appropriate, the Secretary of Commerce.

9 (2) FUNDING PRIOR TO THE APPROVAL OF A  
10 STATE PLAN.—Until the earlier of the date that is  
11 3 years after the date of enactment of this Act or  
12 the date on which a State adaptation plan is ap-  
13 proved, a State shall be eligible to receive funding  
14 under section 370 for adaptation activities that  
15 are—

16 (A) consistent with the comprehensive  
17 wildlife strategy of the State and, where appro-  
18 priate, other natural resources conservation  
19 strategies; and

20 (B) in accordance with a work plan devel-  
21 oped in coordination with—

22 (i) the Secretary of the Interior; and

23 (ii) the Secretary of Commerce.

24 (3) COASTAL STATE.—In developing a work  
25 plan under paragraph (2)(B), a coastal State shall

1 coordinate with the Secretary of Commerce only for  
2 those portions of the strategy relating to activities  
3 affecting the coastal zone.

4 (4) PENDING APPROVAL.—During the period  
5 for which approval by the applicable Secretary is  
6 pending, the State may continue to receive funds  
7 under section 370 pursuant to the work plan de-  
8 scribed in paragraph (2)(B).

9 **SEC. 370. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
10 **TATION ACCOUNT.**

11 (a) DISTRIBUTION.—

12 (1) STATES.—The assistance made available  
13 pursuant to section 771(a)(16) of the Clean Air Act  
14 and section 216 of division B for each fiscal year  
15 shall be provided to States to carry out natural re-  
16 sources adaptation activities in accordance with ad-  
17 aptation plans approved under section 369, and shall  
18 be distributed as follows:

19 (A) 84 percent shall be available to State  
20 wildlife agencies in accordance with the appor-  
21 tionment formula established under the second  
22 subsection (c) (relating to the apportionment of  
23 the Wildlife Conservation and Restoration Ac-  
24 count) of section 4 of the Pittman-Robertson  
25 Wildlife Restoration Act (16 U.S.C. 669c).

1 (B) 16 percent shall be available to State  
2 coastal agencies pursuant to the formula estab-  
3 lished by the Secretary of Commerce under sec-  
4 tion 306(c) of the Coastal Management Act of  
5 1972 (16 U.S.C. 1455(c)).

6 (2) NATURAL RESOURCE ADAPTATION.—Of the  
7 amounts made available pursuant to section  
8 771(b)(7) of the Clean Air Act and section 212 of  
9 division B for each fiscal year to carry out this sub-  
10 part—

11 (A) 28 percent shall be allocated to the  
12 Secretary of the Interior for use in funding—

13 (i) natural resources adaptation activi-  
14 ties carried out—

15 (I) under endangered species, mi-  
16 gratory species, and other fish and  
17 wildlife programs administered by the  
18 National Park Service, the United  
19 States Fish and Wildlife Service, the  
20 Bureau of Indian Affairs, and the Bu-  
21 reau of Land Management;

22 (II) on wildlife refuges, National  
23 Park Service land, and other public  
24 land under the jurisdiction of the  
25 United States Fish and Wildlife Serv-

1 ice, the Bureau of Land Management,  
2 the Bureau of Indian Affairs, or the  
3 National Park Service; and

4 (III) within Federal water man-  
5 aged by the Bureau of Reclamation  
6 and the National Park Service; and

7 (ii) the implementation of the Na-  
8 tional Fish and Wildlife Habitat and Cor-  
9 ridors Information Program required by  
10 section 371;

11 (B) 8 percent shall be allocated to the Sec-  
12 retary of the Interior for natural resources ad-  
13 aptation activities carried out under cooperative  
14 grant programs, including—

15 (i) the cooperative endangered species  
16 conservation fund authorized under section  
17 6 of the Endangered Species Act of 1973  
18 (16 U.S.C. 1535);

19 (ii) programs under the North Amer-  
20 ican Wetlands Conservation Act (16  
21 U.S.C. 4401 et seq.);

22 (iii) the Neotropical Migratory Bird  
23 Conservation Fund established by section  
24 9(a) of the Neotropical Migratory Bird  
25 Conservation Act (16 U.S.C. 6108(a));

1 (iv) the Coastal Program of the  
2 United States Fish and Wildlife Service;

3 (v) the National Fish Habitat Action  
4 Plan;

5 (vi) the Partners for Fish and Wildlife  
6 Program;

7 (vii) the Landowner Incentive Pro-  
8 gram;

9 (viii) the Wildlife Without Borders  
10 Program of the United States Fish and  
11 Wildlife Service; and

12 (ix) the Migratory Species Program  
13 and Park Flight Migratory Bird Program  
14 of the National Park Service; and

15 (C) 5 percent shall be allocated to the Sec-  
16 retary of the Interior to provide financial assist-  
17 ance to Indian tribes to carry out natural re-  
18 sources adaptation activities through—

19 (i) the Trust Natural Resources Pro-  
20 gram of the Bureau of Indian Affairs; and

21 (ii) the Tribal Wildlife Grants Pro-  
22 gram of the United States Fish and Wild-  
23 life Service.

24 (3) LAND AND WATER CONSERVATION.—

25 (A) DEPOSITS.—

1 (i) IN GENERAL.—Of the amounts  
2 made available pursuant to section  
3 771(b)(7) of the Clean Air Act and section  
4 212 of division B for each fiscal year to  
5 carry out this subpart, 20 percent shall be  
6 deposited in the Land and Water Con-  
7 servation Fund established under section 2  
8 of the Land and Water Conservation Fund  
9 Act of 1965 (16 U.S.C. 460l–5).

10 (ii) USE OF DEPOSITS.—Deposits in  
11 the Land and Water Conservation Fund  
12 under this paragraph shall—

13 (I) be supplemental to authoriza-  
14 tions provided under section 3 of the  
15 Land and Water Conservation Fund  
16 Act of 1965 (16 U.S.C. 460l–6),  
17 which shall remain available for non-  
18 adaptation needs; and

19 (II) be available to carry out this  
20 subpart without further appropriation  
21 or fiscal year limitation.

22 (B) DISTRIBUTION OF AMOUNTS.—Of the  
23 amounts deposited under this paragraph in the  
24 Land and Water Conservation Fund—

1 (i) for the purposes of carrying out  
2 the natural resources adaptation activities  
3 through the acquisition of land and inter-  
4 ests in land under section 6 of the Land  
5 and Water Conservation Fund Act of 1965  
6 (16 U.S.C. 460l–8),  $\frac{1}{6}$  shall be allocated  
7 to the Secretary of the Interior and made  
8 available on a competitive basis—

9 (I) to States, in accordance with  
10 the natural resources adaptation plans  
11 of States, and to Indian tribes;

12 (II) notwithstanding section 5 of  
13 that Act (16 U.S.C. 460l–7); and

14 (III) in addition to any funds  
15 provided pursuant to annual appro-  
16 priations Acts, the Energy Policy Act  
17 of 2005 (42 U.S.C. 15801 et seq.), or  
18 any other authorization for non-  
19 adaptation needs;

20 (ii)  $\frac{1}{3}$  shall be allocated to the Sec-  
21 retary of the Interior to carry out natural  
22 resources adaptation activities through the  
23 acquisition of lands and interests in land  
24 under section 7 of the Land and Water

1 Conservation Fund Act of 1965 (16 U.S.C.  
2 460l–9);

3 (iii)  $\frac{1}{6}$  shall be allocated to the Sec-  
4 retary of Agriculture and made available to  
5 the States and Indian tribes to carry out  
6 natural resources adaptation activities  
7 through the acquisition of land and inter-  
8 ests in land under section 7 of the Cooper-  
9 ative Forestry Assistance Act of 1978 (16  
10 U.S.C. 2103c); and

11 (iv)  $\frac{1}{3}$  shall be allocated to the Sec-  
12 retary of Agriculture to carry out natural  
13 resources adaptation activities through the  
14 acquisition of land and interests in land  
15 under section 7 of the Land and Water  
16 Conservation Fund Act of 1965 (16 U.S.C.  
17 460l–9).

18 (C) EXPENDITURE OF FUNDS.—In allo-  
19 cating funds under subparagraph (B), the Sec-  
20 retary of the Interior and the Secretary of Agri-  
21 culture shall take into consideration factors in-  
22 cluding—

23 (i) the availability of non-Federal con-  
24 tributions from State, local, or private  
25 sources;

1 (ii) opportunities to protect fish and  
2 wildlife corridors or otherwise to link or  
3 consolidate fragmented habitats;

4 (iii) opportunities to reduce the risk of  
5 catastrophic wildfires, drought, extreme  
6 flooding, or other climate-related events  
7 that are harmful to fish and wildlife and  
8 people; and

9 (iv) the potential for conservation of  
10 species or habitat types at serious risk due  
11 to climate change, including, where appli-  
12 cable, ocean acidification, drought, flood-  
13 ing, and wildfire, or other stressors.

14 (4) NATIONAL FOREST AND GRASSLAND ADAP-  
15 TATION.—Of the amounts made available pursuant  
16 to section 771(b)(7) of the Clean Air Act and sec-  
17 tion 212 of division B for each fiscal year to carry  
18 out this subpart, 8 percent shall be allocated to the  
19 Forest Service, through the Secretary of Agri-  
20 culture—

21 (A) to fund natural resources adaptation  
22 activities carried out in national forests and na-  
23 tional grasslands under the jurisdiction of the  
24 Forest Service; and

1 (B) to carry out natural resource adapta-  
2 tion activities on State and private forest land  
3 carried out under the Cooperative Forestry As-  
4 sistance Act of 1978 (16 U.S.C. 2101 et seq.).

5 (5) COASTAL AND MARINE SYSTEM ADAPTA-  
6 TION.—Of the amounts made available pursuant to  
7 section 771(b)(7) of the Clean Air Act and section  
8 212 of division B for each fiscal year to carry out  
9 this subpart, 11 percent shall be allocated to the  
10 Secretary of Commerce to fund natural resources  
11 adaptation activities that protect, maintain, and re-  
12 store coastal, estuarine, and marine resources, habi-  
13 tats, and ecosystems, including such activities car-  
14 ried out under—

15 (A) the coastal and estuarine land con-  
16 servation program administered by the National  
17 Oceanic and Atmospheric Administration;

18 (B) the community-based restoration pro-  
19 gram for fishery and coastal habitats estab-  
20 lished under section 117 of the Magnuson-Ste-  
21 vens Fishery Conservation and Management  
22 Reauthorization Act of 2006 (16 U.S.C.  
23 1891a);

24 (C) the Coastal Zone Management Act of  
25 1972 (16 U.S.C. 1451 et seq.) that are specifi-

1 cally designed to strengthen the ability of coast-  
2 al, estuarine, and marine resources, habitats,  
3 and ecosystems to adapt to and withstand the  
4 ongoing and expected impacts of climate  
5 change, including, where applicable, ocean acidi-  
6 fication, drought, flooding, and wildfire;

7 (D) the Open Rivers Initiative;

8 (E) the Magnuson-Stevens Fishery Con-  
9 servation and Management Act (16 U.S.C.  
10 1801 et seq.);

11 (F) the Marine Mammal Protection Act of  
12 1972 (16 U.S.C. 1361 et seq.);

13 (G) the Endangered Species Act of 1973  
14 (16 U.S.C. 1531 et seq.);

15 (H) the Marine Protection, Research, and  
16 Sanctuaries Act of 1972 (33 U.S.C. 1401 et  
17 seq.);

18 (I) the Coral Reef Conservation Act of  
19 2000 (16 U.S.C. 6401 et seq.); and

20 (J) the Estuary Restoration Act of 2000  
21 (33 U.S.C. 2901 et seq.).

22 (6) ESTUARINE AND FRESHWATER ECOSYSTEM  
23 ADAPTATION.—Of the amounts made available pur-  
24 suant to section 771(b)(7) of the Clean Air Act and  
25 section 212 of division B for each fiscal year to

1        carry out this subpart, 12 percent shall be allocated  
2        to the Administrator of the Environmental Protec-  
3        tion Agency and 8 percent shall be available to the  
4        Secretary of the Army for use by the Corps of Engi-  
5        neers for use in natural resources adaptation activi-  
6        ties restoring and protecting—

7                (A) large-scale freshwater aquatic eco-  
8                systems, such as the Everglades, the Great  
9                Lakes, Flathead Lake, the Missouri River, the  
10              Mississippi River, the Colorado River, the Sac-  
11              ramento-San Joaquin Rivers, the Ohio River,  
12              the Columbia-Snake River System, the Apa-  
13              lachicola, Chattahoochee, and Flint River Sys-  
14              tem, the Connecticut River, the Rio Grande  
15              River, and the Yellowstone River;

16              (B) large-scale estuarine ecosystems, such  
17              as Chesapeake Bay, Long Island Sound, Puget  
18              Sound, the Mississippi River Delta, the San  
19              Francisco Bay Delta, Narragansett Bay, and  
20              Albemarle-Pamlico Sound;

21              (C) freshwater and estuarine ecosystems,  
22              watersheds, and basins identified and  
23              prioritized by the Administrator of the Environ-  
24              mental Protection Agency or the Corps of Engi-  
25              neers, working in cooperation with other Fed-

1           eral agencies, States, Indian tribes, local gov-  
2           ernments, scientists, and other conservation  
3           partners; and

4                 (D)(i) habitats and ecosystems through es-  
5           tuary habitat restoration projects authorized by  
6           the Estuary Restoration Act of 2000 (33  
7           U.S.C. 2901 et seq.);

8                 (ii) project modifications for improvement  
9           of the environment;

10                (iii) aquatic restoration and protection  
11           projects authorized by section 206 of the Water  
12           Resources Development Act of 1996 (33 U.S.C.  
13           2330); and

14                (iv) other appropriate programs and activi-  
15           ties.

16         (b) USE OF FUNDS BY FEDERAL DEPARTMENTS AND  
17   AGENCIES.—Funds allocated to Federal departments and  
18   agencies under this section shall only be used for natural  
19   resources adaptation activities consistent with an adapta-  
20   tion plan approved under section 368.

21         (c) STATE COST-SHARING.—Notwithstanding any  
22   other provision of law, a State that receives a grant under  
23   this section shall use funds from non-Federal sources to  
24   pay 10 percent of the costs of each activity carried out  
25   under the grant.

1 **SEC. 371. NATIONAL FISH AND WILDLIFE HABITAT AND**  
2 **CORRIDORS INFORMATION PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) GEOSPATIAL INTEROPERABILITY FRAME-  
5 WORK.—The term “Geospatial Interoperability  
6 Framework” means the strategy used by the Na-  
7 tional Biological Information Infrastructure (based  
8 on accepted standards, specifications, and protocols  
9 adopted through the International Standards Orga-  
10 nization, the Open Geospatial Consortium, and the  
11 Federal Geographic Data Committee) to manage, ar-  
12 chive, integrate, analyze, and make geospatial and  
13 biological data and metadata accessible.

14 (2) PROGRAM.—The term “Program” means  
15 the National Fish and Wildlife Habitat and Cor-  
16 ridors Information Program established under sub-  
17 section (b).

18 (3) SECRETARY.—The term “Secretary” means  
19 the Secretary of the Interior.

20 (4) SYSTEM.—The term “System” means the  
21 Habitat and Corridors Information System estab-  
22 lished under subsection (d)(1).

23 (b) ESTABLISHMENT.—Not later than 180 days after  
24 the date of enactment of this Act, the Secretary, in co-  
25 operation with the States and Indian tribes, shall establish

1 a National Fish and Wildlife Habitat and Corridors Infor-  
2 mation Program.

3 (c) PURPOSE.—The purposes of the Program are—

4 (1) to support States and Indian tribes in devel-  
5 oping geographical information system databases of  
6 fish and wildlife habitats and corridors that—

7 (A) inform planning and development deci-  
8 sions within each State and Indian tribe;

9 (B) enable each State and Indian tribe to  
10 model climate impacts and adaptation; and

11 (C) provide geographically specific en-  
12 hancements of State wildlife action plans and  
13 conservation or natural resource management  
14 plans of Indian tribes;

15 (2) to ensure the collaborative development of a  
16 comprehensive national geographic information sys-  
17 tem database of maps, models, data, surveys, infor-  
18 mational products, and other geospatial information  
19 regarding fish and wildlife habitat and corridors  
20 that—

21 (A) is based on consistent protocols for  
22 sampling and mapping across landscapes;

23 (B) takes into account regional differences;

24 and

25 (C) uses—

1 (i) existing and planned State- and  
2 tribal-based geographical information sys-  
3 tem databases; and

4 (ii) existing databases, analytical  
5 tools, metadata activities, and other infor-  
6 mation products available through the Na-  
7 tional Biological Information Infrastruc-  
8 ture maintained by the Secretary and non-  
9 governmental organizations; and

10 (3) to facilitate the use of those databases by  
11 Federal, State, local, and tribal decisionmakers to  
12 incorporate qualitative information on fish and wild-  
13 life habitats and corridors at the earliest practicable  
14 stage for use in—

15 (A) prioritizing and targeting natural re-  
16 sources adaptation strategies and activities;

17 (B) avoiding, minimizing, and mitigating  
18 the impacts on fish and wildlife habitat and cor-  
19 ridors when locating energy development, water,  
20 transmission, transportation, and other land  
21 use projects;

22 (C) assessing the impacts of existing devel-  
23 opment on habitats and corridors; and

24 (D) developing management strategies that  
25 enhance the ability of fish, wildlife, and plant

1 species to migrate or respond to shifting habi-  
2 tats within existing habitats and corridors.

3 (d) HABITAT AND CORRIDORS INFORMATION SYS-  
4 TEM.—

5 (1) IN GENERAL.—The Secretary, in coopera-  
6 tion with States and Indian tribes, shall establish a  
7 Habitat and Corridors Information System.

8 (2) CONTENTS.—The System shall—

9 (A) include maps, data, and descriptions of  
10 fish and wildlife habitat and corridors that—

11 (i) have been developed by Federal  
12 agencies, State wildlife agencies, and nat-  
13 ural heritage programs, Indian tribes, local  
14 governments, nongovernmental organiza-  
15 tions, and industry; and

16 (ii) meet accepted geospatial inter-  
17 operability framework data and metadata  
18 protocols and standards;

19 (B) include maps and descriptions of pro-  
20 jected shifts in habitats and corridors of fish  
21 and wildlife species in response to climate  
22 change;

23 (C) ensure data quality;

1 (D) at scales useful to decisionmakers,  
2 make data, models, and analyses included in  
3 the System available—

4 (i) to prioritize and target natural re-  
5 sources adaptation strategies and activi-  
6 ties;

7 (ii) to assess the impacts of existing  
8 development on habitats and corridors;

9 (iii) to assess the impacts of proposed  
10 energy development, water, transmission,  
11 transportation, and other land use projects  
12 and to avoid, minimize, or mitigate those  
13 impacts on habitats and corridors; and

14 (iv) to develop management strategies  
15 that enhance the ability of fish, wildlife,  
16 and plant species to migrate or respond to  
17 shifting habitats within existing habitats  
18 and corridors;

19 (E) update maps and other information as  
20 landscapes, habitats, corridors, and wildlife pop-  
21 ulations change, or as new information becomes  
22 available;

23 (F) encourage development of collaborative  
24 plans by Federal and State agencies and Indian  
25 tribes that monitor and evaluate the ability of

1 the System to meet the needs of decision-  
2 makers;

3 (G) identify gaps in habitat and corridor  
4 information, mapping, and research needed to  
5 fully assess current data and metadata;

6 (H) prioritize research and future data col-  
7 lection activities for use in updating the System  
8 and provide support for those activities;

9 (I) include mechanisms to support collabo-  
10 rative research, mapping, and planning of habi-  
11 tats and corridors by Federal and State agen-  
12 cies, Indian tribes, and other interested stake-  
13 holders;

14 (J) incorporate biological and geospatial  
15 data on species and corridors found in energy  
16 development and transmission plans, including  
17 renewable energy initiatives, transportation, and  
18 other land use plans;

19 (K) identify, prioritize, and describe key  
20 parcels of non-Federal land that—

21 (i) are located within units of the Na-  
22 tional Park System, National Wildlife Ref-  
23 uge System, National Forest System, or  
24 National Grassland System; and

1 (ii) are critical to maintenance of  
2 wildlife habitat and migration corridors;  
3 and

4 (L) be based on the best scientific informa-  
5 tion available.

6 (e) FINANCIAL AND OTHER SUPPORT.—The Sec-  
7 retary may provide support to the States and Indian  
8 tribes, including financial and technical assistance, for ac-  
9 tivities that support the development and implementation  
10 of the System.

11 (f) COORDINATION.—In cooperation with States and  
12 Indian tribes, the Secretary shall recommend how the in-  
13 formation in the System may be incorporated into relevant  
14 State and Federal plans that affect fish and wildlife, in-  
15 cluding—

- 16 (1) land management plans;  
17 (2) the State Comprehensive Wildlife Conserva-  
18 tion Strategies; and  
19 (3) appropriate tribal conservation plans.

20 (g) PURPOSE OF INCORPORATION.—The Secretary  
21 shall make the recommendations required by subsection  
22 (f) to ensure that relevant State and Federal plans that  
23 affect fish and wildlife—

- 24 (1) prevent unnecessary habitat fragmentation  
25 and disruption of corridors;

1           (2) promote the landscape connectivity nec-  
2           essary to allow wildlife to move as necessary to meet  
3           biological needs, adjust to shifts in habitat, and  
4           adapt to climate change; and

5           (3) minimize the impacts of energy, develop-  
6           ment, water, transportation, and transmission  
7           projects and other activities expected to impact habi-  
8           tat and corridors.

9   **SEC. 372. ADDITIONAL PROVISIONS REGARDING INDIAN**  
10                   **TRIBES.**

11       (a) **FEDERAL TRUST RESPONSIBILITY.**—Nothing in  
12 this subpart amends, alters, or gives priority over the Fed-  
13 eral trust responsibility to any Indian tribe.

14       (b) **EXEMPTION FROM FOIA.**—If a Federal depart-  
15 ment or agency receives any information relating to sacred  
16 sites or cultural activities identified by an Indian tribe as  
17 confidential, such information shall be exempt from disclo-  
18 sure under section 552 of title 5, United States Code  
19 (commonly referred to as the Freedom of Information  
20 Act).

21       (c) **APPLICATION OF OTHER LAW.**—The Secretary of  
22 the Interior may apply the provisions of the Indian Self-  
23 Determination and Education Assistance Act (25 U.S.C.  
24 450 et seq.) in the implementation of this subpart.

1 (d) PROTECTION OF RIGHT AND ACCESS OF INDIAN  
2 TRIBES TO FIRST FOODS.—

3 (1) DEFINITION OF FIRST FOODS.—In this sub-  
4 section, the term “first foods” means roots, berries,  
5 and plants.

6 (2) PROTECTION.—Consistent with the Natural  
7 Resources Climate Change Adaptation Policy under  
8 section 362 and the Strategy, Federal departments  
9 and agencies, States, and Indian tribes shall ensure  
10 communication and coordination to protect treaty-re-  
11 served rights of Indian tribes to gather first foods.

12 **Subpart D—Additional Climate Change Adaptation**  
13 **Programs**

14 **SEC. 381. WATER SYSTEM MITIGATION AND ADAPTATION**  
15 **PARTNERSHIPS.**

16 (a) DEFINITIONS.—In this section:

17 (1) OWNER OR OPERATOR.—

18 (A) IN GENERAL.—The term “owner or  
19 operator” means a person (including a regional,  
20 tribal, local, municipal, or private entity) that  
21 owns or operates a water system.

22 (B) INCLUSION.—The term “owner or op-  
23 erator” includes—

1 (i) a non-Federal entity that has oper-  
2 ational responsibilities for a federally or  
3 State owned water system; and

4 (ii) an entity formed pursuant to any  
5 State's joint exercise of powers statutes  
6 that includes one or more of the entities in  
7 paragraph (A).

8 (2) WATER SYSTEM.—The term “water sys-  
9 tem” means—

10 (A) a community water system (as defined  
11 in section 1401 of the Safe Drinking Water Act  
12 (42 U.S.C. 300f));

13 (B) a treatment works (as defined in sec-  
14 tion 212 of the Federal Water Pollution Control  
15 Act (33 U.S.C. 1292)), including a municipal  
16 separate storm sewer system;

17 (C) a decentralized wastewater treatment  
18 system for domestic sewage;

19 (D) a groundwater storage and replenish-  
20 ment system; or

21 (E) a system for transport and delivery of  
22 water for irrigation or conservation.

23 (b) ESTABLISHMENT.—The Administrator shall es-  
24 tablish a water system mitigation and adaptation partner-

1 ship program to provide funds to States and Indian tribes  
2 for water system adaptation projects.

3 (c) GRANTS.—Beginning in fiscal year 2010, each  
4 State or Indian tribe receiving funds pursuant to this sec-  
5 tion shall make grants to owners or operators of water  
6 systems to address any ongoing or forecasted (based on  
7 the best available research and data) climate-related im-  
8 pact on the water quality, water supply or reliability of  
9 a region of the United States, for the purposes of miti-  
10 gating or adapting to the impacts of climate change.

11 (d) ELIGIBLE USES.—The funds made available to  
12 each State or Indian tribe pursuant to this section shall  
13 be used exclusively to assist in the planning, design, con-  
14 struction, implementation, or operation or maintenance of  
15 any program or project to respond or increase the resil-  
16 ience of a water system to climate change by—

17 (1) conserving water or enhancing water use ef-  
18 ficiency, including through the use of water metering  
19 and electronic sensing and control systems to meas-  
20 ure the effectiveness of a water efficiency program;

21 (2) modifying or relocating existing water sys-  
22 tem infrastructure made or projected to be signifi-  
23 cantly impaired by climate change impacts;

24 (3) preserving or improving water quality, in-  
25 cluding through measures to manage, reduce, treat,

1       or reuse municipal stormwater, wastewater, or  
2       drinking water;

3           (4) investigating, designing, or constructing  
4       groundwater remediation, recycled water, or desali-  
5       nation facilities or systems to serve existing commu-  
6       nities;

7           (5) enhancing water management by increasing  
8       watershed preservation and protection, such as  
9       through the use of natural or engineered green in-  
10      frastructure in the management, conveyance, or  
11      treatment of water, wastewater, or stormwater;

12          (6) enhancing energy efficiency or the use and  
13      generation of renewable energy in the management,  
14      conveyance, or treatment of water, wastewater, or  
15      stormwater;

16          (7) supporting the adoption and use of ad-  
17      vanced water treatment, water supply management  
18      (such as reservoir reoperation and water banking),  
19      or water demand management technologies, projects,  
20      or processes (such as water reuse and recycling,  
21      adaptive conservation pricing, and groundwater  
22      banking) that maintain or increase water supply or  
23      improve water quality;

24          (8) modifying or replacing existing systems or  
25      constructing new systems for existing communities

1 or land currently in agricultural production to im-  
2 prove water supply, reliability, storage, or convey-  
3 ance in a manner that—

4 (A) promotes conservation or improves the  
5 efficiency of utilization of available water sup-  
6 plies; and

7 (B) does not further exacerbate stresses on  
8 ecosystems or cause redirected impacts by de-  
9 grading water quality or increasing net green-  
10 house gas emissions;

11 (9) supporting practices and projects, such as  
12 improved irrigation systems, water banking and  
13 other forms of water transactions, groundwater re-  
14 charge, stormwater capture, groundwater conjunc-  
15 tive use, and reuse or recycling of drainage water,  
16 to improve water quality or promote more efficient  
17 water use on land currently in agricultural produc-  
18 tion;

19 (10) conducting and completing studies or as-  
20 sessments to project how climate change may impact  
21 the future operations and sustainability of water sys-  
22 tems; or

23 (11) developing and implementing mitigation  
24 and adaptation measures to rapidly address impacts  
25 from climate change on water systems and regional

1       and hydrological basins through cooperative activi-  
2       ties with other States that share the same regional  
3       or hydrological basin (such as the Colorado River  
4       Basin), water system, or shoreline.

5       (e) APPLICATION.—To be eligible to receive a grant  
6       from the State of Indian tribe under this section, the  
7       owner or operator of a water system shall submit to the  
8       State or Indian tribe an application that—

9               (1) includes a proposal of the program, strat-  
10       egy, or infrastructure improvement to be planned,  
11       designed, constructed, implemented, or maintained  
12       by the water system;

13              (2) cites the best available research or data that  
14       demonstrate—

15                (A) the risk to the water resources or in-  
16       frastructure of the water system as a result of  
17       ongoing or forecasted changes to the  
18       hydrological system brought about by factors  
19       arising from climate change, including rising  
20       sea levels and changes in precipitation levels;  
21       and

22                (B) how the proposed program, strategy,  
23       or infrastructure improvement would perform  
24       under the anticipated climate conditions; and

1           (3) explains how the proposed program, strat-  
2           egy, or infrastructure improvement is expected to  
3           enhance the resiliency of the water system, including  
4           source water protection for community water sys-  
5           tems, to these risks or reduce the direct or indirect  
6           greenhouse gas emissions of the water system.

7           (f) COMPETITIVE PROCESS.—

8           (1) IN GENERAL.—Each calendar year, each  
9           State shall conduct a competitive process to select  
10          and fund applications under this section.

11          (2) PRIORITY REQUIREMENTS AND  
12          WEIGHTING.—In carrying out the process, the  
13          States shall—

14                (A) prioritize funding of applications that  
15                are submitted by the owners or operators of  
16                water systems that are, based on the best avail-  
17                able research and data, at the greatest and  
18                most immediate risk of facing significant cli-  
19                mate-related negative impacts on water quality  
20                or quantity; and

21                (B) in selecting among the priority applica-  
22                tions determined under subparagraph (A), en-  
23                sure that, to the maximum extent practicable,  
24                the final list of applications funded for each

1           year includes a substantial number meeting one  
2           or more of each of the following goals—

3                   (i) promote more efficient water use,  
4                   water conservation, water reuse, or recy-  
5                   cling;

6                   (ii) use decentralized, low-impact de-  
7                   velopment technologies and nonstructural  
8                   approaches, including practices that use,  
9                   enhance, or mimic the natural hydrological  
10                  cycle or protect natural flows;

11                  (iii) reduce stormwater runoff by pro-  
12                  tecting or enhancing natural ecosystem  
13                  functions;

14                  (iv) modify, upgrade, enhance, or re-  
15                  place existing water system infrastructure  
16                  in response to ongoing or forecasted cli-  
17                  mate-related impacts;

18                  (v) promote the sustainability and re-  
19                  liability of water supplies used for agricul-  
20                  tural purposes;

21                  (vi) improve water quality or quantity  
22                  for agricultural and municipal uses, includ-  
23                  ing through salinity reduction; and

24                  (vii) provide multiple benefits, includ-  
25                  ing to water supply enhancement or de-

1                   mand reduction, water quality protection  
2                   or improvement, increased flood protection,  
3                   and ecosystem protection or improvement;  
4                   and

5                   (C) provide for solicitation and consider-  
6                   ation of public input in the development of cri-  
7                   teria used in evaluating applications.

8                   (g) COST-SHARING.—

9                   (1) FEDERAL SHARE.—The share of the cost of  
10                  any program, strategy, or infrastructure improve-  
11                  ment that is the subject of a grant awarded by a  
12                  State to the owner or operator of a water system  
13                  under subsection (c) paid through funds distributed  
14                  under this section shall not exceed 50 percent of the  
15                  cost of the program, strategy, and infrastructure im-  
16                  provement.

17                  (2) CALCULATION OF NON-FEDERAL SHARE.—

18                  In calculating the non-Federal share of the cost of  
19                  a program, strategy, or infrastructure improvement  
20                  proposed by a water system through an application  
21                  submitted by the water system under subsection (e),  
22                  the State shall—

23                         (A) include the value of any in-kind serv-  
24                         ices that are integral to the completion of the  
25                         program, strategy, or infrastructure improve-

1           ment, including reasonable administrative and  
2           overhead costs; and

3           (B) not include any other amount that the  
4           water system receives from a Federal agency.

5       (h) LABOR STANDARDS.—

6           (1) IN GENERAL.—Other than with respect to  
7           employees of State and local agencies, or other pub-  
8           lic entities, all laborers and mechanics employed on  
9           infrastructure improvements funded directly by or  
10          assisted in whole or in part by this section shall be  
11          paid wages at rates not less than those prevailing for  
12          the same type of work on similar construction in the  
13          immediate locality, as determined by the Secretary  
14          of Labor in accordance with subchapter IV of chap-  
15          ter 31 of part A of subtitle II of title 40, United  
16          States Code.

17          (2) AUTHORITY AND FUNCTIONS.—With re-  
18          spect to the labor standards in this subsection, the  
19          Secretary of Labor shall have the authority and  
20          functions set forth in Reorganization Plan Num-  
21          bered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.)  
22          and section 3145 of title 40, United States Code.

1 **SEC. 382. FLOOD CONTROL, PROTECTION, PREVENTION,**  
2 **AND RESPONSE.**

3 (a) ESTABLISHMENT.—The Administrator, in con-  
4 sultation with the Assistant Secretary of the Army for  
5 Civil Works and the Administrator of the Federal Emer-  
6 gency Management Agency, shall establish a Flood Con-  
7 trol, Protection, Prevention and Response Program to pro-  
8 vide funds to States and Indian tribes for flood control,  
9 protection, prevention and response projects.

10 (b) ELIGIBLE USES.—

11 (1) IN GENERAL.—States and Indian tribes re-  
12 ceiving funding pursuant to this section may use  
13 such funding on flood control, protection, prevention  
14 and response programs and projects addressing the  
15 projected impacts of climate change in accordance  
16 with this section.

17 (2) OBJECTIVES.—Such projects and activities  
18 shall seek to mitigate or adapt to the destructive im-  
19 pacts of climate related increases in the duration,  
20 frequency, or magnitude of rainfall or runoff, includ-  
21 ing snowmelt runoff, as well as hurricanes, including  
22 projects and programs that—

23 (A) reduce flood damage, risk, and vulner-  
24 ability;

1 (B) identify, maintain and restore eco-  
2 systems and natural barriers integral to flood  
3 control, protection, prevention and response;

4 (C) update the available data, technologies,  
5 and scientific knowledge used in estimating,  
6 identifying and mitigating flood hazards;

7 (D) highlight, update and remediate  
8 vulnerabilities in emergency response;

9 (E) incorporate risk analysis and a risk-re-  
10 duction approach to flood-related investments;

11 (F) incorporate and identify changes in  
12 risk due to processes such as land loss, subsid-  
13 ence, sea-level rise, reduced natural buffers,  
14 urban development and infrastructure aging;

15 (G) identify and incorporate innovative ap-  
16 proaches to land use management, water re-  
17 source planning, and ecosystem restoration;

18 (H) provide for acquisition and easement  
19 of floodways and flood-prone properties in order  
20 to prevent urban areas from flooding, or move  
21 people out of harm's way; and

22 (I) promote land use planning that pre-  
23 vents future floodplain development.

24 (3) PRIORITY.—Priority in projects to reduce  
25 flood events shall be given to those projects that—

1 (A) directly assist local governments and  
2 communities in flood control, protection, pre-  
3 vention and response activities;

4 (B) are part of a larger State or watershed  
5 plan to reduce flood risk;

6 (C) are specifically designed to accommo-  
7 date forecasted climate change scenarios;

8 (D) advance multiple objectives, including  
9 public safety, water quality, fish and wildlife  
10 conservation, water supply, and recreation;

11 (E) protect or enhance natural ecosystem  
12 functions, including protection, maintenance, or  
13 restoration of natural infrastructure, natural  
14 buffer zones, or natural shorelines, to buffer  
15 communities from floodwaters or storms, water-  
16 shed protection to maintain water quality and  
17 groundwater recharge, or floodplain restoration  
18 to improve natural flood control capacity;

19 (F) use nonstructural approaches, includ-  
20 ing practices that use, enhance, or mimic the  
21 natural hydrologic cycle; and

22 (G) reduce the frequency and consequences  
23 of flooding in densely populated urban areas.

24 **SEC. 383. WILDFIRE.**

25 (a) FINDINGS.—Congress finds that—

1           (1) since 1980, wildfires in the United States  
2           have burned almost twice as many acres per year on  
3           average than the average burned acreage during the  
4           period beginning on January 1, 1920, and ending on  
5           December 31, 1979;

6           (2) the wildfire season in the western United  
7           States has increased by an average of 78 days dur-  
8           ing the 30-year period preceding the date of enact-  
9           ment of this Act;

10          (3) researchers predict that the area subject to  
11          wildfire damage will increase during the 21st cen-  
12          tury by up to 118 percent as a result of climate  
13          change;

14          (4) of the annual budget of the Forest Service,  
15          the Forest Service used for wildfire suppression ac-  
16          tivities—

17                  (A) 13 percent in 1991; and

18                  (B) 45 percent in 2007; and

19          (5) 1 percent of the largest escaped fires—

20                  (A) burn 95 percent of all burned acres;

21                  and

22                  (B) consume 85 percent of all wildfire  
23          fighting costs.

1 (b) PURPOSE.—The purpose of this section is to au-  
2 thorize a program to reduce the risk of wildfires in fire-  
3 ready communities.

4 (c) DEFINITIONS.—In this section:

5 (1) FIRE-READY COMMUNITY.—The term “fire-  
6 ready community” means a community that—

7 (A) is located within a priority area identi-  
8 fied pursuant to subsection (d);

9 (B) has a cooperative fire agreement that  
10 articulates the roles and responsibilities for  
11 Federal, State, and local government entities,  
12 and, where applicable, Indian tribes, in local  
13 wildfire suppression and protection;

14 (C) has local codes that require fire-resist-  
15 ant home design and building materials;

16 (D) has a community wildfire protection  
17 plan (as defined in section 101 of the Healthy  
18 Forests Restoration Act of 2003 (16 U.S.C.  
19 6502)); and

20 (E) is engaged in a successful collaborative  
21 process that includes multiple interested per-  
22 sons representing diverse interests and is trans-  
23 parent and nonexclusive, such as a resource ad-  
24 visory committee established under section 205  
25 of the Secure Rural Schools and Community

1 Self-Determination Act of 2000 (Public Law  
2 106-393; 16 U.S.C. 500 note).

3 (2) SECRETARIES.—The term “Secretaries”  
4 means the Secretary of Agriculture and the Sec-  
5 retary of the Interior.

6 (d) FIRE RISK MAPPING.—As soon as is practicable  
7 after the date of the enactment of this Act, the Secretaries  
8 shall develop regional maps of communities most at risk  
9 of wildfire and in need of hazardous fuel treatment and  
10 maintenance. The maps shall identify priority areas for  
11 hazardous fuels reduction projects, including—

12 (1) at-risk communities in fire-prone areas of  
13 the wildland-urban interface (as defined in section  
14 101 of the Healthy Forests Restoration Act of 2003  
15 (16 U.S.C. 6502));

16 (2) watersheds and municipal drinking water  
17 sources;

18 (3) emergency evacuation corridors;

19 (4) electricity transmission corridors;

20 (5) low-capacity or low-income communities;

21 and

22 (6) communities in fire-prone areas due to the  
23 impact of pest infestation on forest resources.

24 (e) LOCAL WILDLAND FIREFIGHTING CAPABILITY  
25 GRANTS.—

1           (1) GRANTS AVAILABLE.—The Secretaries may  
2       provide cost-share grants to fire-ready communities  
3       to assist such communities in carrying out activities  
4       authorized by paragraph (2).

5           (2) ELIGIBLE ACTIVITIES.—Grant funds may  
6       be used for the following:

7           (A) Education programs to raise aware-  
8       ness of homeowners and citizens about wildland  
9       fire protection practices, including FireWise or  
10      similar programs.

11          (B) Training programs for local fire-  
12      fighters on wildland firefighting techniques and  
13      approaches.

14          (C) Equipment acquisition to facilitate  
15      wildland fire preparedness.

16          (D) Implementation of a community wild-  
17      fire protection plan.

18          (E) Forest restoration that accomplishes  
19      fuels reduction

20      (f) WILDLAND FIRE COST-SHARE AGREEMENTS.—In  
21      developing any wildland fire cost-share agreement with a  
22      State Forester or equivalent official, the Secretaries shall,  
23      to the maximum extent practicable, encourage the State  
24      and local communities involved to become fire-ready com-  
25      munities.

1   **SEC. 384. COASTAL AND GREAT LAKES STATE ADAPTATION**  
2                   **PROGRAM.**

3           (a) FINDINGS.—Congress finds that, according to the  
4 National Ocean Economics Program, coastal and Great  
5 Lakes States account for 81.4 percent of the population  
6 of the United States and generate 83 percent of the eco-  
7 nomic output of the United States.

8           (b) DEFINITIONS.—In this section:

9               (1) COASTAL STATE.—The term “coastal  
10 State” has the meaning given the term “coastal  
11 state” in section 304 of the Coastal Zone Manage-  
12 ment Act of 1972 (16 U.S.C. 1453).

13              (2) COASTAL WATERSHED.—The term “coastal  
14 watershed” means a geographical area drained into  
15 or contributing water to an estuarine area, an ocean,  
16 or a Great Lake, all or a portion of which is within  
17 the coastal zone (as defined in section 304 of the  
18 Coastal Zone Management Act of 1972 (16 U.S.C.  
19 1453)).

20              (3) SHORELINE MILES.—The term “shoreline  
21 miles”, with respect to a coastal State, means the  
22 mileage of tidal shoreline or Great Lake shoreline of  
23 the coastal State, based on the most recently avail-  
24 able data from or accepted by the National Ocean  
25 Service of the National Oceanic and Atmospheric  
26 Administration.

1 (c) DISTRIBUTION.—

2 (1) IN GENERAL.—The Administrator shall dis-  
3 tribute, in accordance with this section, funding for  
4 coastal State adaptation under subsection (d).

5 (2) ALLOCATION.—The funding available for al-  
6 location under subsection (b) for a calendar year  
7 shall be distributed among coastal States, as follows:

8 (A) 25 percent based on the proportion  
9 that—

10 (i) the number of shoreline miles of a  
11 coastal State; bears to

12 (ii) the total number of shoreline  
13 miles of all coastal States.

14 (B) 25 percent based on the proportion  
15 that—

16 (i) the population of a coastal State;  
17 bears to

18 (ii) the total population of all coastal  
19 States.

20 (C) 50 percent divided equally among all  
21 coastal States.

22 (d) USE OF FUNDING.—

23 (1) IN GENERAL.—During any calendar year, a  
24 coastal State receiving funding under this section  
25 may use the funding only for projects and activities

1 to plan for and address the impacts of climate  
2 change in the coastal watershed, including—

3 (A) to address the impacts of climate  
4 change with respect to—

5 (i) accelerated sea level rise and lake  
6 level changes;

7 (ii) shoreline erosion;

8 (iii) increased storm frequency or in-  
9 tensity;

10 (iv) changes in rainfall or other pre-  
11 cipitation; and

12 (v) related flooding;

13 (B) to identify and develop plans to pro-  
14 tect, or, as necessary or applicable, to relocate  
15 public facilities and infrastructure, coastal re-  
16 sources of national significance, public energy  
17 facilities, or other public water uses located in  
18 the coastal watershed that are affected by cli-  
19 mate change, including strategies that protect  
20 or restore natural infrastructure, if the plans—

21 (i) ensure full consideration and un-  
22 dertake, to the maximum extent prac-  
23 ticable, initiatives that—

24 (I) protect or enhance natural  
25 ecosystem functions, including protec-

tion, maintenance, or restoration of natural infrastructure, natural buffer zones, or natural shorelines (such as wetlands, reefs, and barrier islands) to buffer communities from floodwaters or storms, watershed protection to maintain water quality and groundwater recharge, or floodplain restoration to improve natural flood control capacity; or

(II) use nonstructural approaches, including practices that utilize, enhance, or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse; and

(ii) are consistent with Federal conservation and environmental laws and, to the maximum extent practicable, avoid environmental degradation;

21 (C) to research and collect data using, or  
22 on matters such as—

23 (i) historical shoreline position maps;

24 (ii) historical shoreline erosion rates;

1 (iii) inventories of shoreline features  
2 and conditions;

3 (iv) acquisition of high-resolution to-  
4 pography and bathymetry;

5 (v) sea level rise inundation models;

6 (vi) storm surge sea level rise linked  
7 inundation models;

8 (vii) shoreline change modeling based  
9 on sea level rise projections;

10 (viii) sea level rise vulnerability anal-  
11 yses and socioeconomic studies; and

12 (ix) environmental and habitat  
13 changes associated with sea level rise; and

14 (D) to respond to—

15 (i) changes in chemical characteristics  
16 (including ocean acidification) and physical  
17 characteristics (including thermal strati-  
18 fication) of marine systems;

19 (ii) sea level rise threats to ground-  
20 water aquifers, including—

21 (I) saltwater intrusion; and

22 (II) unsaturated zone thinning;

23 (iii) increased harmful algae blooms;

24 (iv) spread of invasive species;

25 (v) coastal habitat loss;

- 1 (vi) species migrations; and  
2 (vii) marine, estuarine, and freshwater  
3 ecosystem changes associated with climate  
4 change.

5 (2) EXECUTION.—Priority to plan and carry  
6 out projects and activities under this subsection shall  
7 be given to State coastal agencies, as determined in  
8 accordance with State law.

9 (3) COORDINATION.—In carrying out this sub-  
10 section, a coastal State shall coordinate with other  
11 statewide or tribal climate change efforts and cli-  
12 mate change efforts to promote cooperation and in  
13 order to avoid duplication of such efforts.

14 (e) REPORT.—Not later than 1 year after the date  
15 on which a State receives funds under this section, and  
16 biennially thereafter until such time as the funding is fully  
17 expended, the State shall submit to the Administrator, or  
18 the heads of such other Federal agencies as the President  
19 may designate, a report that—

20 (1) provides a full accounting for the State's  
21 use of funding distributed under this section, includ-  
22 ing a description of the projects and activities fund-  
23 ed;

1           (2) may be independent or included within any  
2       report required for any State programs for green-  
3       house gas reduction and climate adaptation; and  
4           (3) is available to the public on request.

5           **DIVISION B—POLLUTION**  
6       **REDUCTION AND INVESTMENT**  
7       **TITLE I—REDUCING GLOBAL**  
8           **WARMING POLLUTION**  
9           **Subtitle A—Reducing Global**  
10           **Warming Pollution**

11   **SEC. 101. REDUCING GLOBAL WARMING POLLUTION.**

12       The Clean Air Act is amended by adding after title  
13   VI (42 U.S.C. 7671 et seq.) the following:

14   **“TITLE VII—GLOBAL WARMING**  
15       **POLLUTION REDUCTION AND**  
16       **INVESTMENT PROGRAM**  
17       **“PART A—GLOBAL WARMING POLLUTION**  
18           **REDUCTION GOALS AND TARGETS**

19   **“SEC. 701. FINDINGS.**

20       “Congress finds that—

21           “(1) global warming poses a significant threat  
22       to the national security, economy, public health and  
23       welfare, and environment of the United States, as  
24       well as of other countries;

1           “(2) reviews of scientific studies, including by  
2           the Intergovernmental Panel on Climate Change and  
3           the National Academy of Sciences, demonstrate that  
4           global warming is the result of the combined anthro-  
5           pogenic greenhouse gas emissions from numerous  
6           sources of all types and sizes;

7           “(3) each increment of emission, when com-  
8           bined with other emissions, causes or contributes  
9           materially to the acceleration and extent of global  
10          warming and its adverse effects for the lifetime of  
11          such gas in the atmosphere;

12          “(4) accordingly, controlling emissions in small  
13          as well as large quantities is essential to prevent,  
14          slow the pace of, reduce the threats from, and miti-  
15          gate global warming and its adverse effects;

16          “(5) because they induce global warming,  
17          greenhouse gas emissions cause or contribute to in-  
18          juries to persons in the United States, including—

19               “(A) adverse health effects, such as disease  
20               and loss of life;

21               “(B) displacement of human populations;

22               “(C) damage to property and other inter-  
23               ests relating to ocean levels, acidification, and  
24               ice changes;

25               “(D) severe weather and seasonal changes;

1           “(E) disruption, costs, and losses to busi-  
2           ness, trade, employment, farms, subsistence,  
3           aesthetic enjoyment of the environment, recre-  
4           ation, culture, and tourism;

5           “(F) damage to plants, forests, lands, and  
6           waters;

7           “(G) harm to wildlife and habitat;

8           “(H) scarcity of water and the decreased  
9           abundance of other natural resources;

10          “(I) worsening of tropospheric air pollu-  
11          tion;

12          “(J) substantial threats of similar damage;  
13          and

14          “(K) other harm;

15          “(6) the fact that many of those effects and  
16          risks of future effects of global warming are widely  
17          shared does not minimize the adverse effects indi-  
18          vidual persons have suffered, will suffer, and are at  
19          risk of suffering because of global warming;

20          “(7) the fact that some of the adverse and po-  
21          tentially catastrophic effects of global warming are  
22          at risk of occurring and not a certainty does not ne-  
23          gate the harm persons suffer from actions that in-  
24          crease the likelihood, extent, and severity of such fu-  
25          ture impacts;

1 “(8) countries of the world look to the United  
2 States for leadership in addressing the threat of and  
3 harm from global warming;

4 “(9) full implementation of this title is critical  
5 to engage other countries in an international effort  
6 to mitigate the threat of and harm from global  
7 warming; and

8 “(10) global warming and its adverse effects  
9 are occurring and are likely to continue and increase  
10 in magnitude, and to do so at a greater and more  
11 harmful rate, unless the this title is fully imple-  
12 mented and enforced in an expeditious manner.

13 **“SEC. 702. ECONOMYWIDE REDUCTION GOALS.**

14 “The goals of this title, and the Clean Energy Jobs  
15 and American Power Act (and the amendments made by  
16 that Act), are to reduce steadily the quantity of United  
17 States greenhouse gas emissions such that—

18 “(1) in 2012, the quantity of United States  
19 greenhouse gas emissions does not exceed 97 percent  
20 of the quantity of United States greenhouse gas  
21 emissions in 2005;

22 “(2) in 2020, the quantity of United States  
23 greenhouse gas emissions does not exceed 80 percent  
24 of the quantity of United States greenhouse gas  
25 emissions in 2005;

1 “(3) in 2030, the quantity of United States  
2 greenhouse gas emissions does not exceed 58 percent  
3 of the quantity of United States greenhouse gas  
4 emissions in 2005; and

5 “(4) in 2050, the quantity of United States  
6 greenhouse gas emissions does not exceed 17 percent  
7 of the quantity of United States greenhouse gas  
8 emissions in 2005.

9 **“SEC. 703. REDUCTION TARGETS FOR SPECIFIED SOURCES.**

10 “(a) IN GENERAL.—The regulations issued under  
11 section 721 shall limit and reduce annually the greenhouse  
12 gas emissions of capped sources each calendar year begin-  
13 ning in 2012 such that—

14 “(1) in 2012, the quantity of greenhouse gas  
15 emissions from capped sources does not exceed 97  
16 percent of the quantity of greenhouse gas emissions  
17 from such sources in 2005;

18 “(2) in 2020, the quantity of greenhouse gas  
19 emissions from capped sources does not exceed 80  
20 percent of the quantity of greenhouse gas emissions  
21 from such sources in 2005;

22 “(3) in 2030, the quantity of greenhouse gas  
23 emissions from capped sources does not exceed 58  
24 percent of the quantity of greenhouse gas emissions  
25 from such sources in 2005; and

1           “(4) in 2050, the quantity of greenhouse gas  
2           emissions from capped sources does not exceed 17  
3           percent of the quantity of greenhouse gas emissions  
4           from such sources in 2005.

5           “(b) DEFINITION OF GREENHOUSE GAS EMISSIONS  
6 FROM SUCH SOURCES IN 2005.—For purposes of this sec-  
7 tion, the term ‘greenhouse gas emissions from such  
8 sources in 2005’ means emissions to which section 722  
9 would have applied if the requirements of this title for the  
10 specified year had been in effect for 2005.

11 **“SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.**

12           “For the purposes of decreasing the likelihood of cat-  
13 astrophic climate change, preserving tropical forests,  
14 building capacity to generate offset credits, and facili-  
15 tating international action on global warming, the Admin-  
16 istrator shall set aside a percentage specified in section  
17 771(c) of the quantity of emission allowances established  
18 under section 721(a) for each year, to be used to achieve  
19 a reduction of greenhouse gas emissions from deforest-  
20 ation in developing countries in accordance with part E.  
21 In 2020, activities supported under part E shall provide  
22 greenhouse gas reductions in an amount equal to an addi-  
23 tional 10 percentage points of reductions from United  
24 States greenhouse gas emissions in 2005. The Adminis-  
25 trator shall distribute these allowances with respect to ac-

1 tivities in countries that enter into and implement agree-  
2 ments or arrangements relating to reduced deforestation  
3 as described in section 753(a)(2).

4 **“SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.**

5 “(a) IN GENERAL.—The Administrator shall, in con-  
6 sultation with appropriate Federal agencies, submit to  
7 Congress a report not later than July 1, 2013, and every  
8 4 years thereafter, that includes—

9 “(1) an analysis of key findings based on up-  
10 to-date scientific information and data relevant to  
11 global climate change;

12 “(2) an analysis of capabilities to monitor and  
13 verify greenhouse gas reductions on a worldwide  
14 basis, including for the United States, as required  
15 under the Clean Energy Jobs and American Power  
16 Act (and the amendments made by that Act);

17 “(3) an analysis of the status of worldwide  
18 greenhouse gas reduction efforts, including imple-  
19 mentation of the Clean Energy Jobs and American  
20 Power Act and other policies, both domestic and  
21 international, for reducing greenhouse gas emissions,  
22 preventing dangerous atmospheric concentrations of  
23 greenhouse gases, preventing significant irreversible  
24 consequences of climate change, and reducing vul-  
25 nerability to the impacts of climate change; and

1           “(4) an analysis, to be conducted by the Sec-  
2       retary of Energy in accordance with subsection (f)  
3       and submitted to the Administrator for inclusion in  
4       each report under this subsection, of the techno-  
5       logical feasibility of achieving additional reductions  
6       in greenhouse gas emissions.

7       “(b) EXCEPTION.—Subsection (a)(3) shall not apply  
8       to the first report submitted under subsection (a).

9       “(c) LATEST SCIENTIFIC INFORMATION.—The anal-  
10      ysis required under subsection (a)(1) shall—

11           “(1) address existing scientific information and  
12       reports, considering, to the greatest extent possible,  
13       the most recent assessment report of the Intergov-  
14       ernmental Panel on Climate Change, reports by the  
15       United States Global Change Research Program, the  
16       Natural Resources Climate Change Adaptation  
17       Panel established under section 365 of the Clean  
18       Energy Jobs and American Power Act, and Federal  
19       agencies, and the European Union’s global tempera-  
20       ture data assessment;

21           “(2) review trends and projections for—

22           “(A) global and country-specific annual  
23       emissions of greenhouse gases, and cumulative  
24       greenhouse gas emissions produced between  
25       1850 and the present, including—

1 “(i) global cumulative emissions of an-  
2 thropogenic greenhouse gases;

3 “(ii) global annual emissions of an-  
4 thropogenic greenhouse gases; and

5 “(iii) by country, annual total, annual  
6 per capita, and cumulative anthropogenic  
7 emissions of greenhouse gases for the top  
8 50 emitting nations;

9 “(B) significant changes, both globally and  
10 by region, in annual net non-anthropogenic  
11 greenhouse gas emissions from natural sources,  
12 including permafrost, forests, or oceans;

13 “(C) global atmospheric concentrations of  
14 greenhouse gases, expressed in annual con-  
15 centration units as well as carbon dioxide  
16 equivalents based on 100-year global warming  
17 potentials;

18 “(D) major climate forcing factors, such as  
19 aerosols;

20 “(E) global average temperature, expressed  
21 as seasonal and annual averages in land, ocean,  
22 and land-plus-ocean averages; and

23 “(F) sea level rise;

24 “(3) assess the current and potential impacts of  
25 global climate change on—

1           “(A) human populations, including impacts  
2           on public health, economic livelihoods, subsist-  
3           ence, tribal culture, human infrastructure, and  
4           displacement or permanent relocation due to  
5           flooding, severe weather, extended drought, ero-  
6           sion, or other ecosystem changes;

7           “(B) freshwater systems, including water  
8           resources for human consumption and agri-  
9           culture and natural and managed ecosystems,  
10          flood and drought risks, and relative humidity;

11          “(C) the carbon cycle, including impacts  
12          related to the thawing of permafrost, the fre-  
13          quency and intensity of wildfire, and terrestrial  
14          and ocean carbon sinks;

15          “(D) ecosystems and animal and plant  
16          populations, including impacts on species abun-  
17          dance, phenology, and distribution;

18          “(E) oceans and ocean ecosystems, includ-  
19          ing effects on sea level, ocean acidity, ocean  
20          temperatures, coral reefs, ocean circulation,  
21          fisheries, and other indicators of ocean eco-  
22          system health;

23          “(F) the cryosphere, including effects on  
24          ice sheet mass balance, mountain glacier mass  
25          balance, and sea-ice extent and volume;

1           “(G) changes in the intensity, frequency,  
2           or distribution of severe weather events, includ-  
3           ing precipitation, tropical cyclones, tornadoes,  
4           and severe heat waves;

5           “(H) agriculture and forest systems; and

6           “(I) any other indicators the Administrator  
7           deems appropriate;

8           “(4) summarize any significant socioeconomic  
9           impacts of climate change in the United States, in-  
10          cluding the territories of the United States, drawing  
11          on work by Federal agencies and the academic lit-  
12          erature, including impacts on—

13           “(A) public health;

14           “(B) economic livelihoods, subsistence, and  
15           tribal culture;

16           “(C) displacement or permanent relocation  
17           due to flooding, severe weather, extended  
18           drought, or other ecosystem changes;

19           “(D) human infrastructure, including  
20           coastal infrastructure vulnerability to extreme  
21           events and sea level rise, river floodplain infra-  
22           structure, and sewer and water management  
23           systems;

1           “(E) agriculture and forests, including ef-  
2           fects on potential growing season, distribution,  
3           and yield;

4           “(F) water resources for human consump-  
5           tion, agriculture and natural and managed eco-  
6           systems, flood and drought risks, and relative  
7           humidity;

8           “(G) energy supply and use; and

9           “(H) transportation;

10          “(5) in assessing risks and impacts, use a risk  
11          management framework, including both qualitative  
12          and quantitative measures, to assess the observed  
13          and projected impacts of current and future climate  
14          change, accounting for—

15               “(A) both monetized and non-monetized  
16               losses;

17               “(B) potential nonlinear, abrupt, or essen-  
18               tially irreversible changes in the climate system;

19               “(C) potential nonlinear increases in the  
20               cost of impacts;

21               “(D) potential low-probability, high impact  
22               events; and

23               “(E) whether impacts are transitory or es-  
24               sentially permanent; and

1           “(6) based on the findings of the Administrator  
2           under this section, as well as assessments produced  
3           by the Intergovernmental Panel on Climate Change,  
4           the United States Global Change Research program,  
5           and other relevant scientific entities—

6           “(A) describe increased risks to natural  
7           systems and society that would result from an  
8           increase in global average temperature 3.6 de-  
9           grees Fahrenheit (2 degrees Celsius) above the  
10          pre-industrial average or an increase in atmos-  
11          pheric greenhouse gas concentrations above 450  
12          parts per million carbon dioxide equivalent; and

13          “(B) identify and assess—

14               “(i) significant residual risks not  
15               avoided by the thresholds described in sub-  
16               paragraph (A);

17               “(ii) alternative thresholds or targets  
18               that may more effectively limit the risks  
19               identified pursuant to clause (i); and

20               “(iii) thresholds above those described  
21               in subparagraph (A) which significantly in-  
22               crease the risk of certain impacts or render  
23               them essentially permanent.

24          “(d) STATUS OF MONITORING AND VERIFICATION  
25          CAPABILITIES TO EVALUATE GREENHOUSE GAS REDUC-

1 TION EFFORTS.—The analysis required under subsection  
2 (a)(2) shall evaluate the capabilities of the monitoring, re-  
3 porting, and verification systems used to quantify progress  
4 in achieving reductions in greenhouse gas emissions both  
5 globally and in the United States (as described in section  
6 702), including—

7 “(1) quantification of emissions and emission  
8 reductions by entities participating in the pollution  
9 reduction and investment program under this title;

10 “(2) quantification of emissions and emission  
11 reductions by entities participating in the offset pro-  
12 gram under this title;

13 “(3) quantification of emission and emission re-  
14 ductions by entities regulated by performance stand-  
15 ards;

16 “(4) quantification of aggregate net emissions  
17 and emission reductions by the United States; and

18 “(5) quantification of global changes in net  
19 emissions and in sources and sinks of greenhouse  
20 gases.

21 “(e) STATUS OF GREENHOUSE GAS REDUCTION EF-  
22 FORTS.—The analysis required under subsection (a)(3)  
23 shall address—

24 “(1) whether the programs under the Clean En-  
25 ergy Jobs and American Power Act (and the amend-

1       ments made by that Act) and other Federal statutes  
2       are resulting in sufficient United States greenhouse  
3       gas emission reductions to meet the emissions reduc-  
4       tion goals described in section 702, taking into ac-  
5       count the use of offsets; and

6               “(2) whether United States actions, taking into  
7       account international actions, commitments, and  
8       trends, and considering the range of plausible emis-  
9       sions scenarios, are sufficient to avoid—

10               “(A) atmospheric greenhouse gas con-  
11       centrations above 450 parts per million carbon  
12       dioxide equivalent;

13               “(B) global average surface temperature  
14       3.6 degrees Fahrenheit (2 degrees Celsius)  
15       above the pre-industrial average, or such other  
16       temperature thresholds as the Administrator  
17       deems appropriate; and

18               “(C) other temperature or greenhouse gas  
19       thresholds identified pursuant to subsection  
20       (c)(6)(B).

21       “(f) TECHNOLOGICAL INFORMATION.—The analysis  
22       required under subsection (a)(4) shall—

23               “(1) review existing technological information  
24       and reports, including the most recent reports by the  
25       Department of Energy, the United States Global

1 Change Research Program, the Intergovernmental  
2 Panel on Climate Change, and the International En-  
3 ergy Agency, and any other relevant information on  
4 technologies or practices that reduce or limit green-  
5 house gas emissions;

6 “(2) include the participation of technical ex-  
7 perts from relevant private industry sectors;

8 “(3) review the current and future projected de-  
9 ployment of technologies and practices in the United  
10 States that reduce or limit greenhouse gas emis-  
11 sions, including—

12 “(A) technologies for capture and seques-  
13 tration of greenhouse gases;

14 “(B) technologies to improve energy effi-  
15 ciency;

16 “(C) low- or zero-greenhouse gas emitting  
17 energy technologies;

18 “(D) low- or zero-greenhouse gas emitting  
19 fuels;

20 “(E) biological sequestration practices and  
21 technologies; and

22 “(F) any other technologies the Secretary  
23 determines to be relevant; and

24 “(4) review and compare the emission reduction  
25 potential, commercial viability, market penetration,

1 investment trends, and deployment of the tech-  
2 nologies described in paragraph (3), including—

3 “(A) the need for additional research and  
4 development, including publicly funded research  
5 and development;

6 “(B) the extent of commercial deployment,  
7 including, where appropriate, a comparison to  
8 the cost and level of deployment of conventional  
9 fossil fuel-fired energy technologies and devices;  
10 and

11 “(C) an evaluation of any substantial tech-  
12 nological, legal, or market-based barriers to  
13 commercial deployment.

14 “(g) RECOMMENDATIONS.—

15 “(1) LATEST SCIENTIFIC INFORMATION.—  
16 Based on the analysis described in subsection (a)(1),  
17 each report under subsection (a) shall identify ac-  
18 tions that could be taken to—

19 “(A) improve the characterization of  
20 changes in the earth-climate system and im-  
21 pacts of global climate change;

22 “(B) better inform decision making and  
23 actions related to global climate change;

24 “(C) mitigate risks to natural and social  
25 systems; and

1                   “(D) design policies to better account for  
2                   climate risks.

3                   “(2)       MONITORING,       REPORTING       AND  
4                   VERIFICATION.—Based on the analysis described in  
5                   subsection (a)(2), each report under subsection (a)  
6                   shall identify key gaps in measurement, reporting,  
7                   and verification capabilities and make recommenda-  
8                   tions to improve the accuracy and reliability of those  
9                   capabilities.

10                  “(3) STATUS OF GREENHOUSE GAS REDUCTION  
11                  EFFORTS.—Based on the analysis described in sub-  
12                  section (a)(3), taking into account international ac-  
13                  tions, commitments, and trends, and considering the  
14                  range of plausible emissions scenarios, each report  
15                  under subsection (a) shall identify—

16                       “(A) the quantity of additional reductions  
17                       required to meet the emissions reduction goals  
18                       in section 702;

19                       “(B) the quantity of additional reductions  
20                       in global greenhouse gas emissions needed to  
21                       avoid the concentration and temperature  
22                       thresholds identified in subsection (e); and

23                       “(C) possible strategies and approaches for  
24                       achieving additional reductions.

1       “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 such sums as may be necessary.

4       **“SEC. 706. NATIONAL ACADEMY REVIEW.**

5       “(a) IN GENERAL.—Not later than 1 year after the  
6 date of enactment of this title, the Administrator shall  
7 offer to enter into a contract with the National Academy  
8 of Sciences (in this section referred to as the ‘Academy’)  
9 under which the Academy shall, not later than July 1,  
10 2014, and every 4 years thereafter, submit to Congress  
11 and the Administrator a report that includes—

12               “(1) a review of the most recent report and rec-  
13 ommendations issued under section 705; and

14               “(2) an analysis of technologies to achieve re-  
15 ductions in greenhouse gas emissions.

16       “(b) FAILURE TO ISSUE A REPORT.—In the event  
17 that the Administrator has not issued all or part of the  
18 most recent report required under section 705, the Acad-  
19 emy shall conduct its own review and analysis of the re-  
20 quired information.

21       “(c) RECOMMENDATIONS.—

22               “(1) LATEST SCIENTIFIC INFORMATION.—  
23 Based on the review described in subsection (a)(1),  
24 the Academy shall identify actions that could be  
25 taken to—

1           “(A) improve the characterization of  
2 changes in the earth-climate system and im-  
3 pacts of global climate change;

4           “(B) better inform decision making and  
5 actions related to global climate change;

6           “(C) mitigate risks to natural and social  
7 systems;

8           “(D) design policies to better account for  
9 climate risks; and

10          “(E) improve the accuracy and reliability  
11 of capabilities to monitor, report, and verify  
12 greenhouse gas emissions reduction efforts.

13          “(2) TECHNOLOGICAL INFORMATION.—Based  
14 on the analysis described in subsection (a)(2), the  
15 Academy shall identify—

16           “(A) additional emission reductions that  
17 may be possible as a result of technologies de-  
18 scribed in the analysis;

19           “(B) barriers to the deployment of such  
20 technologies; and

21           “(C) actions that could be taken to speed  
22 deployment of such technologies.

23          “(3) STATUS OF GREENHOUSE GAS REDUCTION  
24 EFFORTS.—Based on the review described in sub-  
25 section (a)(1), the Academy shall identify—

1           “(A) the quantity of additional reductions  
2           required to meet the emissions reduction goals  
3           described in section 702; and

4           “(B) the quantity of additional reductions  
5           in global greenhouse gas emissions needed to  
6           avoid the concentration and temperature  
7           thresholds described in section 705(c)(6)(A) or  
8           identified pursuant to section 705(c)(6)(B).

9           “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
10          are authorized to be appropriated to carry out this section  
11          such sums as may be necessary.

12       **“SEC. 707. PRESIDENTIAL RESPONSE AND RECOMMENDA-**  
13               **TIONS.**

14           “Not later than July 1, 2015, and every 4 years  
15          thereafter—

16           “(1) the President shall direct relevant Federal  
17           agencies to use existing statutory authority to take  
18           appropriate actions identified in the reports sub-  
19           mitted under sections 705 and 706 and to address  
20           any shortfalls identified in such reports; and

21           “(2) in the event that the National Academy of  
22           Sciences has concluded, in the most recent report  
23           submitted under section 706, that the United States  
24           will not achieve the necessary domestic greenhouse  
25           gas emission reductions, or that global actions will

1 not maintain safe global average surface tempera-  
2 ture and atmospheric greenhouse gas concentration  
3 thresholds, the President shall submit to Congress a  
4 plan identifying domestic and international actions  
5 that will achieve necessary additional greenhouse gas  
6 reductions, including any recommendations for legis-  
7 lative action.

8 **“SEC. 708. CONSULTATION WITH STATES.**

9 “In the development of any regulations required to  
10 implement the global warming pollution and reduction in-  
11 vestment program pursuant to this title, and in the imple-  
12 mentation of that program, the Administrator shall con-  
13 sult with the States in the Regional Greenhouse Gas Ini-  
14 tiative, the Western Climate Initiative, and the Mid-West  
15 Governors Accord.

16 **“PART B—DESIGNATION AND REGISTRATION OF**  
17 **GREENHOUSE GASES**

18 **“SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

19 “(a) GREENHOUSE GASES.—For purposes of this  
20 title, the following are greenhouse gases:

21 “(1) Carbon dioxide.

22 “(2) Methane.

23 “(3) Nitrous oxide.

24 “(4) Sulfur hexafluoride.

1           “(5) Hydrofluorocarbons from a chemical man-  
2           ufacturing process at an industrial stationary  
3           source.

4           “(6) Any perfluorocarbon that is an anthropo-  
5           genic gas 1 metric ton of which makes the same or  
6           greater contribution to global warming over 100  
7           years as 1 metric ton of carbon dioxide.

8           “(7) Nitrogen trifluoride.

9           “(8) Any other anthropogenic gas designated as  
10          a greenhouse gas by the Administrator under this  
11          section.

12          “(b) DETERMINATION ON ADMINISTRATOR’S INITIA-  
13          TIVE.—The Administrator shall, by rule—

14               “(1) determine whether 1 metric ton of another  
15               anthropogenic gas makes the same or greater con-  
16               tribution to global warming over 100 years as 1 met-  
17               ric ton of carbon dioxide;

18               “(2) determine the carbon dioxide equivalent  
19               value for each gas with respect to which the Admin-  
20               istrator makes an affirmative determination under  
21               paragraph (1);

22               “(3) for each gas with respect to which the Ad-  
23               ministrator makes an affirmative determination  
24               under paragraph (1) and that is used as a substitute  
25               for a class I or class II substance under title VI, de-

1        terminate the extent to which to regulate that gas  
2        under section 619 and specify appropriate compli-  
3        ance obligations under section 619;

4            “(4) designate as a greenhouse gas for purposes  
5        of this title each gas for which the Administrator  
6        makes an affirmative determination under para-  
7        graph (1), to the extent that it is not regulated  
8        under section 619; and

9            “(5) specify the appropriate compliance obliga-  
10       tions under this title for each gas designated as a  
11       greenhouse gas under paragraph (4).

12        “(c) PETITIONS TO DESIGNATE A GREENHOUSE  
13       GAS.—

14            “(1) IN GENERAL.—Any person may petition  
15       the Administrator to designate as a greenhouse gas  
16       any anthropogenic gas 1 metric ton of which makes  
17       the same or greater contribution to global warming  
18       over 100 years as 1 metric ton of carbon dioxide.

19            “(2) CONTENTS OF PETITION.—The petitioner  
20       shall provide sufficient data, as specified by rule by  
21       the Administrator, to demonstrate that the gas is  
22       likely to be a greenhouse gas and is likely to be pro-  
23       duced, imported, used, or emitted in the United  
24       States. To the extent practicable, the petitioner shall

1       also identify producers, importers, distributors,  
2       users, and emitters of the gas in the United States.

3           “(3) REVIEW AND ACTION BY THE ADMINIS-  
4       TRATOR.—Not later than 90 days after receipt of a  
5       petition under paragraph (2), the Administrator  
6       shall determine whether the petition is complete and  
7       notify the petitioner and the public of the decision.

8           “(4) ADDITIONAL INFORMATION.—The Admin-  
9       istrator may require producers, importers, distribu-  
10      tors, users, or emitters of the gas to provide infor-  
11      mation on the contribution of the gas to global  
12      warming over 100 years compared to carbon dioxide.

13          “(5) TREATMENT OF PETITION.—For any sub-  
14      stance used as a substitute for a class I or class II  
15      substance under title VI, the Administrator may  
16      elect to treat a petition under this subsection as a  
17      petition to list the substance as a class II, group II  
18      substance under section 619, and may require the  
19      petition to be amended to address listing criteria  
20      promulgated under that section.

21          “(6) DETERMINATION.—Not later than 2 years  
22      after receipt of a complete petition, the Adminis-  
23      trator shall, after notice and an opportunity for com-  
24      ment—

1                   “(A) issue and publish in the Federal Reg-  
2                   ister—

3                   “(i) a determination that 1 metric ton  
4                   of the gas does not make a contribution to  
5                   global warming over 100 years that is  
6                   equal to or greater than that made by 1  
7                   metric ton of carbon dioxide; and

8                   “(ii) an explanation of the decision; or

9                   “(B) determine that 1 metric ton of the  
10                  gas makes a contribution to global warming  
11                  over 100 years that is equal to or greater than  
12                  that made by 1 metric ton of carbon dioxide,  
13                  and take the actions described in subsection (b)  
14                  with respect to such gas.

15               “(7) GROUNDS FOR DENIAL.—The Adminis-  
16               trator may not deny a petition under this subsection  
17               solely on the basis of inadequate Environmental Pro-  
18               tection Agency resources or time for review.

19               “(d) SCIENCE ADVISORY BOARD CONSULTATION.—

20               “(1) CONSULTATION.—The Administrator  
21               shall—

22               “(A) give notice to the Science Advisory  
23               Board prior to making a determination under  
24               subsection (b)(1), (c)(6), or (e)(2)(B);

1           “(B) consider the written recommendations  
2           of the Science Advisory Board under paragraph  
3           (2) regarding the determination; and

4           “(C) consult with the Science Advisory  
5           Board regarding such determination, including  
6           consultation subsequent to receipt of such writ-  
7           ten recommendations.

8           “(2) FORMULATION OF RECOMMENDATIONS.—  
9           Upon receipt of notice under paragraph (1)(A) re-  
10          garding a pending determination under subsection  
11          (b)(1), (c)(6), or (e)(2)(B), the Science Advisory  
12          Board shall—

13           “(A) formulate recommendations regarding  
14           such determination, subject to a peer review  
15           process; and

16           “(B) submit such recommendations in  
17           writing to the Administrator.

18          “(e) MANUFACTURING AND EMISSION NOTICES.—

19           “(1) NOTICE REQUIREMENT.—

20           “(A) IN GENERAL.—Effective 24 months  
21           after the date of enactment of this title, no per-  
22           son may manufacture or introduce into inter-  
23           state commerce a fluorinated gas, or emit in a  
24           calendar year a significant quantity, as deter-  
25           mined by the Administrator (which in no case

1           shall be less than ½ ton of such fluorinated  
2           gas), of any fluorinated gas that is generated as  
3           a byproduct during the production or use of an-  
4           other fluorinated gas, unless—

5                   “(i) the gas is designated as a green-  
6           house gas under this section or is an  
7           ozone-depleting substance listed as a class  
8           I or class II substance under title VI;

9                   “(ii) the Administrator has deter-  
10          mined that 1 metric ton of such gas does  
11          not make a contribution to global warming  
12          that is equal to or greater than that made  
13          by 1 metric ton of carbon dioxide; or

14                  “(iii) the person manufacturing or im-  
15          porting the gas for distribution into inter-  
16          state commerce, or emitting the gas, has  
17          submitted to the Administrator, at least 90  
18          days before the start of such manufacture,  
19          introduction into commerce, or emission, a  
20          notice of such person’s manufacture, intro-  
21          duction into commerce, or emission of such  
22          gas, and the Administrator has not deter-  
23          mined that notice or a substantially similar  
24          notice is incomplete.



1 metric ton of carbon dioxide and an expla-  
2 nation of the decision; or

3 “(ii) determine that 1 metric ton of  
4 the gas makes a contribution to global  
5 warming over 100 years that is equal to or  
6 greater than that made by 1 metric ton of  
7 carbon dioxide, and take the actions de-  
8 scribed in subsection (b) with respect to  
9 such gas.

10 “(f) REGULATIONS.—Not later than one year after  
11 the date of enactment of this title, the Administrator shall  
12 promulgate regulations to carry out this section. Such reg-  
13 ulations shall include—

14 “(1) requirements for the contents of a petition  
15 submitted under subsection (c);

16 “(2) requirements for the contents of a notice  
17 required under subsection (e); and

18 “(3) methods and standards for evaluating the  
19 carbon dioxide equivalent value of a gas.

20 “(g) GASES REGULATED UNDER TITLE VI.—The  
21 Administrator shall not designate a gas as a greenhouse  
22 gas under this section to the extent that the gas is regu-  
23 lated under title VI.

1 “(h) SAVINGS CLAUSE.—Nothing in this section shall  
 2 be interpreted to relieve any person from complying with  
 3 the requirements of section 612.

4 **“SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF**  
 5 **GREENHOUSE GASES.**

6 “(a) MEASURE OF QUANTITY OF GREENHOUSE  
 7 GASES.—Any provision of this title or title VIII that refers  
 8 to a quantity or percentage of a quantity of greenhouse  
 9 gases shall mean the quantity or percentage of the green-  
 10 house gases expressed in carbon dioxide equivalents.

11 “(b) INITIAL VALUE.—Except as provided by the Ad-  
 12 ministrator under this section or section 711—

13 “(1) the carbon dioxide equivalent value of  
 14 greenhouse gases for purposes of this Act shall be as  
 15 follows:

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
 GREENHOUSE GASES**

<b>Greenhouse gas (1 metric ton)</b>	<b>Carbon dioxide equivalent (metric tons)</b>
Carbon dioxide	1
Methane	25
Nitrous oxide	298
HFC-23	14,800
HFC-125	3,500
HFC-134a	1,430
HFC-143a	4,470
HFC-152a	124
HFC-227ea	3,220

**“ CARBON DIOXIDE EQUIVALENT OF 1 TON OF LISTED  
GREENHOUSE GASES—Continued**

<b>Greenhouse gas (1 metric ton)</b>	<b>Carbon dioxide equivalent (metric tons)</b>
HFC-236fa	9,810
HFC-4310mee	1,640
CF <sub>4</sub>	7,390
C <sub>2</sub> F <sub>6</sub>	12,200
C <sub>4</sub> F <sub>10</sub>	8,860
C <sub>6</sub> F <sub>14</sub>	9,300
SF <sub>6</sub>	22,800
NF <sub>3</sub>	17,200

1           ; and

2           “(2) the carbon dioxide equivalent value for  
3           purposes of this Act for any greenhouse gas not list-  
4           ed in the table under paragraph (1) shall be the  
5           100-year Global Warming Potentials provided in the  
6           Intergovernmental Panel on Climate Change Fourth  
7           Assessment Report.

8           “(c) PERIODIC REVIEW.—

9           “(1) Not later than February 1, 2017, and (ex-  
10          cept as provided in paragraph (3)) not less than  
11          every 5 years thereafter, the Administrator shall—

12               “(A) review and, if appropriate, revise the  
13               carbon dioxide equivalent values established  
14               under this section or section 711(b)(2), based  
15               on a determination of the number of metric

1           tons of carbon dioxide that makes the same  
2           contribution to global warming over 100 years  
3           as 1 metric ton of each greenhouse gas; and

4           “(B) publish in the Federal Register the  
5           results of that review and any revisions.

6           “(2) A revised determination published in the  
7           Federal Register under paragraph (1)(B) shall take  
8           effect for greenhouse gas emissions starting on Jan-  
9           uary 1 of the first calendar year starting at least 9  
10          months after the date on which the revised deter-  
11          mination was published.

12          “(3) The Administrator may decrease the fre-  
13          quency of review and revision under paragraph (1)  
14          if the Administrator determines that such decrease  
15          is appropriate in order to synchronize such review  
16          and revision with any similar review process carried  
17          out pursuant to the United Nations Framework  
18          Convention on Climate Change, done at New York  
19          on May 9, 1992, or to an agreement negotiated  
20          under that convention, except that in no event shall  
21          the Administrator carry out such review and revision  
22          any less frequently than every 10 years.

23          “(d) METHODOLOGY.—In setting carbon dioxide  
24          equivalent values, for purposes of this section or section  
25          711, the Administrator shall take into account publica-

1 tions by the Intergovernmental Panel on Climate Change  
2 or a successor organization under the auspices of the  
3 United Nations Environmental Programme and the World  
4 Meteorological Organization.

5 **“SEC. 713. GREENHOUSE GAS REGISTRY.**

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

7 “(1) CLIMATE REGISTRY.—The term ‘Climate  
8 Registry’ means the greenhouse gas emissions reg-  
9 istry jointly established and managed by more than  
10 40 States and Indian tribes in 2007 to collect high-  
11 quality greenhouse gas emission data from facilities,  
12 corporations, and other organizations to support var-  
13 ious greenhouse gas emission reporting and reduc-  
14 tion policies for the member States and Indian  
15 tribes.

16 “(2) REPORTING ENTITY.—The term ‘reporting  
17 entity’ means—

18 “(A) a covered entity;

19 “(B) an entity that—

20 “(i) would be a covered entity if it had  
21 emitted, produced, imported, manufac-  
22 tured, or delivered in 2008 or any subse-  
23 quent year more than the applicable  
24 threshold level in the definition of covered

1                   entity in paragraph (13) of section 700;  
2                   and

3                   “(ii) has emitted, produced, imported,  
4                   manufactured, or delivered in 2008 or any  
5                   subsequent year more than the applicable  
6                   threshold level in the definition of covered  
7                   entity in paragraph (13) of section 700,  
8                   provided that the figure of 25,000 tons of  
9                   carbon dioxide equivalent is read instead  
10                  as 10,000 tons of carbon dioxide equivalent  
11                  and the figure of 460,000,000 cubic feet is  
12                  read instead as 184,000,000 cubic feet;

13                  “(C) any other entity that emits a green-  
14                  house gas, or produces, imports, manufactures,  
15                  or delivers material whose use results or may  
16                  result in greenhouse gas emissions if the Ad-  
17                  ministrator determines that reporting under  
18                  this section by such entity will help achieve the  
19                  purposes of this title or title VIII;

20                  “(D) any vehicle fleet with emissions of  
21                  more than 25,000 tons of carbon dioxide equiv-  
22                  alent on an annual basis, if the Administrator  
23                  determines that the inclusion of such fleet will  
24                  help achieve the purposes of this title or title  
25                  VIII; or

1           “(E) any entity that delivers electricity to  
2           an energy-intensive facility in an industrial sec-  
3           tor that meets the energy or greenhouse gas in-  
4           tensity criteria in section 764(b)(3)(B)(i).

5           “(b) REGULATIONS.—

6           “(1) IN GENERAL.—Not later than 6 months  
7           after the date of enactment of this title, the Admin-  
8           istrator shall issue regulations establishing a Federal  
9           greenhouse gas registry. Such regulations shall—

10           “(A) require reporting entities to submit to  
11           the Administrator data on—

12           “(i) greenhouse gas emissions in the  
13           United States;

14           “(ii) the production and manufacture  
15           in the United States, importation into the  
16           United States, and, at the discretion of the  
17           Administrator, exportation from the  
18           United States, of fuels and industrial gases  
19           the uses of which result or may result in  
20           greenhouse gas emissions;

21           “(iii) deliveries in the United States of  
22           natural gas, and any other gas meeting the  
23           specifications for commingling with natural  
24           gas for purposes of delivery, the combus-

1                   tion of which result or may result in green-  
2                   house gas emissions; and

3                   “(iv) the capture and sequestration of  
4                   greenhouse gases;

5                   “(B) require covered entities and, where  
6                   appropriate, other reporting entities to submit  
7                   to the Administrator data sufficient to ensure  
8                   compliance with or implementation of the re-  
9                   quirements of this title;

10                  “(C) require reporting of electricity deliv-  
11                  ered to industrial sources in energy-intensive in-  
12                  dustries;

13                  “(D) ensure the completeness, consistency,  
14                  transparency, accuracy, precision, and reliability  
15                  of such data;

16                  “(E) take into account the best practices  
17                  from the most recent Federal, State, tribal, and  
18                  international protocols for the measurement, ac-  
19                  counting, reporting, and verification of green-  
20                  house gas emissions, including protocols from  
21                  the Climate Registry and other mandatory  
22                  State or multistate authorized programs;

23                  “(F) take into account the latest scientific  
24                  research;

1           “(G) require that, for covered entities with  
2           respect to greenhouse gases to which section  
3           722 applies, and, to the extent determined to be  
4           appropriate by the Administrator, for covered  
5           entities with respect to other greenhouse gases  
6           and for other reporting entities, submitted data  
7           are based on—

8                   “(i) continuous monitoring systems  
9                   for fuel flow or emissions, such as contin-  
10                  uous emission monitoring systems;

11                  “(ii) alternative systems that are dem-  
12                  onstrated as providing data with the same  
13                  precision, reliability, accessibility, and  
14                  timeliness, or, to the extent the Adminis-  
15                  trator determines is appropriate for report-  
16                  ing small amounts of emissions, the same  
17                  precision, reliability, and accessibility and  
18                  similar timeliness, as data provided by con-  
19                  tinuous monitoring systems for fuel flow or  
20                  emissions; or

21                  “(iii) alternative methodologies that  
22                  are demonstrated to provide data with pre-  
23                  cision, reliability, accessibility, and timeli-  
24                  ness, or, to the extent the Administrator  
25                  determines is appropriate for reporting

1           small amounts of emissions, precision, reli-  
2           ability, and accessibility, as similar as is  
3           technically feasible to that of data gen-  
4           erally provided by continuous monitoring  
5           systems for fuel flow or emissions, if the  
6           Administrator determines that, with re-  
7           spect to a reporting entity, there is no con-  
8           tinuous monitoring system or alternative  
9           system described in clause (i) or (ii) that  
10          is technically feasible;

11          “(H) require that the Administrator, in de-  
12          termining the extent to which the requirement  
13          to use systems or methodologies in accordance  
14          with subparagraph (G) is appropriate for re-  
15          porting entities other than covered entities or  
16          for greenhouse gases to which section 722 does  
17          not apply, consider the cost of using such sys-  
18          tems and methodologies, and of using other sys-  
19          tems and methodologies that are available and  
20          suitable, for quantifying the emissions involved  
21          in light of the purposes of this title, including  
22          the goal of collecting consistent entity-wide  
23          data;

1           “(I) include methods for minimizing double  
2           reporting and avoiding irreconcilable double re-  
3           porting of greenhouse gas emissions;

4           “(J) establish measurement protocols for  
5           carbon capture and sequestration systems, tak-  
6           ing into consideration the regulations promul-  
7           gated under section 813;

8           “(K) require that reporting entities provide  
9           the data required under this paragraph in re-  
10          ports submitted electronically to the Adminis-  
11          trator, in such form and containing such infor-  
12          mation as may be required by the Adminis-  
13          trator;

14          “(L) include requirements for keeping  
15          records supporting or related to, and protocols  
16          for auditing, submitted data;

17          “(M) establish consistent policies for calcu-  
18          lating carbon content and greenhouse gas emis-  
19          sions for each type of fossil fuel with respect to  
20          which reporting is required;

21          “(N) subsequent to implementation of poli-  
22          cies developed under subparagraph (M), provide  
23          for immediate dissemination, to States, Indian  
24          tribes, and on the Internet, of all data reported  
25          under this section as soon as practicable after

1           electronic audit by the Administrator and any  
2           resulting correction of data, except that data  
3           shall not be disseminated under this subpara-  
4           graph if—

5                   “(i) its nondissemination is vital to  
6                   the national security of the United States,  
7                   as determined by the President; or

8                   “(ii) it is confidential business infor-  
9                   mation that cannot be derived from infor-  
10                  mation that is otherwise publicly available  
11                  and disclosure of which would likely cause  
12                  substantial harm to the competitive posi-  
13                  tion of the person from which the informa-  
14                  tion was obtained, except that—

15                   “(I) data relating to greenhouse  
16                   gas emissions, including any upstream  
17                   or verification data from reporting en-  
18                   tities, shall not be considered to be  
19                   confidential business information; and

20                   “(II) data that is confidential  
21                   business information shall be provided  
22                   to a State or Indian tribe within  
23                   whose jurisdiction the reporting entity  
24                   is located, if—

1           “(aa) the State or Indian  
2           tribe has first provided to the  
3           Administrator a written opinion  
4           from the chief legal officer or  
5           counsel of the requesting State  
6           agency, or comparable tribal legal  
7           counsel, stating that under appli-  
8           cable State or tribal law, the  
9           State or Indian tribe has the au-  
10          thority to compel a business that  
11          possesses such information to  
12          disclose the information to the  
13          State or Indian tribe; or

14          “(bb) each affected business  
15          is informed of disclosures under  
16          this part that pertain to the busi-  
17          ness, and the State or Indian  
18          tribe has demonstrated to the  
19          chief legal officer of the Environ-  
20          mental Protection Agency that  
21          the use and disclosure by the  
22          State or Indian tribe, as applica-  
23          ble, of such information will be  
24          governed by State or tribal law  
25          and procedures that will provide

1 adequate protection to the inter-  
2 ests of affected businesses;

3 “(O) prescribe methods by which the Ad-  
4 ministrator shall, in cases in which satisfactory  
5 data are not submitted to the Administrator for  
6 any period of time, estimate emission, produc-  
7 tion, importation, manufacture, or delivery lev-  
8 els—

9 “(i) for covered entities with respect  
10 to greenhouse gas emissions, production,  
11 importation, manufacture, or delivery regu-  
12 lated under this title to ensure that emis-  
13 sions, production, importation, manufac-  
14 ture, or deliveries are not underreported,  
15 and to create a strong incentive for meet-  
16 ing data monitoring and reporting require-  
17 ments—

18 “(I) with a conservative estimate  
19 of the highest emission, production,  
20 importation, manufacture, or delivery  
21 levels that may have occurred during  
22 the period for which data are missing;  
23 or

24 “(II) to the extent the Adminis-  
25 trator considers appropriate, with an

1 estimate of such levels assuming the  
2 unit is emitting, producing, importing,  
3 manufacturing, or delivering at a  
4 maximum potential level during the  
5 period, in order to ensure that such  
6 levels are not underreported and to  
7 create a strong incentive for meeting  
8 data monitoring and reporting re-  
9 quirements; and

10 “(ii) for covered entities with respect  
11 to greenhouse gas emissions to which sec-  
12 tion 722 does not apply and for other re-  
13 porting entities, with a reasonable estimate  
14 of the emission, production, importation,  
15 manufacture, or delivery levels that may  
16 have occurred during the period for which  
17 data are missing;

18 “(P) require the designation of a des-  
19 ignated representative for each reporting entity;

20 “(Q) require an appropriate certification,  
21 by the designated representative for the report-  
22 ing entity, of accurate and complete accounting  
23 of greenhouse gas emissions, as determined by  
24 the Administrator; and

1           “(R) include requirements for other data  
2           necessary for accurate and complete accounting  
3           of greenhouse gas emissions, as determined by  
4           the Administrator, including data for quality  
5           assurance of monitoring systems, monitors and  
6           other measurement devices, and other data  
7           needed to verify reported emissions, production,  
8           importation, manufacture, or delivery.

9           “(2) TIMING.—

10           “(A) CALENDAR YEARS 2007 THROUGH  
11           2010.—For a base period of calendar years  
12           2007 through 2010, each reporting entity shall  
13           submit annual data required under this section  
14           to the Administrator not later than March 31,  
15           2011. The Administrator may waive or modify  
16           reporting requirements for calendar years 2007  
17           through 2010 for categories of reporting enti-  
18           ties to the extent that the Administrator deter-  
19           mines that the reporting entities did not keep  
20           data or records necessary to meet reporting re-  
21           quirements. The Administrator may, in addition  
22           to or in lieu of such requirements, collect infor-  
23           mation on energy consumption and production.

24           “(B) SUBSEQUENT CALENDAR YEARS.—  
25           For calendar year 2011 and each subsequent

1           calendar year, each reporting entity shall sub-  
2           mit quarterly data required under this section  
3           to the Administrator not later than 60 days  
4           after the end of the applicable quarter, except  
5           when the data is already being reported to the  
6           Administrator on an earlier timeframe for an-  
7           other program.

8           “(3) WAIVER OF REPORTING REQUIREMENTS.—  
9           The Administrator may waive reporting require-  
10          ments under this section for specific entities to the  
11          extent that the Administrator determines that suffi-  
12          cient and equally or more reliable verified and timely  
13          data are available to the Administrator and the pub-  
14          lic on the Internet under other mandatory statutory  
15          requirements.

16          “(4) ALTERNATIVE THRESHOLD.—The Admin-  
17          istrator may, by rule, establish applicability thresh-  
18          olds for reporting under this section using alter-  
19          native metrics and levels, provided that such metrics  
20          and levels are easier to administer and cover the  
21          same size and type of sources as the threshold de-  
22          fined in this section.

23          “(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—  
24          In developing the regulations issued under subsection (b),  
25          the Administrator shall take into account the work done

1 by the Climate Registry and other mandatory State or  
2 multistate programs. Such regulations shall include an ex-  
3 planation of any major differences in approach between  
4 the system established under the regulations and such reg-  
5 istries and programs.

6 **“SEC. 714. PERFLUOROCARBON AND OTHER**  
7 **NONHYDROFLUOROCARBON FLUORINATED**  
8 **SUBSTANCE PRODUCTION REGULATION.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) BEST ACHIEVABLE PERFORMANCE STAND-  
11 ARD.—The term ‘best achievable performance stand-  
12 ard’ means a limitation on total emissions based on  
13 the maximum degree of reduction of fluorinated  
14 gases that are greenhouse gases subject to regula-  
15 tion under this Act emitted during the production of  
16 nonhydrofluorocarbon fluorinated substances at cov-  
17 ered entities that the Administrator, taking into con-  
18 sideration energy, environmental, economic impacts,  
19 and other costs, determines to be achievable for cov-  
20 ered entities through application of production proc-  
21 ess optimization and available methods, control tech-  
22 nologies or systems, and management techniques or  
23 practices.

24 “(2) NONHYDROFLUOROCARBON FLUORINATED  
25 SUBSTANCE.—The term ‘nonhydrofluorocarbon

1 fluorinated substance’ means a substance included  
2 on the list under subsection (d) that—

3 “(A) is not listed as a class I or class II  
4 substance under title VI; and

5 “(B) is not—

6 “(i) sulfur hexafluoride; or

7 “(ii) nitrogen trifluoride.

8 “(b) DETERMINATION BY ADMINISTRATOR.—

9 “(1) IN GENERAL.—Not later than 1 year after  
10 the date of enactment of this section, the Adminis-  
11 trator shall determine, based on the criteria de-  
12 scribed in paragraph (2), whether fluorinated gases  
13 that are greenhouse gases emitted during the pro-  
14 duction of nonhydrofluorocarbon fluorinated sub-  
15 stances should be regulated in accordance with—

16 “(A) subsection (c); or

17 “(B) the applicable requirements of section  
18 722 relating to emissions of greenhouse gases  
19 during fluorinated substance production at cov-  
20 ered entities.

21 “(2) CRITERIA FOR DETERMINATION.—In mak-  
22 ing the determination under paragraph (1), the Ad-  
23 ministrator shall take into consideration—

24 “(A) whether an equivalent or greater level  
25 of total emissions reductions could be achieved

1 under subsection (c), as compared to the emis-  
2 sions reductions that would be achieved under  
3 the applicable requirements of section 722 re-  
4 lating to emissions of greenhouse gases during  
5 fluorinated substance production at covered en-  
6 tities; and

7 “(B) such other criteria as the Adminis-  
8 trator determines to be appropriate.

9 “(c) GREENHOUSE GAS EMISSIONS FROM  
10 NONHYDROFLUOROCARBON FLUORINATED SUBSTANCE  
11 PRODUCTION.—

12 “(1) IN GENERAL.—If the Administrator makes  
13 the determination described in subsection (b)(1)(A),  
14 not later than 18 months after the date of enact-  
15 ment of this section, the Administrator shall promul-  
16 gate regulations applicable to covered entities that  
17 require fluorinated gases that are greenhouse gases  
18 emitted during the production of  
19 nonhydrofluorocarbon fluorinated substances at  
20 those covered entities to meet the best achievable  
21 performance standard.

22 “(2) BEST ACHIEVABLE PERFORMANCE STAND-  
23 ARD REVIEW.—The Administrator shall, at the dis-  
24 cretion of the Administrator—

1           “(A) not later than 2 years after the date  
2           of establishment of a best achievable perform-  
3           ance standard, and every 2 years thereafter—

4                   “(i) review the best achievable per-  
5                   formance standard; and

6                   “(ii) as necessary, establish a more  
7                   stringent best available performance stand-  
8                   ard that reduces emissions, to the max-  
9                   imum extent practicable, in accordance  
10                  with the economy-wide reduction goals re-  
11                  ferred to in section 702; or

12           “(B) not later than 2 years after the date  
13           of establishment of a best achievable perform-  
14           ance standard, and every 10 years thereafter,  
15           establish a 10-year schedule under which each  
16           applicable covered entity shall incrementally im-  
17           plement a more stringent best achievable per-  
18           formance standard that reduces, to the max-  
19           imum extent practicable, emissions in accord-  
20           ance with the economy-wide reduction goals re-  
21           ferred to in section 702.

22           “(3) EXCLUSIVITY.—If the Administrator  
23           makes the determination described in subsection  
24           (b)(1)(A), the requirements of this subsection relat-  
25           ing to control of emissions of fluorinated gases that

1 are greenhouse gases during the production of  
2 nonhydrofluorocarbon fluorinated substances shall  
3 apply in lieu of the requirements of section 722 re-  
4 lating to emissions of fluorinated gases that are  
5 greenhouse gases during fluorinated substance pro-  
6 duction at covered entities.

7 “(d) LIST OF NONHYDROFLUOROCARBON  
8 FLUORINATED SUBSTANCES.—

9 “(1) INITIAL LIST.—If the Administrator  
10 makes the determination described in subsection  
11 (b)(1)(A), not later than 2 years after the date of  
12 enactment of this section, the Administrator shall  
13 publish a list of nonhydrofluorocarbon fluorinated  
14 substances subject to regulation under this section.

15 “(2) ADDITIONS TO LIST.—The Administrator  
16 may include on the list published under paragraph  
17 (1) any substance that meets the requirements de-  
18 scribed in subsection (a)(2).

19 **“PART C—PROGRAM RULES**

20 **“SEC. 721. EMISSION ALLOWANCES.**

21 “(a) IN GENERAL.—The Administrator shall estab-  
22 lish a separate quantity of emission allowances for each  
23 calendar year starting in 2012, in the quantities pre-  
24 scribed under subsection (e).

1       “(b) IDENTIFICATION NUMBERS.—The Adminis-  
2 trator shall assign to each emission allowance established  
3 under subsection (a) a unique identification number that  
4 includes the vintage year for that emission allowance.

5       “(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

6           “(1) IN GENERAL.—An allowance established  
7 by the Administrator under this title does not con-  
8 stitute a property right.

9           “(2) TERMINATION OR LIMITATION.—Nothing  
10 in this Act or any other provision of law shall be  
11 construed to limit or alter the authority of the  
12 United States, including the Administrator acting  
13 pursuant to statutory authority, to terminate or  
14 limit allowances, offset credits, or term offset cred-  
15 its.

16           “(3) OTHER PROVISIONS UNAFFECTED.—Ex-  
17 cept as otherwise specified in this Act, nothing in  
18 this Act relating to allowances, offset credits, or  
19 term offset credits established or issued under this  
20 title shall affect the application of any other provi-  
21 sion of law to a covered entity, or the responsibility  
22 for a covered entity to comply with any such provi-  
23 sion of law.

24       “(d) SAVINGS PROVISION.—Nothing in this part shall  
25 be construed as requiring a change of any kind in any

1 State or tribal law regulating electric utility rates and  
 2 charges, or as affecting any State or tribal law regarding  
 3 such State regulation, or as limiting State or tribal regula-  
 4 tion (including any prudency review) under such a State  
 5 or tribal law. Nothing in this part shall be construed as  
 6 modifying the Federal Power Act (16 U.S.C. 791a et seq.)  
 7 or as affecting the authority of the Federal Energy Regu-  
 8 latory Commission under that Act. Nothing in this part  
 9 shall be construed to interfere with or impair any program  
 10 for competitive bidding for power supply in a State in  
 11 which such program is established.

12 “(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

13 “(1) IN GENERAL.—Except as provided in para-  
 14 graph (2), the number of emission allowances estab-  
 15 lished by the Administrator under subsection (a) for  
 16 each calendar year shall be as provided in the fol-  
 17 lowing table:

<b>“Calendar Year</b>	<b>Emission Allow- ances (MtCO<sub>2</sub>e)</b>
2012 .....	4,627
2013 .....	4,544
2014 .....	5,053
2015 .....	5,003
2016 .....	5,482
2017 .....	5,261
2018 .....	5,132
2019 .....	5,002
2020 .....	4,873
2021 .....	4,739
2022 .....	4,605
2023 .....	4,471
2024 .....	4,337
2025 .....	4,203
2026 .....	4,069
2027 .....	3,935

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2028 .....	3,801
2029 .....	3,667
2030 .....	3,533
2031 .....	3,408
2032 .....	3,283
2033 .....	3,158
2034 .....	3,033
2035 .....	2,908
2036 .....	2,784
2037 .....	2,659
2038 .....	2,534
2039 .....	2,409
2040 .....	2,284
2041 .....	2,159
2042 .....	2,034
2043 .....	1,910
2044 .....	1,785
2045 .....	1,660
2046 .....	1,535
2047 .....	1,410
2048 .....	1,285
2049 .....	1,160
2050 and each calendar year thereafter .....	1,035

1           “(2) REVISION.—

2                   “(A) IN GENERAL.—The Administrator  
3           may adjust, in accordance with subparagraph  
4           (B), the number of emission allowances estab-  
5           lished pursuant to paragraph (1) if, after notice  
6           and an opportunity for public comment, the Ad-  
7           ministrator determines that—

8                   “(i) United States greenhouse gas  
9                   emissions in 2005 were other than 7,206  
10                  million metric tons carbon dioxide equiva-  
11                  lent;

12                   “(ii) if the requirements of this title  
13                  for 2012 had been in effect in 2005, sec-  
14                  tion 722 would have required emission al-

1 lowances to be held for other than 66.2  
2 percent of United States greenhouse gas  
3 emissions in 2005;

4 “(iii) if the requirements of this title  
5 for 2014 had been in effect in 2005, sec-  
6 tion 722 would have required emission al-  
7 lowances to be held for other than 75.7  
8 percent of United States greenhouse gas  
9 emissions in 2005; or

10 “(iv) if the requirements of this title  
11 for 2016 had been in effect in 2005, sec-  
12 tion 722 would have required emission al-  
13 lowances to be held for other than 84.5  
14 percent United States greenhouse gas  
15 emissions in 2005.

16 “(B) ADJUSTMENT FORMULA.—

17 “(i) IN GENERAL.—If the Adminis-  
18 trator adjusts under this paragraph the  
19 number of emission allowances established  
20 pursuant to paragraph (1), the number of  
21 emission allowances the Administrator es-  
22 tablishes for any given calendar year shall  
23 equal the product of—

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1                   “(I) United States greenhouse  
2 gas emissions in 2005, expressed in  
3 tons of carbon dioxide equivalent;

4                   “(II) the percent of United  
5 States greenhouse gas emissions in  
6 2005, expressed in tons of carbon di-  
7 oxide equivalent, that would have been  
8 subject to section 722 if the require-  
9 ments of this title for the given cal-  
10 endar year had been in effect in 2005;  
11 and

12                   “(III) the percentage set forth  
13 for that calendar year in section  
14 703(a), or determined under clause  
15 (ii) of this subparagraph.

16                   “(ii) TARGETS.—In applying the por-  
17 tion of the formula in clause (i)(III) of this  
18 subparagraph, for calendar years for which  
19 a percentage is not listed in section 703(a),  
20 the Administrator shall use a uniform an-  
21 nual decline in the amount of emissions be-  
22 tween the years that are specified.

23                   “(iii) CARBON DIOXIDE EQUIVALENT  
24 VALUE.—If the Administrator adjusts  
25 under this paragraph the number of emis-

1                   sion allowances established pursuant to  
2                   paragraph (1), the Administrator shall use  
3                   the carbon dioxide equivalent values estab-  
4                   lished pursuant to section 712.

5                   “(iv) LIMITATION ON ADJUSTMENT  
6                   TIMING.—Once a calendar year has start-  
7                   ed, the Administrator may not adjust the  
8                   number of emission allowances to be estab-  
9                   lished for that calendar year.

10                  “(C) LIMITATION ON ADJUSTMENT AU-  
11                  THORITY.—The Administrator may adjust  
12                  under this paragraph the number of emission  
13                  allowances to be established pursuant to para-  
14                  graph (1) only once.

15                  “(f) COMPENSATORY ALLOWANCE.—

16                  “(1) IN GENERAL.—The regulations promul-  
17                  gated under subsection (h) shall provide for the es-  
18                  tablishment and distribution of compensatory allow-  
19                  ances for—

20                         “(A) the destruction, in 2012 or later, of  
21                         fluorinated gases that are greenhouse gases if—

22                                 “(i) allowances or offset credits were  
23                                 retired for their production or importation;  
24                                 and

1                   “(ii) such gases are not required to be  
2                   destroyed under any other provision of law;

3                   “(B) the nonemissive use, in 2012 or later,  
4                   of petroleum-based or coal-based liquid or gas-  
5                   eous fuel, petroleum coke, natural gas liquid, or  
6                   natural gas as a feedstock, if allowances or off-  
7                   set credits were retired for the greenhouse  
8                   gases that would have been emitted from their  
9                   combustion; and

10                  “(C) the conversionary use, in 2012 or  
11                  later, of fluorinated gases in a manufacturing  
12                  process, including semiconductor research or  
13                  manufacturing, if allowances or offset credits  
14                  were retired for the production or importation  
15                  of such gas.

16                  “(2) ESTABLISHMENT AND DISTRIBUTION.—

17                  “(A) IN GENERAL.—Not later than 90  
18                  days after the end of each calendar year, the  
19                  Administrator shall establish and distribute to  
20                  the entity taking the actions described in sub-  
21                  paragraph (A), (B), or (C) of paragraph (1) a  
22                  quantity of compensatory allowances equivalent  
23                  to the number of tons of carbon dioxide equiva-  
24                  lent of avoided emissions achieved through such  
25                  actions. In establishing the quantity of compen-

1           satory allowances, the Administrator shall take  
2           into account the carbon dioxide equivalent value  
3           of any greenhouse gas resulting from such ac-  
4           tion.

5           “(B) SOURCE OF ALLOWANCES.—Compen-  
6           satory allowances established under this sub-  
7           section shall not be emission allowances estab-  
8           lished under subsection (a).

9           “(C) IDENTIFICATION NUMBERS.—The  
10          Administrator shall assign to each compen-  
11          satory allowance established under subpara-  
12          graph (A) a unique identification number.

13          “(3) DEFINITIONS.—For purposes of this sub-  
14          section—

15               “(A) the term ‘destruction’ means the con-  
16               version of a greenhouse gas by thermal, chem-  
17               ical, or other means to another gas or set of  
18               gases with little or no carbon dioxide equivalent  
19               value;

20               “(B) the term ‘nonemissive use’ means the  
21               use of fossil fuel as a feedstock in an industrial  
22               or manufacturing process to the extent that  
23               greenhouse gases are not emitted from such  
24               process, and to the extent that the products of

1           such process are not intended for use as, or to  
2           be contained in, a fuel; and

3           “(C) the term ‘conversionary use’ means  
4           the conversion during research or manufac-  
5           turing of a fluorinated gas into another green-  
6           house gas or set of gases with a lower carbon  
7           dioxide equivalent value.

8           “(4) FEEDSTOCK EMISSIONS STUDY.—

9           “(A) The Administrator may conduct a  
10          study to determine the extent to which petro-  
11          leum-based or coal-based liquid or gaseous fuel,  
12          petroleum coke, natural gas liquid, or natural  
13          gas are used as feedstocks in manufacturing  
14          processes to produce products and the green-  
15          house gas emissions resulting from such uses.

16          “(B) If as a result of such a study, the Ad-  
17          ministrator determines that the use of such  
18          products by noncovered sources results in sub-  
19          stantial emissions of greenhouse gases or their  
20          precursors and that such emissions have not  
21          been adequately addressed under other require-  
22          ments of this Act, the Administrator may, after  
23          notice and comment rulemaking, promulgate a  
24          regulation reducing compensatory allowances

1           commensurately if doing so will not result in  
2           leakage.

3           “(g) FLUORINATED GASES ASSESSMENT.—

4           “(1) IN GENERAL.—Not later than March 31,  
5           2014, the Administrator shall conduct an assess-  
6           ment of the regulation of non-hydrofluorocarbon  
7           fluorinated gases under this title to determine  
8           whether the most appropriate point of regulation of  
9           those gases is at—

10           “(A) the gas manufacturer or importer  
11           level; or

12           “(B) the downstream source of the emis-  
13           sions.

14           “(2) MODIFICATION OF DEFINITION.—If the  
15           Administrator determines, based on consideration of  
16           environmental effectiveness, cost-effectiveness, ad-  
17           ministrative feasibility, extent of coverage of emis-  
18           sions, and competitiveness considerations, that emis-  
19           sions of non-hydrofluorocarbon fluorinated gases can  
20           best be regulated by designating downstream emis-  
21           sion sources as covered entities with compliance obli-  
22           gations under section 722, the Administrator shall—

23           “(A) after providing notice and an oppor-  
24           tunity for comment, modify the definition of the  
25           term ‘covered entity’ with respect to fluorinated

1           gases (other than hydrofluorocarbons) accord-  
2           ingly; and

3           “(B) establish such requirements as are  
4           necessary to ensure compliance by the covered  
5           entities with the requirements of this title.

6           “(h) REGULATIONS.—Not later than 24 months after  
7           the date of enactment of this title, the Administrator shall  
8           promulgate regulations to carry out the provisions of this  
9           title.

10   **“SEC. 722. PROHIBITION OF EXCESS EMISSIONS.**

11           “(a) PROHIBITION.—Except as provided in sub-  
12           section (c), effective January 1, 2012, each covered entity  
13           is prohibited from emitting greenhouse gases, and having  
14           attributable greenhouse gas emissions, in combination, in  
15           excess of its allowable emissions level. A covered entity’s  
16           allowable emissions level for each calendar year is the  
17           number of emission allowances (or credits or other allow-  
18           ances as provided in subsection (d)) it holds as of 12:01  
19           a.m. on April 1 (or a later date established by the Admin-  
20           istrator under subsection (j)) of the following calendar  
21           year.

22           “(b) METHODS OF DEMONSTRATING COMPLIANCE.—  
23           Except as otherwise provided in this section, the owner  
24           or operator of a covered entity shall not be considered to  
25           be in compliance with the prohibition in subsection (a) un-

1 less, as of 12:01 a.m. on April 1 (or a later date estab-  
2 lished by the Administrator under subsection (j)) of each  
3 calendar year starting in 2013, the owner or operator  
4 holds a quantity of emission allowances (or credits or other  
5 allowances as provided in subsection (d)) at least as great  
6 as the quantity calculated as follows:

7           “(1) ELECTRICITY SOURCES.—For a covered  
8       entity described in section 700(13)(A), 1 emission  
9       allowance for each ton of carbon dioxide equivalent  
10      of greenhouse gas that such covered entity emitted  
11      in the previous calendar year, excluding emissions  
12      resulting from the combustion of—

13           “(A) petroleum-based or coal-based liquid  
14      fuel;

15           “(B) natural gas liquid;

16           “(C) renewable biomass or gas derived  
17      from renewable biomass; or

18           “(D) petroleum coke.

19           “(2) FUEL PRODUCERS AND IMPORTERS.—For  
20      a covered entity described in section 700(13)(B), 1  
21      emission allowance for each ton of carbon dioxide  
22      equivalent of greenhouse gas that would be emitted  
23      from the combustion of any petroleum-based or coal-  
24      based liquid fuel, petroleum coke, or natural gas liq-  
25      uid, produced or imported by such covered entity

1 during the previous calendar year for sale or dis-  
2 tribution in interstate commerce, assuming no cap-  
3 ture and sequestration of any greenhouse gas emis-  
4 sions.

5 “(3) INDUSTRIAL GAS PRODUCERS AND IM-  
6 PORTERS.—For a covered entity described in section  
7 700(13)(C), 1 emission allowance for each ton of  
8 carbon dioxide equivalent of fossil fuel-based carbon  
9 dioxide, nitrous oxide, or any other fluorinated gas  
10 that is a greenhouse gas (except for nitrogen  
11 trifluoride), or any combination thereof, produced or  
12 imported by such covered entity during the previous  
13 calendar year for sale or distribution in interstate  
14 commerce.

15 “(4) NITROGEN TRIFLUORIDE SOURCES.—For  
16 a covered entity described in section 700(13)(D), 1  
17 emission allowance for each ton of carbon dioxide  
18 equivalent of nitrogen trifluoride that such covered  
19 entity emitted in the previous calendar year.

20 “(5) GEOLOGICAL SEQUESTRATION SITES.—For  
21 a covered entity described in section 700(13)(E), 1  
22 emission allowance for each ton of carbon dioxide  
23 equivalent of greenhouse gas that such covered enti-  
24 ty emitted in the previous calendar year.

1           “(6) INDUSTRIAL STATIONARY SOURCES.—For  
2           a covered entity described in section 700(13)(F),  
3           (G), or (H), 1 emission allowance for each ton of  
4           carbon dioxide equivalent of greenhouse gas that  
5           such covered entity emitted in the previous calendar  
6           year, excluding emissions resulting from—

7                   “(A) the combustion of petroleum-based or  
8                   coal-based liquid fuel;

9                   “(B) the combustion of natural gas liquid;

10                  “(C) the combustion of renewable biomass  
11                  or gas derived from renewable biomass;

12                  “(D) the combustion of petroleum coke; or

13                  “(E) the use of any fluorinated gas that is  
14                  a greenhouse gas purchased for use at that cov-  
15                  ered entity, except for nitrogen trifluoride.

16           “(7) INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-  
17           TION DEVICES.—For a covered entity described in  
18           section 700(13)(I), 1 emission allowance for each  
19           ton of carbon dioxide equivalent of greenhouse gas  
20           that the devices emitted in the previous calendar  
21           year, excluding emissions resulting from the combus-  
22           tion of—

23                   “(A) petroleum-based or coal-based liquid  
24                   fuel;

25                   “(B) natural gas liquid;

1                   “(C) renewable biomass or gas derived  
2                   from renewable biomass; or

3                   “(D) petroleum coke.

4                   “(8) NATURAL GAS LOCAL DISTRIBUTION COM-  
5                   PANIES.—For a covered entity described in section  
6                   700(13)(J), 1 emission allowance for each ton of  
7                   carbon dioxide equivalent of greenhouse gas that  
8                   would be emitted from the combustion of the natural  
9                   gas, and any other gas meeting the specifications for  
10                  commingling with natural gas for purposes of deliv-  
11                  ery, that such entity delivered during the previous  
12                  calendar year to customers that are not covered enti-  
13                  ties, assuming no capture and sequestration of that  
14                  greenhouse gas.

15                  “(9) R&D FACILITIES.—

16                  “(A) IN GENERAL.—For a qualified R&D  
17                  facility that emitted 25,000 tons per year or  
18                  more carbon dioxide equivalent in the previous  
19                  calendar year, 1 emission allowance for each  
20                  ton of carbon dioxide equivalent of greenhouse  
21                  gas that such facility emitted in the previous  
22                  calendar year.

23                  “(B) TREATMENT.—A qualified R&D facil-  
24                  ity shall be treated as a separate covered entity

1           solely for purposes of applying the requirements  
2           of this subsection.

3           “(10) ALGAE-BASED FUELS.—Where carbon di-  
4           oxide (or another greenhouse gas) generated by a  
5           covered entity is used as an input in the production  
6           of algae-based fuels, the Administrator shall ensure  
7           that emission allowances are required to be held ei-  
8           ther for the carbon dioxide generated by a covered  
9           entity used to grow the algae or for the portion of  
10          the carbon dioxide emitted from combustion of the  
11          fuel produced from such algae that is attributable to  
12          carbon dioxide generated by a covered entity, but  
13          not for both.

14          “(11) FUGITIVE EMISSIONS.—The greenhouse  
15          gas emissions to which paragraphs (1), (4), (6), and  
16          (7) apply shall not include fugitive emissions of  
17          greenhouse gas, except to the extent the Adminis-  
18          trator determines that data on the carbon dioxide  
19          equivalent value of greenhouse gas in the fugitive  
20          emissions can be provided with sufficient precision,  
21          reliability, accessibility, and timeliness to ensure the  
22          integrity of emission allowances, the allowance track-  
23          ing system, and the limits on emissions.

24          “(12) EXPORT EXEMPTION.—This section shall  
25          not apply to any petroleum-based or coal-based liq-

1 uid fuel, petroleum coke, natural gas liquid, fossil  
2 fuel-based carbon dioxide, nitrous oxide, or  
3 fluorinated gas that is exported for sale or use.

4 “(13) NATURAL GAS LIQUIDS.—Notwith-  
5 standing subsection (a), if the owner or operator of  
6 a covered entity described in section 700(13)(B)  
7 that produces natural gas liquids does not take own-  
8 ership of the liquids, and is not responsible for the  
9 distribution or use of the liquids in commerce, the  
10 owner of the liquids shall be responsible for compli-  
11 ance with this section, section 723, and other rel-  
12 evant sections of this title with respect to such liq-  
13 uids. In the regulations promulgated under section  
14 721, the Administrator shall include such provisions  
15 with respect to such liquids as the Administrator de-  
16 termines are appropriate to determine and ensure  
17 compliance, and to penalize noncompliance. In such  
18 a case, the owner of the covered entity shall provide  
19 to the Administrator, in a manner to be determined  
20 by the Administrator, information regarding the  
21 quantity and ownership of liquids produced at the  
22 covered entity.

23 “(14) APPLICATION OF MULTIPLE PARA-  
24 GRAPHS.—For a covered entity to which more than  
25 1 of paragraphs (1) through (8) apply, all applicable

1 paragraphs shall apply, except that not more than 1  
2 emission allowance shall be required for the same  
3 emission.

4 “(c) PHASE-IN OF PROHIBITION.—

5 “(1) INDUSTRIAL STATIONARY SOURCES.—The  
6 prohibition under subsection (a) shall first apply to  
7 a covered entity described in section 700(13)(D),  
8 (F), (G), (H), or (I), with respect to emissions oc-  
9 ccurring during calendar year 2014.

10 “(2) SMALL BUSINESS REFINERS.—The prohi-  
11 bition under subsection (a) shall first apply to a cov-  
12 ered entity described in section 700(13)(F)(viii) that  
13 is a small business refiner with respect to emissions  
14 during calendar year 2015.

15 “(3) NATURAL GAS LOCAL DISTRIBUTION COM-  
16 PANIES.—The prohibition under subsection (a) shall  
17 first apply to a covered entity described in section  
18 700(13)(J) with respect to deliveries occurring dur-  
19 ing calendar year 2016.

20 “(d) ADDITIONAL METHODS.—In addition to using  
21 the method of compliance described in subsection (b), a  
22 covered entity may do the following:

23 “(1) OFFSET CREDITS.—

24 “(A) CREDITS.—

1           “(i) IN GENERAL.—Covered entities  
2 collectively may, in accordance with this  
3 paragraph, use offset credits to dem-  
4 onstrate compliance for up to a maximum  
5 of 2,000,000,000 tons of greenhouse gas  
6 emissions annually.

7           “(ii) DEMONSTRATION OF COMPLI-  
8 ANCE.—In any calendar year, a covered  
9 entity may demonstrate compliance by  
10 holding 1 domestic offset credit or 1.25  
11 international offset credits in lieu of an  
12 emission allowance, except as provided in  
13 subparagraph (D), up to a total number of  
14 offset credits described in subparagraph  
15 (B).

16       “(B) APPLICABLE PERCENTAGE.—

17           “(i) IN GENERAL.—The total number  
18 of offset credits referred to in subpara-  
19 graph (A)(ii) for a covered entity for a  
20 given calendar year shall be determined  
21 by—

22           “(I) dividing—

23           “(aa) the tons of carbon di-  
24 oxide equivalent of greenhouse  
25 gas emissions of the covered enti-

1           ty (except for the types of emis-  
2           sions excluded under subpara-  
3           graphs (A) through (D) of sub-  
4           section (b)(1), subparagraphs (A)  
5           through (E) of subsection (b)(6),  
6           and subparagraphs (A) through  
7           (D) of subsection (b)(7)) and at-  
8           tributable greenhouse gas emis-  
9           sions for the year before the pre-  
10          ceding calendar year; by

11               “(bb) the sum of the tons of  
12           carbon dioxide equivalent of  
13           greenhouse gas emissions of all  
14           covered entities (except for the  
15           types of emissions excluded under  
16           subparagraphs (A) through (D)  
17           of subsection (b)(1), subpara-  
18           graphs (A) through (E) of sub-  
19           section (b)(6), and subpara-  
20           graphs (A) through (D) of sub-  
21           section (b)(7)) and attributable  
22           greenhouse gas emissions for the  
23           year before the preceding cal-  
24           endar year; and

1 “(II) multiplying the quotient ob-  
2 tained under subclause (I) by  
3 2,000,000,000.

4 “(ii) APPLICABILITY.—Clause (i) shall  
5 apply to a covered entity (including a cov-  
6 ered entity that commenced operation dur-  
7 ing the preceding calendar year) even if  
8 the covered entity had no greenhouse gas  
9 emissions or attributable greenhouse gas  
10 emissions described in that clause.

11 “(iii) OFFSET CREDITS.—Not more  
12 than  $\frac{3}{4}$  of the applicable percentage under  
13 this paragraph may be used by holding do-  
14 mestic offset credits, and not more than  $\frac{1}{4}$   
15 of the applicable percentage under this  
16 paragraph may be used by holding inter-  
17 national offset credits, except as provided  
18 in subparagraph (C).

19 “(C) MODIFIED PERCENTAGES.—If the  
20 Administrator determines that domestic offset  
21 credits available for use in demonstrating com-  
22 pliance in any calendar year at domestic offset  
23 prices generally equal to or less than allowance  
24 prices, are likely to offset less than 900,000,000  
25 tons of greenhouse gas emissions (measured in

1           tons of carbon dioxide equivalents), the Admin-  
2           istrator shall increase the percent of emissions  
3           that can be offset through the use of inter-  
4           national offset credits (and decrease the percent  
5           of emissions that can be allowed through the  
6           use of domestic offset credits by the same  
7           amount) to reflect the amount that  
8           1,500,000,000 exceeds the number of domestic  
9           offset credits the Administrator determines is  
10          available for that year, up to a maximum of  
11          750,000,000 tons of greenhouse gas emissions.

12           “(D) INTERNATIONAL OFFSET CREDITS.—  
13          Notwithstanding subparagraph (A), to dem-  
14          onstrate compliance prior to calendar year  
15          2018, a covered entity may use 1 international  
16          offset credit in lieu of an emission allowance up  
17          to the amount permitted under this paragraph.

18           “(E) PRESIDENT’S RECOMMENDATION.—  
19          The President may make a recommendation to  
20          Congress as to whether the number  
21          2,000,000,000 specified in subparagraphs (A)  
22          and (B) should be increased or decreased.

23           “(2) TERM OFFSET CREDITS.—

24           “(A) IN GENERAL.—Covered entities may,  
25          in accordance with this paragraph, use non-ex-

1           pired term offset credits instead of domestic  
2           offset credits for purposes of temporarily dem-  
3           onstrating compliance with this section.

4           “(B) AMOUNT.—The combined quantity of  
5           term offset credits and domestic offset credits  
6           used by a covered entity to demonstrate compli-  
7           ance for its emissions or attributable green-  
8           house gas emissions in any given year shall not  
9           exceed the quantity of domestic offset credits  
10          that a covered entity is entitled to use for that  
11          year to demonstrate compliance in accordance  
12          with paragraph (1).

13          “(C) EXPIRATION.—A term offset credit  
14          shall expire in the year after its term ends. The  
15          term of a term offset credit shall be calculated  
16          by adding to the year of issuance the number  
17          of years equal to the length of the crediting pe-  
18          riod for the practice or project for which the  
19          term offset credit was issued, but in no case  
20          shall be later than the date 5 years from the  
21          date of issuance.

22          “(D) DEMONSTRATING COMPLIANCE UPON  
23          EXPIRATION OF TERM OFFSET CREDIT.—With  
24          respect to the emissions for which a covered en-  
25          tity is using term offset credits to demonstrate

1 compliance temporarily with this section, the  
2 owner or operator of a covered entity shall not  
3 be considered to be in compliance with the pro-  
4 hibition in subsection (a) unless, as of 12:01  
5 a.m. on April 1 (or a later date established by  
6 the Administrator under subsection (j)) of the  
7 calendar year in which a term offset credit ex-  
8 pires, the owner or operator holds—

9 “(i) for purposes of finally dem-  
10 onstrating compliance, an allowance or a  
11 domestic offset credit; or

12 “(ii) for purposes of temporarily dem-  
13 onstrating compliance, a non-expired term  
14 offset credit.

15 “(E) INAPPLICABILITY OF PERCENTAGE  
16 LIMITATIONS.—Domestic offset credits used for  
17 purposes of finally demonstrating compliance  
18 under this subparagraph shall not be subject to  
19 the percentage limitations in subparagraph (B).

20 “(F) FINANCIAL ASSURANCE.—A covered  
21 entity may not use a term offset credit to dem-  
22 onstrate compliance temporarily unless it simul-  
23 taneously provides to the Administrator finan-  
24 cial assurance that, at the end of the term off-  
25 set credit’s crediting term, the covered entity

1           will have sufficient resources to obtain the  
2           quantity of allowances or credits necessary to  
3           demonstrate final compliance. The Adminis-  
4           trator shall issue regulations establishing re-  
5           quirements for such financial assurance, which  
6           shall take into account the increased risk asso-  
7           ciated with longer crediting terms. These regu-  
8           lations shall take into account the total number  
9           of tons of carbon dioxide equivalent of green-  
10          house gas emissions for which a covered entity  
11          is demonstrating compliance temporarily, and  
12          may set a limit on this amount. In the event  
13          that a covered entity that used term offset cred-  
14          its to demonstrate compliance temporarily fails  
15          to meet the requirements of subparagraph (D)  
16          at the end of the term offset credits' crediting  
17          term, if the financial assurance mechanism fails  
18          to provide to the Administrator the number of  
19          allowances or offset credits for which the cred-  
20          iting term has expired, then the Administrator  
21          shall retire that number of allowances with the  
22          vintage year 2 years after the year in which the  
23          term offset credit expires in the same amount.  
24          Allowances so retired shall not be counted as

1           emission allowances established for that cal-  
2           endar year under section 721(a).

3           “(3) INTERNATIONAL EMISSION ALLOW-  
4           ANCES.—To demonstrate compliance, a covered enti-  
5           ty may hold an international emission allowance in  
6           lieu of an emission allowance, except as modified  
7           under section 728(d).

8           “(4) COMPENSATORY ALLOWANCES.—To dem-  
9           onstrate compliance, a covered entity may hold a  
10          compensatory allowance obtained under section  
11          721(f) in lieu of an emission allowance.

12          “(e) RETIREMENT OF ALLOWANCES AND CREDITS.—  
13          As soon as practicable after a deadline established for cov-  
14          ered entities to demonstrate compliance with this title, the  
15          Administrator shall retire the quantity of allowances or  
16          credits required to be held under this title.

17          “(f) ALTERNATIVE METRICS.—For categories of cov-  
18          ered entities described in subparagraph (B), (C), (D), (G),  
19          (H), or (I) of section 700(13), the Administrator may, by  
20          rule, establish an applicability threshold for inclusion  
21          under those subparagraphs using an alternative metric  
22          and level, provided that such metric and level are easier  
23          to administer and cover the same size and type of sources  
24          as the threshold defined in such subparagraphs.

1       “(g) THRESHOLD REVIEW.—For each category of  
2 covered entities described in subparagraph (B), (C), (D),  
3 (G), (H), or (I) of section 700(13), the Administrator  
4 shall, in 2020 and once every 8 years thereafter, review  
5 the carbon dioxide equivalent emission thresholds that are  
6 used to define covered entities. After consideration of—

7           “(1) emissions from covered entities in each  
8 such category, and from other entities of the same  
9 type that emit less than the threshold amount for  
10 the category (including emission sources that com-  
11 mence operation after the date of enactment of this  
12 title that are not covered entities); and

13           “(2) whether greater greenhouse gas emission  
14 reductions can be cost-effectively achieved by low-  
15 ering the applicable threshold,

16 the Administrator may by rule lower such threshold to not  
17 less than 10,000 tons of carbon dioxide equivalent emis-  
18 sions. In determining the cost effectiveness of potential re-  
19 ductions from lowering the threshold for covered entities,  
20 the Administrator shall consider alternative regulatory  
21 greenhouse gas programs, including setting standards  
22 under other titles of this Act.

23       “(h) DESIGNATED REPRESENTATIVES.—The regula-  
24 tions promulgated under section 721(h) shall require that  
25 each covered entity, and each entity holding allowances or

1 credits or receiving allowances or credits from the Admin-  
2 istrator under this title, select a designated representative.

3 “(i) EDUCATION AND OUTREACH.—

4 “(1) IN GENERAL.—The Administrator shall es-  
5 tablish and carry out a program of education and  
6 outreach to assist covered entities, especially entities  
7 having little experience with environmental regu-  
8 latory requirements similar or comparable to those  
9 under this title, in preparing to meet the compliance  
10 obligations of this title. Such program shall include  
11 education with respect to using markets to effec-  
12 tively achieve such compliance.

13 “(2) FAILURE TO RECEIVE INFORMATION.—A  
14 failure to receive information or assistance under  
15 this subsection may not be used as a defense against  
16 an allegation of any violation of this title.

17 “(j) ADJUSTMENT OF DEADLINE.—The Adminis-  
18 trator may, by rule, establish a deadline for demonstrating  
19 compliance, for a calendar year, later than the date pro-  
20 vided in subsection (a), as necessary to ensure the avail-  
21 ability of emissions data, but in no event shall the deadline  
22 be later than June 1.

23 “(k) NOTICE REQUIREMENT FOR COVERED ENTI-  
24 TIES RECEIVING NATURAL GAS FROM NATURAL GAS  
25 LOCAL DISTRIBUTION COMPANIES.—The owner or oper-

1 ator of a covered entity that takes delivery of natural gas  
2 from a natural gas local distribution company shall, not  
3 later than September 1 of each calendar year, notify such  
4 natural gas local distribution company in writing that  
5 such entity will qualify as a covered entity under this title  
6 for that calendar year.

7 “(l) COMPLIANCE OBLIGATION.—For purposes of  
8 this title, the year of a compliance obligation is the year  
9 in which compliance is determined, not the year in which  
10 the greenhouse gas emissions occur or the covered entity  
11 has attributable greenhouse gas emissions.

12 **“SEC. 723. PENALTY FOR NONCOMPLIANCE.**

13 “(a) ENFORCEMENT.—A violation of any prohibition  
14 of, requirement of, or regulation promulgated pursuant to  
15 this title shall be a violation of this Act. It shall be a viola-  
16 tion of this Act for a covered entity to emit greenhouse  
17 gases, and have attributable greenhouse gas emissions, in  
18 combination, in excess of its allowable emissions level as  
19 provided in section 722(a). Each ton of carbon dioxide  
20 equivalent for which a covered entity fails to demonstrate  
21 compliance under section 722(b) shall be a separate viola-  
22 tion. In the event that a covered entity fails to dem-  
23 onstrate compliance at the expiration of a term of offset  
24 credits crediting term as required by section 722(d)(2)(D),

1 the year of the violation shall be the year in which the  
2 term offset credit expires.

3 “(b) EXCESS EMISSIONS PENALTY.—

4 “(1) IN GENERAL.—The owner or operator of  
5 any covered entity that fails for any year to comply,  
6 on the deadline described in section 722(a) or (j),  
7 shall be liable for payment to the Administrator of  
8 an excess emissions penalty in the amount described  
9 in paragraph (2).

10 “(2) AMOUNT.—The amount of an excess emis-  
11 sions penalty required to be paid under paragraph  
12 (1) shall be equal to the product obtained by multi-  
13 plying—

14 “(A) the tons of carbon dioxide equivalent  
15 of greenhouse gas emissions or attributable  
16 greenhouse gas emissions for which the owner  
17 or operator of a covered entity failed to comply  
18 under section 722(b) on the deadline; by

19 “(B) twice the fair market value of emis-  
20 sion allowances established for emissions occur-  
21 ring in the calendar year for which the emission  
22 allowances were due.

23 “(3) TIMING.—An excess emissions penalty re-  
24 quired under this subsection shall be immediately  
25 due and payable to the Administrator, without de-

1       mand, in accordance with regulations promulgated  
2       by the Administrator, which shall be issued not later  
3       than 2 years after the date of enactment of this  
4       title.

5           “(4) NO EFFECT ON LIABILITY.—An excess  
6       emissions penalty due and payable by the owners or  
7       operators of a covered entity under this subsection  
8       shall not diminish the liability of the owners or oper-  
9       ators for any fine, penalty, or assessment against  
10      the owners or operators for the same violation under  
11      any other provision of this Act or any other law.

12       “(c) EXCESS EMISSIONS ALLOWANCES.—The owner  
13      or operator of a covered entity that fails for any year to  
14      comply on the deadline described in section 722(a) or (j)  
15      shall be liable to offset the covered entity’s excess com-  
16      bination of greenhouse gases emitted and attributable  
17      greenhouse gas emissions by an equal quantity of emission  
18      allowances during the following calendar year, or such  
19      longer period as the Administrator may prescribe. During  
20      the year in which the covered entity failed to comply, or  
21      any year thereafter, the Administrator may deduct the  
22      emission allowances required under this subsection to off-  
23      set the covered entity’s excess actual or attributable emis-  
24      sions.

1   **“SEC. 724. TRADING.**

2           “(a) PERMITTED TRANSACTIONS.—Except as other-  
3 wise provided in this title, the lawful holder of an emission  
4 allowance, compensatory allowance, or offset credit may,  
5 without restriction, sell, exchange, transfer, hold for com-  
6 pliance in accordance with section 722, or request that the  
7 Administrator retire the emission allowance, compensatory  
8 allowance, or offset credit.

9           “(b) NO RESTRICTION ON TRANSACTIONS.—The  
10 privilege of purchasing, holding, selling, exchanging,  
11 transferring, and requesting retirement of emission allow-  
12 ances, compensatory allowances, or offset credits shall not  
13 be restricted to the owners and operators of covered enti-  
14 ties, except as otherwise provided in this title.

15           “(c) EFFECTIVENESS OF ALLOWANCE TRANS-  
16 FERS.—No transfer of an allowance or offset credit shall  
17 be effective for purposes of this title until a certification  
18 of the transfer, signed by the designated representative of  
19 the transferor, is received and recorded by the Adminis-  
20 trator in accordance with regulations promulgated under  
21 section 721(h).

22           “(d) ALLOWANCE TRACKING SYSTEM.—The regula-  
23 tions promulgated under section 721(h) shall include a  
24 system for issuing, recording, holding, and tracking allow-  
25 ances, offset credits, and term offset credits that shall  
26 specify all necessary procedures and requirements for an

1 orderly and competitive functioning of the allowance and  
2 offset credit markets. Such regulations shall provide for  
3 appropriate publication of the information in the system  
4 on the Internet.

5 **“SEC. 725. BANKING AND BORROWING.**

6 “(a) BANKING.—An emission allowance may be used  
7 to comply with section 722 or 723 for emissions in—

8 “(1) the vintage year for the allowance; or

9 “(2) any calendar year subsequent to the vin-  
10 tage year for the allowance.

11 “(b) EXPIRATION.—

12 “(1) REGULATIONS.—The Administrator may  
13 establish by regulation criteria and procedures for  
14 determining whether, and for implementing a deter-  
15 mination that, the expiration of an allowance, credit,  
16 or term offset credit established or issued by the Ad-  
17 ministrator under this title, or expiration of the abil-  
18 ity to use an international emission allowance to  
19 comply with section 722, is necessary to ensure the  
20 authenticity and integrity of allowances, credits, or  
21 term offset credits or the allowance tracking system.

22 “(2) GENERAL RULE.—An allowance, credit, or  
23 term offset credit established or issued by the Ad-  
24 ministrator under this title shall not expire unless—

1           “(A) it is retired by the Administrator as  
2           required under this title; or

3           “(B) it is determined to expire or to have  
4           expired by a specific date by the Administrator  
5           in accordance with regulations promulgated  
6           under paragraph (1).

7           “(3)    INTERNATIONAL    EMISSION    ALLOW-  
8           ANCES.—The ability to use an international emission  
9           allowance to comply with section 722 shall not ex-  
10          pire unless—

11           “(A) the allowance is retired by the Ad-  
12          ministrator as required by this title; or

13           “(B) the ability to use such allowance to  
14          meet such compliance obligation requirements is  
15          determined to expire or to have expired by a  
16          specific date by the Administrator in accord-  
17          ance with regulations promulgated under para-  
18          graph (1).

19          “(c) BORROWING FUTURE VINTAGE YEAR ALLOW-  
20          ANCES.—

21           “(1) BORROWING WITHOUT INTEREST.—In ad-  
22          dition to the uses described in subsection (a), an  
23          emission allowance may be used to comply with sec-  
24          tion 722(a) or 723 for emissions, production, impor-  
25          tation, manufacture, or deliveries in the calendar

1       year immediately preceding the vintage year for the  
2       allowance.

3               “(2) BORROWING WITH INTEREST.—

4                       “(A) IN GENERAL.—A covered entity may  
5       demonstrate compliance under subsection (b) in  
6       a specific calendar year for up to 15 percent of  
7       its emissions by holding emission allowances  
8       with a vintage year 1 to 5 years later than that  
9       calendar year.

10                      “(B) LIMITATIONS.—An emission allow-  
11       ance borrowed pursuant to this paragraph shall  
12       be an emission allowance that is established by  
13       the Administrator for a specific future calendar  
14       year under section 721(a) and that is held by  
15       the borrower.

16                      “(C) PREPAYMENT OF INTEREST.—For  
17       each emission allowance that an owner or oper-  
18       ator of a covered entity borrows pursuant to  
19       this paragraph, such owner or operator shall, at  
20       the time it borrows the allowance, hold for re-  
21       tirement by the Administrator a quantity of  
22       emission allowances that is equal to the product  
23       obtained by multiplying—

24                               “(i) 0.08; by

1                   “(ii) the number of years between the  
2                   calendar year in which the allowance is  
3                   being used to satisfy a compliance obliga-  
4                   tion and the vintage year of the allowance.

5   **“SEC. 726. MARKET STABILITY RESERVE.**

6       “(a) MARKET STABILITY RESERVE AUCTIONS.—

7           “(1) IN GENERAL.—Once each quarter of each  
8           calendar year for which allowances are established  
9           under section 721(a), the Administrator shall auc-  
10          tion market stability reserve allowances.

11          “(2) RESTRICTION TO COVERED ENTITIES.—In  
12          each auction conducted under paragraph (1), only  
13          covered entities that the Administrator expects will  
14          be required to comply with section 722 in the fol-  
15          lowing calendar year shall be eligible to make pur-  
16          chases.

17       “(b) POOL OF EMISSION ALLOWANCES FOR MARKET  
18   STABILITY RESERVE AUCTIONS.—

19           “(1) FILLING THE MARKET STABILITY RE-  
20          SERVE INITIALLY.—

21           “(A) IN GENERAL.—The Administrator  
22           shall, not later than 2 years after the date of  
23           enactment of this title, establish a market sta-  
24           bility reserve account, and shall place in that

1 account an amount of emission allowances es-  
2 tablished under section 721(a).

3 “(B) EFFECT ON OTHER PROVISIONS.—  
4 Any provision in this title (except for subpara-  
5 graph (B) of this paragraph) that refers to a  
6 quantity or percentage of the emission allow-  
7 ances established for a calendar year under sec-  
8 tion 721(a) shall be considered to refer to the  
9 amount of emission allowances as determined  
10 pursuant to section 721(e), less any emission  
11 allowances established for that year that are  
12 placed in the market stability reserve account  
13 under this paragraph.

14 “(2) SUPPLEMENTING THE MARKET STABILITY  
15 RESERVE.—The Administrator shall also—

16 “(A) at the end of each calendar year,  
17 transfer to the market stability reserve account  
18 each emission allowance that was offered for  
19 sale but not sold at any auction conducted  
20 under section 778; and

21 “(B) transfer emission allowances estab-  
22 lished under subsection (g) from auction pro-  
23 ceeds, and deposit them into the market sta-  
24 bility reserve, to the extent necessary to main-  
25 tain the reserve at its original size.

1       “(c) MINIMUM MARKET STABILITY RESERVE AUC-  
2 TION PRICE.—

3               “(1) IN GENERAL.—At each market stability re-  
4 serve auction, the Administrator shall offer emission  
5 allowances for sale beginning at a minimum price  
6 per emission allowance, which shall be known as the  
7 ‘minimum market stability reserve auction price’.

8               “(2) INITIAL MINIMUM MARKET STABILITY RE-  
9 SERVE AUCTION PRICES.—The minimum market  
10 stability reserve auction price shall be \$28 (in con-  
11 stant 2005 dollars) for the market stability reserve  
12 auctions held in 2012. For the market stability re-  
13 serve auctions held in 2013 through 2017, the min-  
14 imum market stability reserve auction price shall be  
15 the market stability reserve auction price for the  
16 previous year increased by 5 percent plus the rate of  
17 inflation (as measured by the Consumer Price Index  
18 for All Urban Consumers).

19               “(3) MINIMUM MARKET STABILITY RESERVE  
20 AUCTION PRICE IN SUBSEQUENT YEARS.—For each  
21 market stability reserve auction held in 2018 and  
22 each year thereafter, the minimum market stability  
23 reserve auction price shall be the market stability re-  
24 serve auction price for the previous year increased  
25 by 7 percent, plus the rate of inflation (as measured

1 by the Consumer Price Index for All Urban Con-  
2 sumers).

3 “(d) QUANTITY OF EMISSION ALLOWANCES RE-  
4 LEASED FROM THE MARKET STABILITY RESERVE.—

5 “(1) INITIAL LIMITS.—Subject to paragraph  
6 (4), for each of calendar years 2012 through 2016,  
7 the annual limit on the number of emission allow-  
8 ances from the market stability reserve account that  
9 may be auctioned is an amount equal to 15 percent  
10 of the emission allowances established for that cal-  
11 endar year under section 721(a). This limit does not  
12 apply to offset credits sold on consignment pursuant  
13 to subsection (h).

14 “(2) LIMITS IN SUBSEQUENT YEARS.—Subject  
15 to paragraph (4), for calendar year 2017 and each  
16 year thereafter, the annual limit on the number of  
17 emission allowances from the market stability re-  
18 serve account that may be auctioned is an amount  
19 equal to 25 percent of the emission allowances estab-  
20 lished for that calendar year under section 721(a).  
21 This limit does not apply to offset credits sold on  
22 consignment pursuant to subsection (h).

23 “(3) ALLOCATION OF LIMITATION.—One-fourth  
24 of each year’s annual market stability reserve auc-  
25 tion limit under this subsection shall be made avail-

1       able for auction in each quarter. Any allowances  
2       from the market stability reserve account that are  
3       made available for sale in a quarterly auction and  
4       not sold shall be rolled over and added to the quan-  
5       tity available for sale in the following quarter, except  
6       that allowances not sold at auction in the fourth  
7       quarter of a year shall not be rolled over to the fol-  
8       lowing calendar year's auctions, but shall be re-  
9       turned to the market stability reserve account.

10       “(4) AUTHORITY TO ADJUST LIMITATION.—The  
11       Administrator may adjust the limits in paragraphs  
12       (1) or (2) if the Administrator determines an adjust-  
13       ment is required to prevent disruptively high prices  
14       or to preserve the integrity of the market stability  
15       reserve.

16       “(e) PURCHASE LIMIT.—

17       “(1) IN GENERAL.—Except as provided in para-  
18       graph (2) or (3), the annual number of emission al-  
19       lowances that a covered entity may purchase at the  
20       market stability reserve auctions in each calendar  
21       year shall not exceed 20 percent of the covered enti-  
22       ty's emissions during the most recent year for which  
23       allowances or credits were retired under section 722.

24       “(2) 2012 LIMIT.—For calendar year 2012, the  
25       maximum aggregate number of emission allowances

1       that a covered entity may purchase from that year’s  
2       market stability reserve auctions shall be 20 percent  
3       of the covered entity’s greenhouse gas emissions that  
4       the covered entity reported to the registry estab-  
5       lished under section 713 for 2011 and that would be  
6       subject to section 722(a) if occurring in later cal-  
7       endar years.

8           “(3) NEW ENTRANTS.—The Administrator  
9       shall, by regulation, establish a separate purchase  
10      limit applicable to entities that expect to become a  
11      covered entity in the year of the auction, permitting  
12      them to purchase emission allowances at the market  
13      stability reserve auctions in their first calendar year  
14      of operation in an amount of at least 20 percent of  
15      their expected combined emissions and attributable  
16      greenhouse gas emissions for that year.

17      “(f) DELEGATION OR CONTRACT.—Pursuant to regu-  
18      lations under this section, the Administrator may, by dele-  
19      gation or contract, provide for the conduct of market sta-  
20      bility reserve auctions under the Administrator’s super-  
21      vision by other departments or agencies of the Federal  
22      Government or by nongovernmental agencies, groups, or  
23      organizations.

24      “(g) USE OF AUCTION PROCEEDS.—

1           “(1) DEPOSIT IN MARKET STABILITY RESERVE  
2       FUND.—The proceeds from market stability reserve  
3       auctions shall be placed in the Market Stability Re-  
4       serve Fund established by subsection (j), and shall  
5       be available without further appropriation or fiscal  
6       year limitation for the purposes described in this  
7       subsection.

8           “(2) OFFSET CREDITS.—The Administrator  
9       shall use the proceeds from each market stability re-  
10      serve auction to purchase offset credits, including  
11      domestic offset credits and international offset cred-  
12      its issued pursuant to section 744. The Adminis-  
13      trator shall retire those offset credits and establish  
14      a number of emission allowances equal to the num-  
15      ber of international offset credits so retired. Emis-  
16      sion allowances established under this paragraph  
17      shall be in addition to those established under sec-  
18      tion 721(a).

19          “(3) EMISSION ALLOWANCES.—The Adminis-  
20      trator shall deposit emission allowances established  
21      under paragraph (2) in the market stability reserve,  
22      except that, with respect to any such emission allow-  
23      ances in excess of the amount necessary to fill the  
24      market stability reserve to its original size, the Ad-  
25      ministrator shall—

1           “(A) except as provided in subparagraph  
2           (B), assign a vintage year to the emission al-  
3           lowance, which shall be no earlier than the year  
4           in which the allowance is established under  
5           paragraph (2) and shall treat such allowances  
6           as ones that are not designated for distribution  
7           or auction; and

8           “(B) to the extent any such allowances  
9           cannot be assigned a vintage year because of  
10          the limitation in paragraph (4), retire the allow-  
11          ances.

12          “(4) LIMITATION.—In no case may the Admin-  
13          istrator assign under paragraph (3)(A) more emis-  
14          sion allowances to a vintage year than the number  
15          of emission allowances from that vintage year that  
16          were placed in the market stability reserve account  
17          under subsection (b)(1).

18          “(h) AVAILABILITY OF OFFSET CREDITS FOR AUC-  
19          TION.—

20          “(1) IN GENERAL.—The regulations promul-  
21          gated under section 721(h) shall allow any entity  
22          holding offset credits to request that the Adminis-  
23          trator include such offset credits in an upcoming  
24          market stability reserve auction. The regulations  
25          shall provide that—

1           “(A) upon sale of such offset credits, the  
2           Administrator shall retire those offset credits,  
3           and establish and provide to the purchasers a  
4           number of emission allowances equal to the  
5           number of offset credits so retired, which allow-  
6           ances shall be in addition to those established  
7           under section 721(a); and

8           “(B) for offset credits sold pursuant to  
9           this subsection, the proceeds for the entity that  
10          offered the offset credits for sale shall be the  
11          lesser of—

12                 “(i) the average daily closing price for  
13                 offset credits sold on registered exchanges  
14                 (or if such price is unavailable, the average  
15                 price as determined by the Administrator)  
16                 during the six months prior to the market  
17                 stability reserve auction at which they were  
18                 auctioned, with the remaining funds col-  
19                 lected upon the sale of the offset credits  
20                 deposited in the Treasury; and

21                 “(ii) the amount received for the off-  
22                 set credits at the auction.

23          “(2) PROCEEDS.—For offset credits sold pursu-  
24          ant to this subsection, notwithstanding section 3302  
25          of title 31, United States Code, or any other provi-

1       sion of law, within 90 days of receipt, the United  
2       States shall transfer the proceeds from the auction,  
3       as defined in paragraph (1)(D), to the entity that  
4       offered the offset credits for sale. No funds trans-  
5       ferred from a purchaser to a seller of offset credits  
6       under this paragraph shall be held by any officer or  
7       employee of the United States or treated for any  
8       purpose as public monies.

9           “(3) PRICING.—When the Administrator acts  
10       under this subsection as the agent of an entity in  
11       possession of offset credits, the Administrator is not  
12       obligated to obtain the highest price possible for the  
13       offset credits, and instead shall auction such offset  
14       credits in the same manner and pursuant to the  
15       same rules (except as modified in paragraph (1)) as  
16       set forth for auctioning market stability reserve al-  
17       lowances. Entities requesting that such offset credits  
18       be offered for sale at a market stability reserve auc-  
19       tion may not set a minimum reserve price for their  
20       offset credits that is different than the minimum  
21       market stability reserve auction price set pursuant  
22       to subsection (c).

23           “(i) INITIAL REGULATIONS.—Not later than 24  
24       months after the date of enactment of this title, the Ad-  
25       ministrator shall promulgate regulations, in consultation

1 with other appropriate agencies, governing the auction of  
2 allowances under this section. Such regulations shall in-  
3 clude the following requirements:

4 “(1) FREQUENCY; FIRST AUCTION.—Auctions  
5 shall be held four times per year at regular intervals,  
6 with the first auction to be held no later than March  
7 31, 2012.

8 “(2) AUCTION FORMAT.—Auctions shall follow  
9 a single-round, sealed-bid, uniform price format.

10 “(3) PARTICIPATION; FINANCIAL ASSURANCE.—  
11 Auctions shall be open to any covered entity eligible  
12 to purchase emission allowances at the auction  
13 under subsection (a)(2), except that the Adminis-  
14 trator may establish financial assurance require-  
15 ments to ensure that auction participants can and  
16 will perform on their bids.

17 “(4) DISCLOSURE OF BENEFICIAL OWNER-  
18 SHIP.—Each bidder in an auction shall be required  
19 to disclose the person or entity sponsoring or bene-  
20 fitting from the bidder’s participation in the auction  
21 if such person or entity is, in whole or in part, other  
22 than the bidder.

23 “(5) PURCHASE LIMITS.—No person may, di-  
24 rectly or in concert with another participant, pur-

1 chase more than 20 percent of the allowances of-  
2 fered for sale at any quarterly auction.

3 “(6) PUBLICATION OF INFORMATION.—After  
4 the auction, the Administrator shall, in a timely  
5 fashion, publish the identities of winning bidders,  
6 the quantity of allowances obtained by each winning  
7 bidder, and the auction clearing price.

8 “(7) OTHER REQUIREMENTS.—The Adminis-  
9 trator may include in the regulations such other re-  
10 quirements or provisions as the Administrator, in  
11 consultation with other agencies as appropriate, con-  
12 siders appropriate to promote effective, efficient,  
13 transparent, and fair administration of auctions  
14 under this section.

15 “(j) MARKET STABILITY RESERVE FUND.—There  
16 are established in the Treasury of the United States a  
17 fund to be known as the ‘Market Stability Reserve Fund’.

18 “(k) REVISION OF REGULATIONS.—The Adminis-  
19 trator may, at any time, in consultation with other agen-  
20 cies as appropriate, revise the initial regulations promul-  
21 gated under subsection (i). Such revised regulations need  
22 not meet the requirements identified in subsection (i) if  
23 the Administrator determines that an alternative auction  
24 design would be more effective, taking into account factors  
25 including costs of administration, transparency, fairness,

1 and risks of collusion or manipulation. In determining  
2 whether and how to revise the initial regulations under  
3 this subsection, the Administrator shall not consider maxi-  
4 mization of revenues to the Federal Government.

5 **“SEC. 727. PERMITS.**

6       “(a) PERMIT PROGRAM.—For stationary sources  
7 subject to title V of this Act, that are covered entities,  
8 the provisions of this title shall be implemented by permits  
9 issued to such covered entities (and enforced) in accord-  
10 ance with the provisions of title V, as modified by this  
11 title. Any such permit issued by the Administrator, or by  
12 a State with an approved permit program, shall require  
13 the owner or operator of a covered entity to hold emission  
14 allowances or offset credits at least equal to the total an-  
15 nual amount of carbon dioxide equivalents for its com-  
16 bined emissions and attributable greenhouse gas emissions  
17 to which section 722 applies. No such permit shall be  
18 issued that is inconsistent with the requirements of this  
19 title, and title V as applicable. Nothing in this section re-  
20 garding compliance plans or in title V shall be construed  
21 as affecting allowances or offset credits. Submission of a  
22 statement by the owner or operator, or the designated rep-  
23 resentative of the owners and operators, of a covered enti-  
24 ty that the owners and operators will hold emission allow-  
25 ances or offset credits for the entity’s combined emissions

1 and attributable greenhouse gas emissions to which sec-  
2 tion 722 applies shall be deemed to meet the proposed and  
3 approved planning requirements of title V. Recordation by  
4 the Administrator of transfers of emission allowances shall  
5 amend automatically all applicable proposed or approved  
6 permit applications, compliance plans, and permits.

7 “(b) MULTIPLE OWNERS.—No permit shall be issued  
8 under this section and no allowances or offset credits shall  
9 be disbursed under this title to a covered entity or any  
10 other person until the designated representative of the  
11 owners or operators has filed a certificate of representa-  
12 tion with regard to matters under this title, including the  
13 holding and distribution of emission allowances and the  
14 proceeds of transactions involving emission allowances.  
15 Where there are multiple holders of a legal or equitable  
16 title to, or a leasehold interest in, such a covered entity  
17 or other entity or where a utility or industrial customer  
18 purchases power under a long-term power purchase con-  
19 tract from an independent power production facility that  
20 is a covered entity, the certificate shall state—

21 “(1) that emission allowances and the proceeds  
22 of transactions involving emission allowances will be  
23 deemed to be held or distributed in proportion to  
24 each holder’s legal, equitable, leasehold, or contrac-  
25 tual reservation or entitlement; or

1           “(2) if such multiple holders have expressly pro-  
2       vided for a different distribution of emission allow-  
3       ances by contract, that emission allowances and the  
4       proceeds of transactions involving emission allow-  
5       ances will be deemed to be held or distributed in ac-  
6       cordance with the contract.

7   A passive lessor, or a person who has an equitable interest  
8   through such lessor, whose rental payments are not based,  
9   either directly or indirectly, upon the revenues or income  
10  from the covered entity or other entity shall not be deemed  
11  to be a holder of a legal, equitable, leasehold, or contrac-  
12  tual interest for the purpose of holding or distributing  
13  emission allowances as provided in this subsection, during  
14  either the term of such leasehold or thereafter, unless ex-  
15  pressly provided for in the leasehold agreement. Except  
16  as otherwise provided in this subsection, where all legal  
17  or equitable title to or interest in a covered entity, or other  
18  entity, is held by a single person, the certificate shall state  
19  that all emission allowances received by the entity are  
20  deemed to be held for that person.

21       “(c) PROHIBITION.—It shall be unlawful for any per-  
22  son to operate any stationary source subject to the re-  
23  quirements of this section except in compliance with the  
24  terms and requirements of a permit issued by the Admin-  
25  istrator or a State with an approved permit program in

1 accordance with this section. For purposes of this sub-  
2 section, compliance, as provided in section 504(f), with a  
3 permit issued under title V which complies with this title  
4 for covered entities shall be deemed compliance with this  
5 subsection as well as section 502(a).

6 “(d) RELIABILITY.—Nothing in this section or title  
7 V shall be construed as requiring termination of oper-  
8 ations of a stationary source that is a covered entity for  
9 failure to have an approved permit, or compliance plan,  
10 that is consistent with the requirements in the second and  
11 fifth sentences of subsection (a) concerning the holding  
12 of emission allowances, compensatory allowances, inter-  
13 national emission allowances, or offset allowances, except  
14 that any such covered entity may be subject to the applica-  
15 ble enforcement provision of section 113.

16 “(e) REGULATIONS.—The Administrator shall pro-  
17 mulgate regulations to implement this section. To provide  
18 for permits required under this section, each State in  
19 which one or more stationary sources and that are covered  
20 entities are located shall submit, in accordance with this  
21 section and title V, revised permit programs for approval.

22 **“SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.**

23 “(a) QUALIFYING PROGRAMS.—The Administrator,  
24 in consultation with the Secretary of State, may by rule

1 designate an international climate change program as a  
2 qualifying international program if—

3 “(1) the program is run by a national or supra-  
4 national foreign government, and imposes a manda-  
5 tory absolute tonnage limit on greenhouse gas emis-  
6 sions from 1 or more foreign countries, or from 1 or  
7 more economic sectors in such a country or coun-  
8 tries; and

9 “(2) the program is at least as stringent as the  
10 program established by this title, including provi-  
11 sions to ensure at least comparable monitoring, com-  
12 pliance, enforcement, quality of offsets, and restric-  
13 tions on the use of offsets.

14 “(b) DISQUALIFIED ALLOWANCES.—An international  
15 emission allowance may not be held under section  
16 722(d)(3) if it is in the nature of an offset instrument  
17 or allowance awarded based on the achievement of green-  
18 house gas emission reductions or avoidance, or greenhouse  
19 gas sequestration, that are not subject to the mandatory  
20 absolute tonnage limits referred to in subsection (a)(1).

21 “(c) RETIREMENT.—

22 “(1) ENTITY CERTIFICATION.—The owner or  
23 operator of an entity that holds an international  
24 emission allowance under section 722(d)(3) shall  
25 certify to the Administrator that such international

1 emission allowance has not previously been used to  
2 comply with any foreign, international, or domestic  
3 greenhouse gas regulatory program.

4 “(2) RETIREMENT.—

5 “(A) FOREIGN AND INTERNATIONAL REG-  
6 ULATORY ENTITIES.—The Administrator, in  
7 consultation with the Secretary of State, shall  
8 seek, by whatever means appropriate, including  
9 agreements and technical cooperation on allow-  
10 ance tracking, to ensure that any relevant for-  
11 eign, international, and domestic regulatory en-  
12 tities—

13 “(i) are notified of the use, for pur-  
14 poses of compliance with this title, of any  
15 international emission allowance; and

16 “(ii) provide for the disqualification of  
17 such international emission allowance for  
18 any subsequent use under the relevant for-  
19 eign, international, or domestic greenhouse  
20 gas regulatory program, regardless of  
21 whether such use is a sale, exchange, or  
22 submission to satisfy a compliance obliga-  
23 tion.

24 “(B) DISQUALIFICATION FROM FURTHER  
25 USE.—The Administrator shall ensure that,

1           once an international emission allowance has  
2           been disqualified or otherwise used for purposes  
3           of compliance with this title, such allowance  
4           shall be disqualified from any further use under  
5           this title.

6           “(d) USE LIMITATIONS.—The Administrator may, by  
7 rule, modify the percentage applicable to international  
8 emission allowances under section 722(d)(3), consistent  
9 with the purposes of the Clean Energy Jobs and American  
10 Power Act.

11                           **“PART D—OFFSETS**

12           **“SEC. 731. OFFSETS INTEGRITY ADVISORY BOARD.**

13           “(a) ESTABLISHMENT.—Not later than 30 days after  
14 the date of enactment of this title, the President shall es-  
15 tablish an independent Offsets Integrity Advisory Board.  
16 The Advisory Board shall make recommendations to the  
17 President for use in promulgating and revising regulations  
18 under this part, and for ensuring the overall environ-  
19 mental integrity of the programs established pursuant to  
20 those regulations.

21           “(b) MEMBERSHIP.—The Advisory Board shall be  
22 comprised of at least nine members. Each member shall  
23 be qualified by education, training, and experience to  
24 evaluate scientific and technical information on matters  
25 referred to the Board under this section. The President

1 shall appoint Advisory Board members, including a chair  
2 and vice-chair of the Advisory Board. Terms shall be 3  
3 years in length, except for initial terms, which may be up  
4 to 5 years in length to allow staggering. Members may  
5 be reappointed only once for an additional 3-year term,  
6 and such second term may follow directly after a first  
7 term.

8 “(c) ACTIVITIES.—The Advisory Board established  
9 pursuant to subsection (a) shall—

10 “(1) provide recommendations, not later than  
11 90 days after the Advisory Board’s establishment  
12 and periodically thereafter, to the President regard-  
13 ing offset project types that should be considered for  
14 eligibility under section 733, taking into consider-  
15 ation relevant scientific and other issues, including—

16 “(A) the availability of a representative  
17 data set for use in developing the activity base-  
18 line;

19 “(B) the potential for accurate quantifica-  
20 tion of greenhouse gas reduction, avoidance, or  
21 sequestration for an offset project type;

22 “(C) the potential level of scientific and  
23 measurement uncertainty associated with an  
24 offset project type;

1           “(D) any beneficial or adverse environ-  
2           mental, public health, welfare, social, economic,  
3           or energy effects associated with an offset  
4           project type;

5           “(E) the extent to which, as of the date of  
6           submission of the report, the project or activity  
7           types within each category—

8                   “(i) are required by law (including a  
9                   regulation); or

10                   “(ii) represent business-as-usual (ab-  
11                   sent funding from offset credits) practices  
12                   for a relevant land area, industry sector, or  
13                   forest, soil or facility type;

14           “(2) make available to the President its advice  
15           and comments on offset methodologies that should  
16           be considered under regulations promulgated pursu-  
17           ant to subsection (a) and (b) of section 734, includ-  
18           ing methodologies to address the issues of  
19           additionality, activity baselines, measurement, leak-  
20           age, uncertainty, permanence, and environmental in-  
21           tegrity;

22           “(3) make available to the President, and other  
23           relevant Federal agencies, its advice and comments  
24           regarding scientific, technical, and methodological

1 issues specific to the issuance of international offset  
2 credits under section 744;

3 “(4) make available to the President, and other  
4 relevant Federal agencies, its advice and comments  
5 regarding scientific, technical, and methodological  
6 issues associated with the implementation of this  
7 part;

8 “(5) make available to the President its advice  
9 and comments on areas in which further knowledge  
10 is required to appraise the adequacy of existing, re-  
11 vised, or proposed methodologies for use under this  
12 part, and describe the research efforts necessary to  
13 provide the required information; and

14 “(6) make available to the President its advice  
15 and comments on other ways to improve or safe-  
16 guard the environmental integrity of programs es-  
17 tablished under this part.

18 “(d) SCIENTIFIC REVIEW OF OFFSET AND DEFOR-  
19 ESTATION REDUCTION PROGRAMS.—Not later than Janu-  
20 ary 1, 2017, and at five-year intervals thereafter, the Ad-  
21 visory Board shall submit to the President and make avail-  
22 able to the public an analysis of relevant scientific and  
23 technical information related to this part. The Advisory  
24 Board shall review approved and potential methodologies,  
25 scientific studies, offset project monitoring, offset project

1 verification reports, and audits related to this part, and  
2 evaluate the net emissions effects of implemented offset  
3 projects. The Advisory Board shall recommend changes to  
4 offset methodologies, protocols, or project types, or to the  
5 overall offset program under this part, to ensure that off-  
6 set credits issued by the President do not compromise the  
7 integrity of the annual emission reductions established  
8 under section 703, and to avoid or minimize adverse ef-  
9 fects to human health or the environment.

10 **“SEC. 732. ESTABLISHMENT OF OFFSETS PROGRAM.**

11 “(a) REGULATIONS.—Not later than 2 years after  
12 the date of enactment of this title, the President, in con-  
13 sultation with appropriate Federal agencies and taking  
14 into consideration the recommendations of the Advisory  
15 Board, shall promulgate regulations establishing a pro-  
16 gram for the issuance of offset credits in accordance with  
17 the requirements of this part. The President shall periodi-  
18 cally revise these regulations as necessary to meet the re-  
19 quirements of this part.

20 “(b) REQUIREMENTS.—The regulations described in  
21 subsection (a) shall—

22 “(1) authorize the issuance of offset credits  
23 with respect to qualifying offset projects that result  
24 in reductions or avoidance of greenhouse gas emis-  
25 sions, or sequestration of greenhouse gases;

1           “(2) ensure that such offset credits represent  
2       verifiable and additional greenhouse gas emission re-  
3       ductions or avoidance, or increases in sequestration;

4           “(3) ensure that offset credits issued for se-  
5       questration offset projects are only issued for green-  
6       house gas reductions that are permanent;

7           “(4) provide for the implementation of the re-  
8       quirements of this part;

9           “(5) include as reductions in greenhouse gases  
10      reductions achieved through the destruction of meth-  
11      ane and its conversion to carbon dioxide, and reduc-  
12      tions achieved through destruction of  
13      chlorofluorocarbons or other ozone depleting sub-  
14      stances, if permitted by the President under section  
15      619(b)(9) and subject to the conditions specified in  
16      section 619(b)(9), based on the carbon dioxide  
17      equivalent value of the substance destroyed; and

18          “(6) establish a process to accept and respond  
19      to comments from third parties regarding programs  
20      established under this part in a timely manner.

21      “(c) COORDINATION TO MINIMIZE NEGATIVE EF-  
22      FECTS.—In promulgating and implementing regulations  
23      under this part, the President shall act (including by re-  
24      jecting projects, if necessary) to avoid or minimize, to the  
25      maximum extent practicable, adverse effects on human

1 health or the environment resulting from the implementa-  
2 tion of offset projects under this part.

3 “(d) OFFSET REGISTRY.—The President shall estab-  
4 lish within the allowance tracking system established  
5 under section 724(d) an Offset Registry for qualifying off-  
6 set projects and offset credits issued with respect thereto  
7 under this part.

8 “(e) LEGAL STATUS OF OFFSET CREDIT.—An offset  
9 credit does not constitute a property right.

10 “(f) FEES.—The President shall assess fees payable  
11 by offset project developers in an amount necessary to  
12 cover the administrative costs and the enforcement costs  
13 to the Environmental Protection Agency and the Depart-  
14 ment of Justice of carrying out the activities under this  
15 part. Amounts collected for such fees shall be available  
16 to the President and the Attorney General for carrying  
17 out the activities under this part to the extent provided  
18 in advance in appropriations Acts.

19 **“SEC. 733. ELIGIBLE PROJECT TYPES.**

20 “(a) LIST OF ELIGIBLE PROJECT TYPES.—

21 “(1) IN GENERAL.—As part of the regulations  
22 promulgated under section 732(a), the President  
23 shall establish, and may periodically revise, a list of  
24 types of projects eligible to generate offset credits,

1 including international offset credits, under this  
2 part.

3 “(2) ADVISORY BOARD RECOMMENDATIONS.—

4 In determining the eligibility of project types, the  
5 President shall take into consideration the rec-  
6 ommendations of the Advisory Board. If a list estab-  
7 lished under this section differs from the rec-  
8 ommendations of the Advisory Board, the regula-  
9 tions promulgated under section 732(a) shall include  
10 a justification for the discrepancy.

11 “(3) INITIAL DETERMINATION.—The President  
12 shall establish the initial eligibility list under para-  
13 graph (1) not later than one year after the date of  
14 enactment of this title for which there are well devel-  
15 oped methodologies that the President determines  
16 would meet the criteria of section 734.

17 “(4) PROJECT TYPES TO BE CONSIDERED FOR  
18 INITIAL LIST.—In determining the initial list, the  
19 President shall give priority to consideration of off-  
20 set project types that are recommended by the Advi-  
21 sory Board, and shall consider—

22 “(A) methane collection and combustion  
23 projects at active coal mines;

24 “(B) methane collection and combustion  
25 projects at landfills;

1           “(C) capture of venting, flaring, and fugi-  
2           tive emissions from oil and natural gas systems;

3           “(D) nonlandfill methane collection, com-  
4           bustion and avoidance projects involving organic  
5           waste streams that would have otherwise emit-  
6           ted methane in the atmosphere, including ma-  
7           nure management and biogas capture and com-  
8           bustion;

9           “(E) projects involving afforestation or re-  
10          forestation of acreage not forested as of Janu-  
11          ary 1, 2009;

12          “(F) forest management resulting in an in-  
13          crease in forest carbon stores, including har-  
14          vested wood products;

15          “(G) agricultural, grassland, and range-  
16          land sequestration and management practices,  
17          including—

18               “(i) altered tillage practices, including  
19               avoided abandonment of such practices;

20               “(ii) winter cover cropping, contin-  
21               uous cropping, and other means to in-  
22               crease biomass returned to soil in lieu of  
23               planting followed by fallowing;

24               “(iii) reduction of nitrogen fertilizer  
25               use or increase in nitrogen use efficiency;

1 “(iv) reduction in the frequency and  
2 duration of flooding of rice paddies;

3 “(v) reduction in carbon emissions  
4 from organic soils;

5 “(vi) reduction in greenhouse gas  
6 emissions from manure and effluent;

7 “(vii) reduction in greenhouse gas  
8 emissions due to changes in animal man-  
9 agement practices, including dietary modi-  
10 fications;

11 “(viii) planting and cultivation of per-  
12 manent tree crops;

13 “(ix) greenhouse gas emission reduc-  
14 tions from improvements and upgrades to  
15 mobile or stationary equipment (including  
16 engines);

17 “(x) practices to reduce and eliminate  
18 soil tillage;

19 “(xi) reductions in greenhouse gas  
20 emissions through restoration of wetlands,  
21 forestland, and grassland; and

22 “(xii) sequestration of greenhouse  
23 gases through management of tree crops;  
24 and

1                   “(H) changes in carbon stocks attributed  
2                   to land use change and forestry activities, in-  
3                   cluding—

4                   “(i) management of peatland or wet-  
5                   land;

6                   “(ii) conservation of grassland and  
7                   forested land;

8                   “(iii) improved forest management,  
9                   including accounting for carbon stored in  
10                  wood products;

11                  “(iv) reduced deforestation or avoided  
12                  forest conversion;

13                  “(v) urban tree-planting and mainte-  
14                  nance;

15                  “(vi) agroforestry; and

16                  “(vii) adaptation of plant traits or  
17                  new technologies that increase sequestra-  
18                  tion by forests.

19                  “(5) METHODOLOGIES.—In issuing methodolo-  
20                  gies pursuant to section 734, the President shall  
21                  give priority to methodologies for offset types in-  
22                  cluded on the initial eligibility list.

23                  “(b) MODIFICATION OF LIST.—The President—

1           “(1) shall add additional project types to the  
2           list not later than 2 years after the date of enact-  
3           ment of this title;

4           “(2) may at any time, by rule, add a project  
5           type to the list established under subsection (a) if  
6           the President, in consultation with appropriate Fed-  
7           eral agencies and taking into consideration the rec-  
8           ommendations of the Advisory Board, determines  
9           that the project type can generate additional reduc-  
10          tions or avoidance of greenhouse gas emissions, or  
11          sequestration of greenhouse gases, subject to the re-  
12          quirements of this part;

13          “(3) may at any time, by rule, determine that  
14          a project type on the list does not meet the require-  
15          ments of this part, and remove a project type from  
16          the list established under subsection (a), in consulta-  
17          tion with appropriate Federal agencies and taking  
18          into consideration any recommendations of the Advi-  
19          sory Board; and

20          “(4) shall consider adding to or removing from  
21          the list established under subsection (a), at a min-  
22          imum, project types proposed to the President—

23                  “(A) by petition pursuant to subsection  
24                  (c); or

25                  “(B) by the Advisory Board.

1       “(c) PETITION PROCESS.—Any person may petition  
2 the President to modify the list established under sub-  
3 section (a) by adding or removing a project type pursuant  
4 to subsection (b). Any such petition shall include a show-  
5 ing by the petitioner that there is adequate data to estab-  
6 lish that the project type does or does not meet the re-  
7 quirements of this part. Not later than 12 months after  
8 receipt of such a petition, the President shall either grant  
9 or deny the petition and publish a written explanation of  
10 the reasons for the President’s decision. The President  
11 may not deny a petition under this subsection on the basis  
12 of inadequate agency resources or time for review.

13   **“SEC. 734. REQUIREMENTS FOR OFFSET PROJECTS.**

14       “(a) METHODOLOGIES.—As part of the regulations  
15 promulgated under section 732(a), the President shall es-  
16 tablish, for each type of offset project listed as eligible  
17 under section 733, the following:

18           “(1) ADDITIONALITY.—A standardized method-  
19 ology for determining the additionality of greenhouse  
20 gas emission reductions or avoidance, or greenhouse  
21 gas sequestration, achieved by an offset project of  
22 that type. Such methodology shall ensure, at a min-  
23 imum, that any greenhouse gas emission reduction  
24 or avoidance, or any greenhouse gas sequestration, is

1       considered additional only to the extent that it re-  
2       sults from activities that—

3               “(A) are not required by or undertaken to  
4       comply with any law, including any regulation  
5       or consent order;

6               “(B) were not commenced prior to Janu-  
7       ary 1, 2009, except in the case of—

8               “(i) offset project activities that com-  
9       menced after January 1, 2001, and were  
10      registered as of the date of enactment of  
11      this title under an offset program with re-  
12      spect to which the President has made an  
13      affirmative determination under section  
14      740(a)(2); or

15              “(ii) activities that are readily revers-  
16      ible, with respect to which the President  
17      may set an alternative earlier date under  
18      this subparagraph that is not earlier than  
19      January 1, 2001, where the President de-  
20      termines that setting such an alternative  
21      date may produce an environmental benefit  
22      by removing an incentive to cease and then  
23      reinitiate activities that began prior to  
24      January 1, 2009;

1           “(C) are not receiving support under sec-  
2           tion 323 of division A, or section 206 of divi-  
3           sion B, of the Clean Energy Jobs and American  
4           Power Act; and

5           “(D) exceed the activity baseline estab-  
6           lished under paragraph (2).

7           “(2) ACTIVITY BASELINES.—A standardized  
8           methodology for establishing activity baselines for  
9           offset projects of that type. The President shall set  
10          activity baselines to reflect a conservative estimate of  
11          business-as-usual performance or practices for the  
12          relevant type of activity such that the baseline pro-  
13          vides an adequate margin of safety to ensure the en-  
14          vironmental integrity of offsets calculated in ref-  
15          erence to such baseline.

16          “(3) QUANTIFICATION METHODS.—A standard-  
17          ized methodology for determining the extent to  
18          which greenhouse gas emission reductions or avoid-  
19          ance, or greenhouse gas sequestration, achieved by  
20          an offset project of that type exceed a relevant activ-  
21          ity baseline, including protocols for monitoring and  
22          accounting for uncertainty.

23          “(4) LEAKAGE.—A standardized methodology  
24          for accounting for and mitigating potential leakage,

1 if any, from an offset project of that type, taking  
2 uncertainty into account.

3 “(b) ACCOUNTING FOR REVERSALS.—

4 “(1) ACCOUNTING.—

5 “(A) IN GENERAL.—After issuance of off-  
6 set credits for a project, pursuant to section  
7 733, the offset project developer shall, in a  
8 timely manner, report any reversal that occurs.

9 “(B) INTENTIONAL REVERSALS.—An off-  
10 set project developer shall not engage in re-  
11 peated intentional reversals.

12 “(2) REGULATIONS.—As part of the regulations  
13 promulgated under section 732(a), for each type of  
14 sequestration project listed under section 733, the  
15 President shall establish requirements to account for  
16 and address reversals, including—

17 “(A) a requirement to report any reversal  
18 with respect to an offset project for which offset  
19 credits have been issued under this part;

20 “(B) provisions to require emission allow-  
21 ances to be held in amounts to fully compensate  
22 for greenhouse gas emissions attributable to re-  
23 versals, and to assign responsibility for holding  
24 such emission allowances;

1           “(C) provisions to discourage repeated in-  
2           tentional reversals by offset project developers,  
3           including but not limited to the assessment of  
4           administrative fees, temporary suspension, or  
5           disqualification of an offset project developer  
6           from the program; and

7           “(D) any other provisions the President  
8           determines necessary to account for and ad-  
9           dress reversals.

10          “(3) MECHANISMS.—The President shall pre-  
11          scribe mechanisms to ensure that any sequestration  
12          with respect to which an offset credit is issued under  
13          this part results in a permanent net increase in se-  
14          questration, and that full account is taken of any ac-  
15          tual or potential reversal of such sequestration, with  
16          an adequate margin of safety. The President shall  
17          prescribe at least one of the following mechanisms to  
18          meet the requirements of this paragraph:

19               “(A) An offsets reserve, pursuant to para-  
20               graph (4).

21               “(B) Insurance that provides for purchase  
22               and provision to the President for retirement of  
23               an amount of offset credits or emission allow-  
24               ances equal in number to the tons of carbon di-

1 oxide equivalents of greenhouse gas emissions  
2 released due to reversal.

3 “(C) Another mechanism that the Presi-  
4 dent determines satisfies the requirements of  
5 this part.

6 “(4) OFFSETS RESERVE.—

7 “(A) IN GENERAL.—An offsets reserve re-  
8 ferred to in paragraph (3)(A) is a program  
9 under which, before issuance of offset credits  
10 under this part, the President shall subtract  
11 and reserve from the quantity to be issued a  
12 quantity of offset credits based on the risk of  
13 reversal. The President shall—

14 “(i) hold these reserved offset credits  
15 in the offsets reserve; and

16 “(ii) register the holding of the re-  
17 served offset credits in the Offset Registry  
18 established under section 732(d).

19 “(B) PROJECT REVERSAL.—

20 “(i) IN GENERAL.—If a reversal has  
21 occurred with respect an offset project for  
22 which offset credits are reserved under this  
23 paragraph, the President shall remove off-  
24 set credits or emission allowances from the  
25 offsets reserve and cancel them to fully ac-

1 count for the tons of carbon dioxide equiv-  
2 alent that are no longer sequestered.

3 “(ii) INTENTIONAL REVERSALS.—If  
4 the President determines that a reversal  
5 was intentional, the offset project developer  
6 for the relevant offset project shall place  
7 into the offsets reserve a quantity of offset  
8 credits, or combination of offset credits  
9 and emission allowances, equal in number  
10 to the number of reserve offset credits that  
11 were canceled due to the reversal pursuant  
12 to clause (i).

13 “(iii) UNINTENTIONAL REVERSALS.—  
14 If the President determines that a reversal  
15 was unintentional, the offset project devel-  
16 oper for the relevant offset project shall  
17 place into the offsets reserve a quantity of  
18 offset credits, or combination of offset  
19 credits and emission allowances, equal in  
20 number to half the number of offset credits  
21 that were reserved for that offset project,  
22 or half the number of reserve offset credits  
23 that were canceled due to the reversal pur-  
24 suant to clause (i), whichever is less.

1                   “(iv) PETITION.—Any person may pe-  
2                   tition the President for a determination  
3                   that an offsets reversal has occurred. Any  
4                   such petition shall include a showing by  
5                   the petitioner that there is adequate data  
6                   or other evidence to support the petition.  
7                   Not later than 90 days after the date of  
8                   receipt of the petition, the President shall  
9                   take final action determining either that  
10                  the reversal has occurred or that the rever-  
11                  sal has not occurred. Such determination  
12                  shall be accompanied by a statement of the  
13                  basis for the determination.

14                  “(C) USE OF RESERVED OFFSET CRED-  
15                  ITS.—Offset credits placed into the offsets re-  
16                  serve under this paragraph may not be used to  
17                  comply with section 722.

18                  “(5) TERM OFFSET CREDITS.—

19                  “(A) APPLICABILITY.—With respect to a  
20                  practice listed under section 733 that seques-  
21                  ters greenhouse gases and has a crediting pe-  
22                  riod of not more than 5 years, the President  
23                  may address reversals pursuant to this para-  
24                  graph in lieu of permanently accounting for re-  
25                  versals pursuant to paragraphs (2) and (3).

“(B) ACCOUNTING FOR REVERSALS.—For such practices or projects implementing the practices described in subparagraph (A), the President shall require only reversals that occur during the crediting period to be accounted for and addressed pursuant to paragraphs (2) and (3).

8                   “(C) CREDITS ISSUED.—For practices or  
9                   projects regulated pursuant to subparagraph  
10                  (B), the President shall issue under section 737  
11                  a term offset credit, in lieu of an offset credit,  
12                  for each ton of carbon dioxide equivalent that  
13                  has been sequestered.

14           “(c) CREDITING PERIODS.—

“(1) IN GENERAL.—As part of the regulations promulgated under section 732(a), for each offset project type, the President shall specify a crediting period, and establish provisions for petitions for new crediting periods, in accordance with this subsection.

20 “(2) DURATION.—

“(A) IN GENERAL.—The crediting period shall be not less than 5 and not greater than 10 years for any project type other than those involving sequestration or term offsets.

1                   “(B) FORESTRY PROJECTS.—The crediting  
2                   period for a forestry offset project shall not ex-  
3                   ceed 20 years.

4                   “(C) TERM OFFSET CREDITS.—The cred-  
5                   iting period for a term offset credit issued shall  
6                   not exceed 5 years.

7                   “(3) ELIGIBILITY.—An offset project shall be  
8                   eligible to generate offset credits under this part  
9                   only during the project’s crediting period. During  
10                  such crediting period, the project shall remain eligi-  
11                  ble to generate offset credits, subject to the meth-  
12                  odologies and project type eligibility list that applied  
13                  as of the date of project approval under section 735,  
14                  except as provided in paragraph (4).

15                  “(4) PETITION FOR NEW CREDITING PERIOD.—  
16                  An offset project developer may petition for a new  
17                  crediting period to commence after termination of a  
18                  crediting period, subject to the methodologies and  
19                  project type eligibility list in effect at the time when  
20                  such petition is submitted. A petition may not be  
21                  submitted under this paragraph more than 18  
22                  months before the end of the pending crediting pe-  
23                  riod. The President may grant such petition after  
24                  public notice and opportunity for comment. The  
25                  President may limit the number of new crediting pe-

1       riods available for projects of particular project  
2       types.

3       “(d) ENVIRONMENTAL INTEGRITY.—In establishing  
4 the requirements under this section, the President shall  
5 apply conservative assumptions or methods to maximize  
6 the certainty that the environmental integrity of the green-  
7 house gas limitations established under section 703 is not  
8 compromised.

9       “(e) PRE-EXISTING METHODOLOGIES.—In promul-  
10 gating requirements under this section, the President shall  
11 give due consideration to methodologies for offset projects  
12 existing as of the date of enactment of this title.

13       “(f) ADDED PROJECT TYPES.—The President shall  
14 establish methodologies described in subsection (a), and,  
15 as applicable, requirements and mechanisms for reversals  
16 as described in subsection (b), for any project type that  
17 is added to the list pursuant to section 733.

18       **“SEC. 735. APPROVAL OF OFFSET PROJECTS.**

19       “(a) APPROVAL PETITION.—An offset project devel-  
20 oper shall submit an offset project approval petition signed  
21 by a responsible official (who shall certify the accuracy of  
22 the information submitted) and providing such informa-  
23 tion as the President requires to determine whether the  
24 offset project is eligible for issuance of offset credits under  
25 rules promulgated pursuant to this part.

1       “(b) TIMING.—An approval petition shall be sub-  
2       mitted to the President under subsection (a) not later than  
3       the time at which an offset project’s first verification re-  
4       port is submitted under section 736.

5       “(c) APPROVAL PETITION REQUIREMENTS.—As part  
6       of the regulations promulgated under section 732, the  
7       President shall include provisions for, and shall specify,  
8       the required components of an offset project approval peti-  
9       tion required under subsection (a), which shall include—

10           “(1) designation of an offset project developer;

11           “(2) designation of a party who is authorized to  
12       provide access to the appropriate officials or an au-  
13       thorized representative to the offset project; and

14           “(3) any other information that the President  
15       considers to be necessary to achieve the purposes of  
16       this part.

17       “(d) APPROVAL AND NOTIFICATION.—Not later than  
18       90 days after receiving a complete approval petition under  
19       subsection (a), the President shall make the approval peti-  
20       tion publicly available on the internet, approve or deny the  
21       petition in writing, and, if the petition is denied, provide  
22       the reasons for the denial and make the President’s deci-  
23       sion publicly available on the internet. After an offset  
24       project is approved, the offset project developer shall not  
25       be required to resubmit an approval petition during the

1 offset project's crediting period, except as provided in sec-  
2 tion 734(c)(4).

3 “(e) APPEAL.—The President shall establish proce-  
4 dures for appeal and review of determinations made under  
5 subsection (d).

6 “(f) VOLUNTARY PREAPPROVAL REVIEW.—The  
7 President may establish a voluntary preapproval review  
8 procedure, to allow an offset project developer to request  
9 the President to conduct a preliminary eligibility review  
10 for an offset project. Findings of such reviews shall not  
11 be binding upon the President. The voluntary preapproval  
12 review procedure—

13 “(1) shall require the offset project developer to  
14 submit such basic project information as the Presi-  
15 dent requires to provide a meaningful review; and

16 “(2) shall require a response from the President  
17 not later than 6 weeks after receiving a request for  
18 review under this subsection.

19 **“SEC. 736. VERIFICATION OF OFFSET PROJECTS.**

20 “(a) IN GENERAL.—As part of the regulations pro-  
21 mulgated under section 732(a), the President shall estab-  
22 lish requirements, including protocols, for verification of  
23 the quantity of greenhouse gas emission reductions or  
24 avoidance, or sequestration of greenhouse gases, resulting  
25 from an offset project. The regulations shall require that

1 an offset project developer shall submit a report, prepared  
2 by a third-party verifier accredited under subsection (d),  
3 providing such information as the President requires to  
4 determine the quantity of greenhouse gas emission reduc-  
5 tions or avoidance, or sequestration of greenhouse gas, re-  
6 sulting from the offset project.

7 “(b) SCHEDULE.—The President shall prescribe a  
8 schedule for the submission of verification reports under  
9 subsection (a).

10 “(c) VERIFICATION REPORT REQUIREMENTS.—The  
11 President shall specify the required components of a  
12 verification report required under subsection (a), which  
13 shall include—

14 “(1) the name and contact information for a  
15 designated representative for the offset project devel-  
16 oper;

17 “(2) the quantity of greenhouse gas reduced,  
18 avoided, or sequestered;

19 “(3) the methodologies applicable to the project  
20 pursuant to section 734;

21 “(4) a certification that the project meets the  
22 applicable requirements;

23 “(5) a certification establishing that the conflict  
24 of interest requirements in the regulations promul-

1 gated under subsection (d)(1) have been complied  
2 with; and

3 “(6) any other information that the President  
4 considers to be necessary to achieve the purposes of  
5 this part.

6 “(d) VERIFIER ACCREDITATION.—

7 “(1) IN GENERAL.—As part of the regulations  
8 promulgated under section 732(a), the President  
9 shall establish a process and requirements for peri-  
10 odic accreditation of third-party verifiers to ensure  
11 that such verifiers are professionally qualified and  
12 have no conflicts of interest with offset project devel-  
13 opers.

14 “(2) STANDARDS.—

15 “(A) AMERICAN NATIONAL STANDARDS IN-  
16 STITUTE ACCREDITATION.—The President may  
17 accredit, or accept for purposes of accreditation  
18 under this subsection, verifiers accredited under  
19 the American National Standards Institute  
20 (ANSI) accreditation program in accordance  
21 with ISO 14065. The President shall accredit,  
22 or accept for accreditation, verifiers under this  
23 subparagraph only if the President finds that  
24 the American National Standards Institute ac-  
25 creditation program provides sufficient assur-

1           ance that the requirements of this part will be  
2           met.

3           “(B) EPA ACCREDITATION.—As part of  
4           the regulations promulgated under section  
5           732(a), the President may establish accredita-  
6           tion standards for verifiers under this sub-  
7           section, and may establish related training and  
8           testing programs and requirements.

9           “(3) PUBLIC ACCESSIBILITY.—Each verifier  
10          meeting the requirements for accreditation in ac-  
11          cordance with this subsection shall be listed in a  
12          publicly accessible database, which shall be main-  
13          tained and updated by the President.

14          “(4) REVOCATION.—The regulations concerning  
15          accreditation of third-party verifiers required under  
16          paragraph (1) shall establish a process for the Presi-  
17          dent to revoke the accreditation of any third-party  
18          verifier that the President finds fails to maintain  
19          professional qualifications or to avoid a conflict of  
20          interest, or for other good cause.

21   **“SEC. 737. ISSUANCE OF OFFSET CREDITS.**

22          “(a) DETERMINATION AND NOTIFICATION.—Not  
23          later than 90 days after receiving a complete verification  
24          report under section 736, the President shall—

1           “(1) make the report publicly available on the  
2       Internet;

3           “(2) make a determination of the quantity of  
4       greenhouse gas emissions reduced or avoided, or  
5       greenhouse gases sequestered, resulting from an off-  
6       set project approved under section 735; and

7           “(3) notify the offset project developer in writ-  
8       ing of such determination and make such determina-  
9       tion publicly available on the Internet.

10       “(b) ISSUANCE OF OFFSET CREDITS.—The Presi-  
11   dent shall issue one offset credit to an offset project devel-  
12   oper for each ton of carbon dioxide equivalent that the  
13   President has determined has been reduced, avoided, or  
14   sequestered during the period covered by a verification re-  
15   port submitted in accordance with section 736, only if—

16           “(1) the President has approved the offset  
17       project pursuant to section 735; and

18           “(2) the relevant emissions reduction, avoid-  
19       ance, or sequestration has—

20               “(A) already occurred, during the offset  
21       project’s crediting period; and

22               “(B) occurred after January 1, 2009.

23       “(c) APPEAL.—The President shall establish proce-  
24   dures for appeal and review of determinations made under  
25   subsection (a).

1       “(d) TIMING.—Offset credits meeting the criteria es-  
2     tablished in subsection (b) shall be issued not later than  
3     2 weeks following the verification determination made by  
4     the President under subsection (a).

5       “(e) REGISTRATION.—The President shall assign a  
6     unique serial number to and register each offset credit to  
7     be issued in the Offset Registry established under section  
8     732(d).

9     **“SEC. 738. AUDITS.**

10       “(a) IN GENERAL.—The President shall, on an ongo-  
11     ing basis, conduct random audits of offset projects and  
12     offset credits. The President shall conduct audits of the  
13     practices of third-party verifiers. In each year, the Presi-  
14     dent shall conduct audits, at minimum, for a representa-  
15     tive sample of project types and geographic areas.

16       “(b) DELEGATION.—The President may delegate to  
17     a State or Indian tribe the responsibility for conducting  
18     audits under this section if the President finds that the  
19     program proposed by the State or Indian tribe provides  
20     assurances equivalent to those provided by the auditing  
21     program of the President, and that the integrity of the  
22     offset program under this part will be maintained. Noth-  
23     ing in this subsection shall prevent the President from  
24     conducting any audit the President considers necessary  
25     and appropriate.

1       “(c) AUDIT REQUIREMENTS.—As part of the regula-  
2 tions promulgated under section 732(a), the President  
3 shall establish requirements and protocols for an auditing  
4 program, whether undertaken by the President or an au-  
5 thorized representative, concerning project developers,  
6 third party verifiers, and reports submitted by those per-  
7 sons, including the offset project approval petition and  
8 verification report. Such regulations shall include—

9               “(1) the components of the offset project, which  
10 shall be evaluated against the offset approval peti-  
11 tion and the verification report;

12               “(2) the minimum experience or training of the  
13 auditors;

14               “(3) the form in which reports shall be com-  
15 pleted;

16               “(4) requirements for delegating auditing func-  
17 tions to States or Indian tribes, including requiring  
18 periodic reports from States or Indian tribes on  
19 their auditing activities and findings; and

20               “(5) any other information that the appropriate  
21 officials considers to be necessary to achieve the pur-  
22 pose of the Act.

23 **“SEC. 739. PROGRAM REVIEW AND REVISION.**

24       ““At least once every 5 years, the President shall re-  
25 view and, based on new or updated information and taking

1 into consideration the recommendations of the Advisory  
2 Board, update and revise—

3 “(1) the list of eligible project types established  
4 under section 733;

5 “(2) the methodologies established, including  
6 specific activity baselines, under section 734(a);

7 “(3) the reversal requirements and mechanisms  
8 established or prescribed under section 734(b);

9 “(4) measures to improve the accountability of  
10 the offsets program; and

11 “(5) any other requirements established under  
12 this part to ensure the environmental integrity and  
13 effective operation of this part.

14 **“SEC. 740. EARLY OFFSET SUPPLY.**

15 “(a) PROJECTS REGISTERED UNDER OTHER GOV-  
16 ERNMENT-RECOGNIZED PROGRAMS.—Except as provided  
17 in subsection (b) or (c), after public notice and oppor-  
18 tunity for comment, the President shall issue one offset  
19 credit for each ton of carbon dioxide equivalent emissions  
20 reduced, avoided, or sequestered—

21 “(1) under an offset project that was started  
22 after January 1, 2001;

23 “(2) for which a credit was issued under any  
24 regulatory or voluntary greenhouse gas emission off-  
25 set program that the President determines—

1           “(A) was established under State or tribal  
2           law or regulation prior to January 1, 2009, or  
3           has been approved by the President pursuant to  
4           subsection (e);

5           “(B) has developed offset project type  
6           standards, methodologies, and protocols  
7           through a public consultation process or a peer  
8           review process;

9           “(C) has made available to the public  
10          standards, methodologies, and protocols that re-  
11          quire that credited emission reductions, avoid-  
12          ance, or sequestration are permanent, addi-  
13          tional, verifiable, and enforceable;

14          “(D) requires that all emission reductions,  
15          avoidance, or sequestration be verified by a  
16          State regulatory agency or an accredited third-  
17          party independent verification body;

18          “(E) requires that all credits issued are  
19          registered in a publicly accessible registry, with  
20          individual serial numbers assigned for each ton  
21          of carbon dioxide equivalent emission reduc-  
22          tions, avoidance, or sequestration; and

23          “(F) ensures that no credits are issued for  
24          activities for which the entity administering the  
25          program, or a program administrator or rep-

1           representative, has funded, solicited, or served as a  
2           fund administrator for the development of, the  
3           project or activity that caused the emission re-  
4           duction, avoidance, or sequestration; and

5           “(3) for which the credit described in para-  
6           graph (2) is transferred to the President.

7           “(b) INELIGIBLE CREDITS.—Subsection (a) shall not  
8           apply to offset credits that have expired or have been re-  
9           tired, canceled, or used for compliance under a program  
10          established under State or tribal law or regulation.

11          “(c) LIMITATION.—Notwithstanding subsection  
12          (a)(1), offset credits shall be issued under this section—

13               “(1) only for reductions or avoidance of green-  
14          house gas emissions, sequestration of greenhouse  
15          gases, or destruction of chlorofluorocarbons (subject  
16          to the conditions specified in section 619(b)(9) and  
17          based on the carbon dioxide equivalent value of the  
18          substance destroyed), that occur after January 1,  
19          2009; and

20               “(2) only until the date that is 3 years after the  
21          date of enactment of this title, or the date that regu-  
22          lations promulgated under section 732(a) take ef-  
23          fect, whichever occurs sooner.

24          “(d) RETIREMENT OF CREDITS.—The President  
25          shall seek to ensure that offset credits described in sub-

1 section (a)(2) are retired for purposes of use under a pro-  
2 gram described in subsection (b).

3 “(e) OTHER PROGRAMS.—

4 “(1) IN GENERAL.—Offset programs that ei-  
5 ther—

6 “(A) were not established under State or  
7 tribal law; or

8 “(B) were not established prior to January  
9 1, 2009;

10 but that otherwise meet all of the criteria of sub-  
11 section (a)(2) may apply to the President to be ap-  
12 proved under this subsection as an eligible program  
13 for early offset credits under this section.

14 “(2) APPROVAL.—The President shall approve  
15 any such program that the President determines has  
16 criteria and methodologies of at least equal strin-  
17 gency to the criteria and methodologies of the pro-  
18 grams established under State or tribal law that the  
19 President determines meet the criteria of subsection  
20 (a)(2). The President may approve types of offsets  
21 under any such program that are subject to criteria  
22 and methodologies of at least equal stringency to the  
23 criteria and methodologies for such types of offsets  
24 applied under the programs established under State  
25 or tribal law that the President determines meet the

1 criteria of subsection (a)(2). The President shall  
2 make a determination on any application received  
3 under this subsection by not later than 180 days  
4 from the date of receipt of the application.

5 **“SEC. 741. ENVIRONMENTAL CONSIDERATIONS.**

6 “If the President lists forestry or other relevant land  
7 management-related offset projects as eligible offset  
8 project types under section 733, the President, in con-  
9 sultation with appropriate Federal agencies, shall promul-  
10 gate regulations to establish criteria for such offset  
11 projects—

12 “(1) to ensure that native species are given pri-  
13 mary consideration in such projects;

14 “(2) to enhance biological diversity in such  
15 projects;

16 “(3) to prohibit the use of federally designated  
17 or State-designated noxious weeds;

18 “(4) to prohibit the use of a species listed by  
19 a regional, State, or tribal invasive plant authority  
20 within the applicable region, State, or land of Indian  
21 tribes;

22 “(5) in the case of forestry offset projects, in  
23 accordance with widely accepted, environmentally  
24 sustainable forestry practices;

1           “(6) to ensure that the offset project area was  
2           not converted from native ecosystems, such as a for-  
3           est, grassland, scrubland or wetland, to generate off-  
4           sets, unless such conversation took place at least 10  
5           years prior to the date of enactment of this title or  
6           before January 1, 2009, whichever date is earlier;  
7           and

8           “(7) to the maximum extent practicable, ensure  
9           that the use of offset credits would be eligible to sat-  
10          isfy emission reduction commitments made by the  
11          United States in multilateral agreements, such as  
12          the United Nations Framework Convention on Cli-  
13          mate Change, done at New York on May 9, 1992 (or  
14          any successor agreement).

15   **“SEC. 742. TRADING.**

16          “Section 724 shall apply to the trading of offset cred-  
17          its.

18   **“SEC. 743. OFFICE OF OFFSETS INTEGRITY.**

19          “(a) ESTABLISHMENT.—There is established within  
20          the Office of the Assistant Attorney General of the Envi-  
21          ronment and Natural Resources Division in the Depart-  
22          ment of Justice a Carbon Offsets Integrity Unit, to be  
23          headed by a Special Counsel (hereinafter referred to as  
24          the ‘Special Counsel’). The Carbon Offsets Integrity Unit  
25          and the Special Counsel shall be responsible to and shall

1 report directly to the Assistant Attorney General of the  
2 Environment and Natural Resources Division.

3 “(b) APPOINTMENT.—The Special Counsel shall be  
4 appointed by the President, by and with the advice and  
5 consent of the Senate.

6 “(c) RESPONSIBILITIES.—The Special Counsel  
7 shall—

8 “(1) supervise and coordinate investigations  
9 and civil enforcement within the Department of Jus-  
10 tice of the carbon offsets program under this part;

11 “(2) ensure that Federal law relating to civil  
12 enforcement of the carbon offsets program is used to  
13 the fullest extent authorized; and

14 “(3) ensure that adequate resources are made  
15 available for the investigation and enforcement of  
16 civil violations of the carbon offsets program.

17 “(d) COMPENSATION.—The Special Counsel shall be  
18 paid at the basic pay payable for level V of the Executive  
19 Schedule under section 5316 of title 5, United States  
20 Code.

21 “(e) ASSIGNMENT OF PERSONNEL.—There shall be  
22 assigned to the Carbon Offsets Integrity Unit such per-  
23 sonnel as the Attorney General determines to be necessary  
24 to provide an appropriate level of enforcement activity in  
25 the area of carbon offsets.

1   **“SEC. 744. INTERNATIONAL OFFSET CREDITS.**

2           “(a) IN GENERAL.—The Administrator, in consulta-  
3   tion with the Secretary of State and the Administrator  
4   of the United States Agency for International Develop-  
5   ment, may issue, in accordance with this section, inter-  
6   national offset credits based on activities that reduce or  
7   avoid greenhouse gas emissions, or increase sequestration  
8   of greenhouse gases, in a developing country. Such credits  
9   may be issued for projects pursuant to the requirements  
10  of this part or as provided in subsection (c), (d), or (e).

11          “(b) ISSUANCE.—

12               “(1) REGULATIONS.—Not later than 2 years  
13   after the date of enactment of this title, the Admin-  
14   istrator, in consultation with the Secretary of State,  
15   the Administrator of the United States Agency for  
16   International Development, and any other appro-  
17   priate Federal agency, and taking into consideration  
18   the recommendations of the Advisory Board, shall  
19   promulgate regulations for implementing this sec-  
20   tion, taking into consideration specific factors rel-  
21   evant to the determination of eligible international  
22   offset project types and the implementation of inter-  
23   national methodologies for each offset type ap-  
24   proved. Except as otherwise provided in this section,  
25   the issuance of international offset credits under this

1 section shall be subject to the requirements of this  
2 part.

3 “(2) REQUIREMENTS FOR INTERNATIONAL  
4 OFFSET CREDITS.—The Administrator may issue  
5 international offset credits only if—

6 “(A) the United States is a party to a bi-  
7 lateral or multilateral agreement or arrange-  
8 ment that includes the country in which the  
9 project or measure achieving the relevant green-  
10 house gas emission reduction or avoidance, or  
11 greenhouse gas sequestration, has occurred;

12 “(B) such country is a developing country;  
13 and

14 “(C) such agreement or arrangement—

15 “(i) ensures that all of the require-  
16 ments of this part apply to the issuance of  
17 international offset credits under this sec-  
18 tion;

19 “(ii) provides for the appropriate dis-  
20 tribution of international offset credits  
21 issued; and

22 “(iii) provides that the offset project  
23 developer be eligible to receive service of  
24 process in the United States for the pur-  
25 pose of all civil and regulatory actions in

1 Federal courts, if such service is made in  
2 accordance with the Federal rules for serv-  
3 ice of process in the States in which the  
4 case or regulatory action is brought.

5 “(3) SUPPLEMENTAL INTERNATIONAL OFFSET  
6 CATEGORIES.—

7 “(A) IN GENERAL.—In order to ensure a  
8 sufficient supply of international offsets and to  
9 reduce the cost of compliance with this title, the  
10 Administrator may establish categories of inter-  
11 national offsets in addition to those described in  
12 subsections (c), (d), and (e), if—

13 “(i) for 2 consecutive years, the auc-  
14 tion price for allowances reaches the mar-  
15 ket stability reserve auction price under  
16 section 726(c); and

17 “(ii) the Administrator determines  
18 that the total amount of international off-  
19 sets held by covered entities for each of the  
20 2 years referred to in clause (i) does not  
21 exceed the limit on international offsets es-  
22 tablished under section 722(d)(1)(B)(iii).

23 “(B) SUPPLEMENTAL CATEGORIES.—

24 “(i) IN GENERAL.—Any supplemental  
25 categories of international offsets estab-

1                   lished pursuant to subparagraph (A)  
2                   shall—

3                   “(I) satisfy all applicable provi-  
4                   sions of this part, including subsection  
5                   (b)(2) of this section and sections 733  
6                   and 734; and

7                   “(II) meet the criteria described  
8                   in clause (ii).

9                   “(ii) CRITERIA.—The criteria referred  
10                  to in clause (i)(II) are that—

11                  “(I) the country in which the ac-  
12                  tivities in the offset category would  
13                  take place has developed and is imple-  
14                  menting a low carbon development  
15                  plan that includes provisions for the  
16                  activities described in the offset cat-  
17                  egory;

18                  “(II) the activities in the offset  
19                  category are not activities included  
20                  under subsection (c), (d) or (e); and

21                  “(III) the activities in the offset  
22                  category satisfy specific criteria rel-  
23                  evant to methodologies and institu-  
24                  tional and technical capacities associ-  
25                  ated with developing country contexts

1 to ensure adequate treatment of leak-  
2 age, additionality, and permanence.

3 “(c) SECTOR-BASED CREDITS.—

4 “(1) IN GENERAL.—In order to minimize the  
5 potential for leakage and to encourage countries to  
6 take nationally appropriate mitigation actions to re-  
7 duce or avoid greenhouse gas emissions, or sequester  
8 greenhouse gases, the Administrator, in consultation  
9 with the Secretary of State and the Administrator of  
10 the United States Agency for International Develop-  
11 ment, shall—

12 “(A) identify sectors, or combinations of  
13 sectors, within specific countries with respect to  
14 which the issuance of international offset cred-  
15 its on a sectoral basis is appropriate; and

16 “(B) issue international offset credits for  
17 such sectors only on a sectoral basis.

18 “(2) IDENTIFICATION OF SECTORS.—

19 “(A) GENERAL RULE.—For purposes of  
20 paragraph (1)(A), a sectoral basis shall be ap-  
21 propriate for activities—

22 “(i) in countries that have compara-  
23 tively high greenhouse gas emissions, or  
24 comparatively greater levels of economic  
25 development; and

1                   “(ii) that, if located in the United  
2                   States, would be within a sector subject to  
3                   the compliance obligation under section  
4                   722.

5                   “(B) FACTORS.—In determining the sec-  
6                   tors and countries for which international offset  
7                   credits should be awarded only on a sectoral  
8                   basis, the Administrator, in consultation with  
9                   the Secretary of State and the Administrator of  
10                  the United States Agency for International De-  
11                  velopment, shall consider the following factors:

12                  “(i) The country’s gross domestic  
13                  product.

14                  “(ii) The country’s total greenhouse  
15                  gas emissions.

16                  “(iii) Whether the comparable sector  
17                  of the United States economy is covered by  
18                  the compliance obligation under section  
19                  722.

20                  “(iv) The heterogeneity or homo-  
21                  geneity of sources within the relevant sec-  
22                  tor.

23                  “(v) Whether the relevant sector pro-  
24                  vides products or services that are sold in  
25                  internationally competitive markets.

1           “(vi) The risk of leakage if inter-  
2           national offset credits were issued on a  
3           project-level basis, instead of on a sectoral  
4           basis, for activities within the relevant sec-  
5           tor.

6           “(vii) The capability of accurately  
7           measuring, monitoring, reporting, and  
8           verifying the performance of sources across  
9           the relevant sector.

10          “(viii) Such other factors as the Ad-  
11          ministrators, in consultation with the Sec-  
12          retary of State and the Administrator of  
13          the United States Agency for International  
14          Development, determines are appropriate  
15          to—

16               “(I) ensure the integrity of the  
17               United States greenhouse gas emis-  
18               sions limitations established under  
19               section 703; and

20               “(II) encourage countries to take  
21               nationally appropriate mitigation ac-  
22               tions to reduce or avoid greenhouse  
23               gas emissions, or sequester green-  
24               house gases.

1 “(ix) The issuance of offsets for ac-  
2 tivities that are—

3 “(I) in addition to nationally ap-  
4 propriate mitigation actions taken by  
5 developing countries pursuant to the  
6 low-carbon development plans of the  
7 countries; and

8 “(II) on a sectoral basis.

9 “(3) SECTORAL BASIS.—

10 “(A) DEFINITION.—In this subsection, the  
11 term ‘sectoral basis’ means the issuance of  
12 international offset credits only for the quantity  
13 of sector-wide reductions or avoidance of green-  
14 house gas emissions, or sector-wide increases in  
15 sequestration of greenhouse gases, achieved  
16 across the relevant sector or sectors of the econ-  
17 omy relative to a baseline level of emissions es-  
18 tablished in an agreement or arrangement de-  
19 scribed in subsection (b)(2)(A) for the sector.

20 “(B) BASELINE.—The baseline for a sec-  
21 tor shall—

22 “(i) be established at levels of green-  
23 house gas emissions lower than would  
24 occur under a business-as-usual scenario,  
25 taking into account relevant domestic or

1 international policies or incentives to re-  
2 duce greenhouse gas emissions;

3 “(ii) be used to determine  
4 additionality and performance;

5 “(iii) account for all significant  
6 sources of emissions from a sector;

7 “(iv) be adjusted over time to reflect  
8 changing circumstances;

9 “(v) be developed taking into consid-  
10 eration such factors as—

11 “(I) any established emissions  
12 performance level for the sector;

13 “(II) the current performance of  
14 the sector in the country;

15 “(III) expected future trends of  
16 the sector in the country; and

17 “(IV) historical data and other  
18 factors to ensure additionality; and

19 “(vi) be designed to produce signifi-  
20 cant deviations from business-as-usual  
21 emissions, consistent with nationally appro-  
22 priate mitigation commitments or actions,  
23 in a way that equitably contributes to  
24 meeting thresholds identified in section  
25 705(e)(2).

1       “(d) CREDITS ISSUED BY AN INTERNATIONAL  
2 BODY.—

3               “(1) IN GENERAL.—The Administrator, in con-  
4 sultation with the Secretary of State, may issue  
5 international offset credits in exchange for instru-  
6 ments in the nature of offset credits that are issued  
7 by an international body established pursuant to the  
8 United Nations Framework Convention on Climate  
9 Change, to a protocol to such Convention, or to a  
10 treaty that succeeds such Convention. The Adminis-  
11 trator may issue international offset credits under  
12 this subsection only if, in addition to the require-  
13 ments of subsection (b), the Administrator has de-  
14 termined that the international body that issued the  
15 instruments has implemented substantive and proce-  
16 dural requirements for the relevant project type that  
17 provide equal or greater assurance of the integrity of  
18 such instruments as is provided by the requirements  
19 of this part. Beginning on January 1, 2016, the Ad-  
20 ministrator shall issue no offset credit pursuant to  
21 this subsection if the activity generating the green-  
22 house gas emission reductions or avoidance, or  
23 greenhouse gas sequestration, occurs in a country  
24 and sector identified by the Administrator under

1 subsection (c), unless the offset credit issued by the  
2 international body is consistent with section 744(c).

3 “(2) RETIREMENT.—The Administrator, in  
4 consultation with the Secretary of State, shall seek,  
5 by whatever means appropriate, including agree-  
6 ments, arrangements, or technical cooperation with  
7 the international issuing body described in para-  
8 graph (1), to ensure that such body—

9 “(A) is notified of the Administrator’s  
10 issuance, under this subsection, of an inter-  
11 national offset credit in exchange for an instru-  
12 ment issued by such international body; and

13 “(B) provides, to the extent feasible, for  
14 the disqualification of the instrument issued by  
15 such international body for subsequent use  
16 under any relevant foreign or international  
17 greenhouse gas regulatory program, regardless  
18 of whether such use is a sale, exchange, or sub-  
19 mission to satisfy a compliance obligation.

20 “(e) OFFSETS FROM REDUCED DEFORESTATION.—

21 “(1) REQUIREMENTS.—The Administrator, in  
22 accordance with the regulations promulgated under  
23 subsection (b)(1) and an agreement or arrangement  
24 described in subsection (b)(2)(A), shall issue inter-  
25 national offset credits for greenhouse gas emission

1 reductions achieved through activities to reduce de-  
2 forestation only if, in addition to the requirements of  
3 subsection (b)—

4 “(A) the activity occurs in—

5 “(i) a country listed by the Adminis-  
6 trator pursuant to paragraph (2);

7 “(ii) a state or province listed by the  
8 Administrator pursuant to paragraph (5);

9 or

10 “(iii) a country listed by the Adminis-  
11 trator pursuant to paragraph (6);

12 “(B) except as provided in paragraph (5)  
13 or (6), the quantity of the international offset  
14 credits is determined by comparing the national  
15 emissions from deforestation relative to a na-  
16 tional deforestation baseline for that country es-  
17 tablished, in accordance with an agreement or  
18 arrangement described in subsection (b)(2)(A),  
19 pursuant to paragraph (4);

20 “(C) the reduction in emissions from de-  
21 forestation has occurred before the issuance of  
22 the international offset credit and, taking into  
23 consideration relevant international standards,  
24 has been demonstrated using ground-based in-  
25 ventories, remote sensing technology, and other

1 methodologies to ensure that all relevant carbon  
2 stocks are accounted;

3 “(D) the Administrator has made appro-  
4 priate adjustments, such as discounting for any  
5 additional uncertainty, to account for cir-  
6 cumstances specific to the country, including its  
7 technical capacity described in paragraph  
8 (2)(A);

9 “(E) the Administrator has determined  
10 that the country within which the activity oc-  
11 curs has in place a publicly available strategic  
12 plan that includes the criteria listed in para-  
13 graph (2)(C);

14 “(F) the activity is designed, carried out,  
15 and managed—

16 “(i) in accordance with forest manage-  
17 ment practices that—

18 “(I) improve the livelihoods of  
19 forest communities;

20 “(II) maintain the natural bio-  
21 diversity, resilience, and carbon stor-  
22 age capacity of forests; and

23 “(III) do not adversely impact  
24 the permanence of forest carbon  
25 stocks or emission reductions;

1                   “(ii) to promote or restore native for-  
2                   est species and ecosystems where prac-  
3                   ticable, and to avoid the introduction of  
4                   invasive nonnative species;

5                   “(iii) in a manner that gives due re-  
6                   gard to the rights and interests of local  
7                   communities, indigenous peoples, forest-de-  
8                   pendent communities, and vulnerable social  
9                   groups;

10                  “(iv) with consultations with, and full  
11                  participation of, local communities, indige-  
12                  nous peoples, and forest-dependent com-  
13                  munities, in affected areas, as partners  
14                  and primary stakeholders, prior to and  
15                  during the design, planning, implementa-  
16                  tion, and monitoring and evaluation of ac-  
17                  tivities;

18                  “(v) with transparent and equitable  
19                  sharing of profits and benefits derived  
20                  from offset credits with local communities,  
21                  indigenous peoples, and forest-dependent  
22                  communities;

23                  “(vi) with full transparency, third-  
24                  party independent oversight, and public

1 dissemination of related financial and con-  
2 tractual arrangements, and

3 “(vii) so that the social and environ-  
4 mental impacts of these activities are mon-  
5 itored and reported in sufficient detail to  
6 allow appropriate officials to determine  
7 compliance with the requirements of this  
8 section;

9 “(G) the reduction otherwise satisfies and  
10 is consistent with any relevant requirements es-  
11 tablished by an agreement reached under the  
12 auspices of the United Nations Framework  
13 Convention on Climate Change, done at New  
14 York on May 9, 1992; and

15 “(H) in the case that offsets are deter-  
16 mined by comparing the national emissions  
17 from deforestation relative to a national, state-  
18 level, or province-level deforestation baseline as  
19 provided in paragraph (4) or (5)—

20 “(i) a list of activities to reduce defor-  
21 estation is provided to the Administrator  
22 and made publicly available;

23 “(ii) the social and environmental im-  
24 pacts of these activities are monitored and  
25 reported in sufficient detail to allow the

1 Administrator to determine compliance  
2 with the requirements of this section; and  
3 “(iii) the distribution of revenues for  
4 activities to reduce deforestation is trans-  
5 parent, subject to independent third-party  
6 oversight, and publicly disseminated.

7 “(2) ELIGIBLE COUNTRIES.—The Adminis-  
8 trator, in consultation with the Secretary of State  
9 and the Administrator of the United States Agency  
10 for International Development, and in accordance  
11 with an agreement or arrangement described in sub-  
12 section (b)(2)(A), shall establish, and periodically re-  
13 view and update, a list of the developing countries  
14 that have the capacity to participate in deforestation  
15 reduction activities at a national level, including—

16 “(A) the technical capacity to monitor,  
17 measure, report, and verify forest carbon fluxes  
18 for all significant sources of greenhouse gas  
19 emissions from deforestation with an acceptable  
20 level of uncertainty, as determined taking into  
21 account relevant internationally accepted meth-  
22 odologies, such as those established by the  
23 Intergovernmental Panel on Climate Change;

24 “(B) the institutional capacity to reduce  
25 emissions from deforestation, including strong

1 forest governance and mechanisms to ensure  
2 transparency and third-party independent over-  
3 sight of offset activities and revenues, and the  
4 transparent and equitable distribution of offset  
5 revenues for local actions; and

6 “(C) a land use or forest sector strategic  
7 plan that—

8 “(i) assesses national and local drivers  
9 of deforestation and forest degradation and  
10 identifies reforms to national policies need-  
11 ed to address them;

12 “(ii) estimates the country’s emissions  
13 from deforestation and forest degradation;

14 “(iii) identifies improvements in and a  
15 timeline for data collection, monitoring,  
16 and institutional capacity necessary to im-  
17 plement an effective national deforestation  
18 reduction program that meets the criteria  
19 set forth in this section (including a na-  
20 tional deforestation baseline);

21 “(iv) establishes a timeline for imple-  
22 menting the program and transitioning  
23 forest-based economies to low-emissions de-  
24 velopment pathways with respect to emis-  
25 sions from forest and land use activities;

1 “(v) includes a national policy for con-  
2 sultations with, and full participation of,  
3 all stakeholders, especially indigenous and  
4 forest-dependent communities, in its de-  
5 sign, planning, and implementation of ac-  
6 tivities, whether at the national or local  
7 level, to reduce deforestation in the country  
8 (including a national process for address-  
9 ing grievances if stakeholders have been  
10 caused social, environmental, or economic  
11 harm);

12 “(vi) provides for the distribution of  
13 revenues for activities to reduce deforest-  
14 ation transparently and publicly, subject to  
15 independent third-party oversight; and

16 “(vii) includes a national platform or  
17 a type of registry for information relating  
18 to deforestation and degradation policy and  
19 program implementation processes, includ-  
20 ing a mechanism for the monitoring and  
21 reporting of the social and environmental  
22 impacts of those activities.

23 “(3) PROTECTION OF INTERESTS.—With re-  
24 spect to an agreement or arrangement described in  
25 subsection (b)(2)(A) with a country that addresses

1 international offset credits under this subsection, the  
2 Administrator, in consultation with the Secretary of  
3 State and the Administrator of the United States  
4 Agency for International Development, shall under-  
5 take due diligence to ensure the establishment and  
6 enforcement by such country of legal regimes, proc-  
7 esses, standards, and safeguards that—

8 “(A) give due regard to the rights and in-  
9 terests of local communities, indigenous peoples,  
10 forest-dependent communities, and vulnerable  
11 social groups;

12 “(B) promote consultations with, and full  
13 participation of, forest-dependent communities  
14 and indigenous peoples in affected areas, as  
15 partners and primary stakeholders, prior to and  
16 during the design, planning, implementation,  
17 and monitoring and evaluation of activities; and

18 “(C) encourage transparent and equitable  
19 sharing of profits and benefits derived from  
20 international offset credits with local commu-  
21 nities, indigenous peoples, and forest-dependent  
22 communities.

23 “(4) NATIONAL DEFORESTATION BASELINE.—A  
24 national deforestation baseline established under this  
25 subsection shall—

1                   “(A) be national in scope;

2                   “(B) be consistent with nationally appro-  
3                   priate mitigation commitments or actions with  
4                   respect to deforestation, taking into consider-  
5                   ation the average annual historical deforestation  
6                   rates of the country during a period of at least  
7                   5 years, the applicable drivers of deforestation,  
8                   and other factors to ensure that only reductions  
9                   that are in addition to such commitments or ac-  
10                  tions will generate offsets;

11                  “(C) establish a trajectory that would re-  
12                  sult in zero net deforestation by not later than  
13                  20 years after the national deforestation base-  
14                  line has been established, including a spatially  
15                  explicit land use plan that identifies intact and  
16                  primary forest areas and managed forest areas  
17                  that are to remain while the country is reaching  
18                  the zero net deforestation trajectory;

19                  “(D) be adjusted over time to take account  
20                  of changing national circumstances;

21                  “(E) be designed to account for all signifi-  
22                  cant sources of greenhouse gas emissions from  
23                  deforestation in the country; and

1           “(F) be consistent with the national defor-  
2           estation baseline, if any, established for such  
3           country under section 753.

4           “(5) STATE-LEVEL OR PROVINCE-LEVEL AC-  
5           TIVITIES.—

6           “(A) ELIGIBLE STATES OR PROVINCES.—

7           The Administrator, in consultation with the  
8           Secretary of State and the Administrator of the  
9           United States Agency for International Devel-  
10          opment, shall establish, and periodically review  
11          and update, a list of states or provinces in de-  
12          veloping countries where—

13               “(i) the developing country is not in-  
14               cluded on the list of countries established  
15               pursuant to paragraph (6)(A);

16               “(ii) the State or province is under-  
17               taking deforestation reduction activities;

18               “(iii) the state or province has the ca-  
19               pacity to engage in deforestation reduction  
20               activities at the state or province level, in-  
21               cluding—

22                   “(I) the technical capacity to  
23                   monitor and measure forest carbon  
24                   fluxes for all significant sources of  
25                   greenhouse gas emissions from defor-

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estation with an acceptable amount of uncertainty, including a spatially explicit land use plan that identifies intact and primary forest areas and managed forest areas that are to remain while the country is reaching the zero net deforestation trajectory; and

8 “(II) the institutional capacity to  
9 reduce emissions from deforestation,  
10 including strong forest governance  
11 and mechanisms to deliver forest con-  
12 servation resources for local actions;

“(iv) the state or province meets the eligibility criteria in paragraphs (2) and (3) for the geographic area under its jurisdiction; and

17 “(v) the country—

“(I) demonstrates that efforts  
are underway to transition to a na-  
tional program within 5 years; or

21 “(II) in the determination of the  
22 Administrator, is making a good-faith  
23 effort to develop a land use or forest  
24 sector strategic national plan or pro-

1                   gram that meets the criteria described  
2                   in paragraph (2)(C).

3                   “(B) ACTIVITIES.—The Administrator may  
4                   issue international offset credits for greenhouse  
5                   gas emission reductions achieved through activi-  
6                   ties to reduce deforestation at a state or provin-  
7                   cial level that meet the requirements of this sec-  
8                   tion. Such credits shall be determined by com-  
9                   paring the emissions from deforestation within  
10                  that state or province relative to the state or  
11                  province deforestation baseline for that state or  
12                  province established, in accordance with an  
13                  agreement or arrangement described in sub-  
14                  section (b)(2)(A), pursuant to subparagraph  
15                  (C) of this paragraph.

16                  “(C) STATE-LEVEL OR PROVINCE-LEVEL  
17                  DEFORESTATION BASELINE.—A state-level or  
18                  province-level deforestation baseline shall—

19                         “(i) be consistent with any existing  
20                         nationally appropriate mitigation commit-  
21                         ments or actions for the country in which  
22                         the activity is occurring, so that only re-  
23                         ductions that are in addition to those com-  
24                         mitments or actions will generate offsets;

1                   “(ii) be developed taking into consid-  
2                   eration the average annual historical defor-  
3                   estation rates of the state or province dur-  
4                   ing a period of at least 5 years, relevant  
5                   drivers of deforestation, and other factors  
6                   to ensure additionality;

7                   “(iii) establish a trajectory that would  
8                   result in zero net deforestation by not later  
9                   than 20 years after the state-level or prov-  
10                  ince-level deforestation baseline has been  
11                  established; and

12                  “(iv) be designed to account for all  
13                  significant sources of greenhouse gas emis-  
14                  sions from deforestation in the state or  
15                  province and adjusted to fully account for  
16                  emissions leakage outside the state or  
17                  province through monitoring of major for-  
18                  ested areas in the host country and other  
19                  areas of the host country susceptible to  
20                  leakage.

21                  “(D) PHASE OUT.—Beginning 5 years  
22                  after the first calendar year for which a covered  
23                  entity must demonstrate compliance with sec-  
24                  tion 722(a), the Administrator shall issue no  
25                  further international offset credits for eligible

1 state-level or province-level activities to reduce  
2 deforestation pursuant to this paragraph.

3 “(6) PROJECTS AND PROGRAMS TO REDUCE  
4 DEFORESTATION.—

5 “(A) ELIGIBLE COUNTRIES.—The Admin-  
6 istrator, in consultation with the Secretary of  
7 State and the Administrator of the United  
8 States Agency for International Development,  
9 shall establish, and periodically review and up-  
10 date, a list of developing countries that—

11 “(i) the Administrator determines,  
12 based on recent, credible, and reliable  
13 emissions data, account for less than 1  
14 percent of global greenhouse gas emissions  
15 and less than 3 percent of global forest-  
16 sector and land use change greenhouse gas  
17 emissions;

18 “(ii) have, or in the determination of  
19 the Administrator are making a good faith  
20 effort to develop, a land use or forest sec-  
21 tor strategic plan that meets the criteria  
22 described in paragraph (2)(C); and

23 “(iii) has made, or in the determina-  
24 tion of the Administrator, is making, a  
25 good-faith effort to develop, through the

1 implementation of activities under this sec-  
2 tion, a monitoring program for major for-  
3 ested areas in a host country and other  
4 areas in a host country susceptible to leak-  
5 age, including a spatially explicit land use  
6 plan that identifies intact and primary for-  
7 est areas and managed forest areas that  
8 are to remain while country is reaching the  
9 zero net deforestation trajectory.

10 “(B) ACTIVITIES.—The Administrator may  
11 issue international offset credits for greenhouse  
12 gas emission reductions achieved through  
13 project or program level activities to reduce de-  
14 forestation in countries listed under subpara-  
15 graph (A) that meet the requirements of this  
16 section. The quantity of international offset  
17 credits shall be determined by comparing the  
18 project-level or program-level emissions from  
19 deforestation to a deforestation baseline for  
20 such project or program established pursuant to  
21 subparagraph (C).

22 “(C) PROJECT-LEVEL OR PROGRAM-LEVEL  
23 BASELINE.—A project-level or program-level de-  
24 forestation baseline shall—

1 “(i) be consistent with any existing  
2 nationally appropriate mitigation commit-  
3 ments or actions for the country in which  
4 the project or program is occurring, so  
5 that only reductions that are in addition to  
6 such commitments or actions will generate  
7 offsets;

8 “(ii) be developed taking into consid-  
9 eration the average annual historical defor-  
10 estation rates in the project or program  
11 boundary during a period of at least 5  
12 years, applicable drivers of deforestation,  
13 and other factors to ensure additionality;

14 “(iii) be designed to account for all  
15 significant sources of greenhouse gas emis-  
16 sions from deforestation in the project or  
17 program boundary; and

18 “(iv) be adjusted to fully account for  
19 emissions leakage outside the project or  
20 program boundary, including—

21 “(I) estimation through moni-  
22 toring of major forested areas in a  
23 host country and other areas in a host  
24 country susceptible to leakage, pursu-  
25 ant to section 744(e)(5); and

1                   “(II) a spatially explicit land use  
2                   plan that identifies intact and primary  
3                   forest areas and managed forest areas  
4                   that are to remain while country is  
5                   reaching the zero net deforestation  
6                   trajectory

7                   “(D) PHASE-OUT.—

8                   “(i) IN GENERAL.—Beginning on the  
9                   date that is 8 years after the first calendar  
10                  year for which a covered entity must dem-  
11                  onstrate compliance with section 722(a),  
12                  the Administrator shall issue no further  
13                  international offset credits for project-level  
14                  or program-level activities as described in  
15                  this paragraph, except as provided in  
16                  clause (ii).

17                  “(ii) EXTENSION.—The Administrator  
18                  may extend the phase out deadline for the  
19                  issuance of international offset credits  
20                  under this section by up to 5 years with re-  
21                  spect to eligible activities taking place in a  
22                  least developed country, which is a foreign  
23                  country that the United Nations has iden-  
24                  tified as among the least developed of de-  
25                  veloping countries at the time that the Ad-

1           ministrator determines to provide an exten-  
2           sion, provided that the Administrator, in  
3           consultation with the Secretary of State  
4           and the Administrator of the United States  
5           Agency for International Development, de-  
6           termines the country—

7                   “(I) lacks sufficient capacity to  
8                   adopt and implement effective pro-  
9                   grams to achieve reductions in defor-  
10                  estation measured against national  
11                  baselines;

12                   “(II) is receiving support under  
13                   part E to develop such capacity; and

14                   “(III) has developed and is work-  
15                   ing to implement a credible national  
16                   strategy or plan to reduce deforest-  
17                   ation.

18           “(7) EXPANSION OF SCOPE.—In implementing  
19           this subsection, the Administrator, taking into con-  
20           sideration the recommendations of the Advisory  
21           Board, may—

22                   “(A) expand credible activities to include  
23                   forest degradation; and

24                   “(B) include soil carbon losses associated  
25                   with forested wetlands or peatlands.

1       “(f) MODIFICATION OF REQUIREMENTS.—In promul-  
2     gating regulations under subsection (b)(1) with respect to  
3     the issuance of international offset credits under sub-  
4     section (c), (d), or (e), the Administrator, in consultation  
5     with the Secretary of State and the Administrator of the  
6     United States Agency for International Development, may  
7     modify or omit a requirement of this part (excluding the  
8     requirements of this section) if the Administrator deter-  
9     mines that the application of that requirement to such  
10    subsection is not feasible or would result in the creation  
11    of offset credits that would not be eligible to satisfy emis-  
12    sions reduction commitments made by the United States  
13    pursuant to the United Nations Framework Convention  
14    on Climate Change, done at New York on May 9, 1992  
15    (or any successor agreement). In modifying or omitting  
16    such a requirement on the basis of infeasibility, the Ad-  
17    ministrator, in consultation with the Secretary of State  
18    and the Administrator of the United States Agency for  
19    International Development, shall ensure, with an adequate  
20    margin of safety, the integrity of international offset cred-  
21    its issued under this section and of the greenhouse gas  
22    emissions limitations established pursuant to section 703.

23       “(g) AVOIDING DOUBLE COUNTING.—The Adminis-  
24    trator, in consultation with the Secretary of State, shall  
25    seek, by whatever means appropriate, including agree-

1 ments, arrangements, or technical cooperation, to ensure  
2 that activities on the basis of which international offset  
3 credits are issued under this section are not used for com-  
4 pliance with an obligation to reduce or avoid greenhouse  
5 gas emissions, or increase greenhouse gas sequestration,  
6 under a foreign or international regulatory system. In ad-  
7 dition, no international offset credits shall be issued for  
8 emission reductions from activities with respect to which  
9 emission allowances were allocated under section 771(c)  
10 for distribution under part E.

11 “(h) LIMITATION.—The Administrator shall not issue  
12 international offset credits generated by projects based on  
13 the destruction of hydrofluorocarbons.”.

14 **SEC. 102. DEFINITIONS.**

15 Title VII of the Clean Air Act (as added by section  
16 101 of this division) is amended by inserting before part  
17 A the following:

18 **“SEC. 700. DEFINITIONS.**

19 “In this title:

20 “(1) ADDITIONAL.—The term ‘additional’,  
21 when used with respect to reductions or avoidance of  
22 greenhouse gas emissions, or to sequestration of  
23 greenhouse gases, means reductions, avoidance, or  
24 sequestration that result in a lower level of net  
25 greenhouse gas emissions or atmospheric concentra-

1        tions than would occur in the absence of an offset  
2        credit.

3            “(2) ADDITIONALITY.—The term ‘additionality’  
4        means the extent to which reductions or avoidance  
5        of greenhouse gas emissions, or sequestration of  
6        greenhouse gases, are additional.

7            “(3) ADVISORY BOARD.—The term ‘Advisory  
8        Board’ means the Offsets Integrity Advisory Board  
9        established under section 731.

10          “(4) AFFILIATED.—The term ‘affiliated’—

11            “(A) when used in relation to an entity,  
12        means owned or controlled by, or under com-  
13        mon ownership or control with, another entity,  
14        as determined by the Administrator; and

15            “(B) when used in relation to a natural  
16        gas local distribution company, means owned or  
17        controlled by, or under common ownership or  
18        control with, another natural gas local distribu-  
19        tion company, as determined by the Adminis-  
20        trator.

21          “(5) ALLOWANCE.—The term ‘allowance’  
22        means a limited authorization to emit, or have at-  
23        tributable greenhouse gas emissions in an amount  
24        of, 1 ton of carbon dioxide equivalent of a green-  
25        house gas in accordance with this title; it includes an

1 emission allowance, a compensatory allowance, or an  
2 international emission allowance.

3 “(6) ATTRIBUTABLE GREENHOUSE GAS EMIS-  
4 SIONS.—The term ‘attributable greenhouse gas emis-  
5 sions’ means—

6 “(A) for a covered entity that is a fuel pro-  
7 ducer or importer described in paragraph  
8 (13)(B), greenhouse gases that would be emit-  
9 ted from the combustion of any petroleum-  
10 based or coal-based liquid fuel, petroleum coke,  
11 or natural gas liquid, produced or imported by  
12 that covered entity for sale or distribution in  
13 interstate commerce, assuming no capture and  
14 sequestration of any greenhouse gas emissions;

15 “(B) for a covered entity that is an indus-  
16 trial gas producer or importer described in  
17 paragraph (13)(C), the tons of carbon dioxide  
18 equivalent of fossil fuel-based carbon dioxide,  
19 nitrous oxide, any fluorinated gas, other than  
20 nitrogen trifluoride, that is a greenhouse gas, or  
21 any combination thereof—

22 “(i) produced or imported by such  
23 covered entity during the previous calendar  
24 year for sale or distribution in interstate  
25 commerce; or

1 “(ii) released as fugitive emissions in  
2 the production of fluorinated gas; and

3 “(C) for a natural gas local distribution  
4 company described in paragraph (13)(J), green-  
5 house gases that would be emitted from the  
6 combustion of the natural gas, and any other  
7 gas meeting the specifications for commingling  
8 with natural gas for purposes of delivery, that  
9 such entity delivered during the previous cal-  
10 endar year to customers that are not covered  
11 entities, assuming no capture and sequestration  
12 of that greenhouse gas.

13 “(7) BIOLOGICAL SEQUESTRATION; BIO-  
14 LOGICALLY SEQUESTERED.—The terms ‘biological  
15 sequestration’ and ‘biologically sequestered’ mean  
16 the removal of greenhouse gases from the atmos-  
17 phere by terrestrial biological means, such as by  
18 growing plants, and the storage of those greenhouse  
19 gases in plants or soils.

20 “(8) CAPPED EMISSIONS.—The term ‘capped  
21 emissions’ means greenhouse gas emissions to which  
22 section 722 applies, including emissions from the  
23 combustion of natural gas, petroleum-based or coal-  
24 based liquid fuel, petroleum coke, or natural gas liq-  
25 uid to which section 722(b)(2) or (8) applies.

1           “(9) CAPPED SOURCE.—The term ‘capped  
2           source’ means a source that directly emits capped  
3           emissions.

4           “(10) CARBON DIOXIDE EQUIVALENT.—The  
5           term ‘carbon dioxide equivalent’ means the unit of  
6           measure, expressed in metric tons, of greenhouse  
7           gases as provided under section 711 or 712.

8           “(11) CARBON STOCK.—The term ‘carbon  
9           stock’ means the quantity of carbon contained in a  
10          biological reservoir or system which has the capacity  
11          to accumulate or release carbon.

12          “(12) COMPENSATORY ALLOWANCE.—The term  
13          ‘compensatory allowance’ means an allowance issued  
14          under section 721(f).

15          “(13) COVERED ENTITY.—The term ‘covered  
16          entity’ means each of the following:

17               “(A) Any electricity source.

18               “(B)(i) Any stationary source that pro-  
19               duces petroleum-based or coal-based liquid fuel,  
20               petroleum coke, or natural gas liquid, the com-  
21               bustion of which would emit 25,000 or more  
22               tons of carbon dioxide equivalent, as determined  
23               by the Administrator.

24               “(ii) Any entity that (or any group of 2 or  
25               more affiliated entities that, in the aggregate)

1 imports petroleum-based or coal-based liquid  
2 fuel, petroleum coke, or natural gas liquid, the  
3 combustion of which would emit 25,000 or more  
4 tons of carbon dioxide equivalent, as determined  
5 by the Administrator.

6 “(C) Any stationary source that produces,  
7 and any entity that (or any group of two or  
8 more affiliated entities that, in the aggregate)  
9 imports, for sale or distribution in interstate  
10 commerce, in bulk, or in products designated by  
11 the Administrator, in 2008 or any subsequent  
12 year more than 25,000 tons of carbon dioxide  
13 equivalent of—

14 “(i) fossil fuel-based carbon dioxide;

15 “(ii) nitrous oxide;

16 “(iii) perfluorocarbons;

17 “(iv) sulfur hexafluoride;

18 “(v) any other fluorinated gas, except  
19 for nitrogen trifluoride, that is a green-  
20 house gas, as designated by the Adminis-  
21 trator under section 711(b) or (c); or

22 “(vi) any combination of greenhouse  
23 gases described in clauses (i) through (v).

24 “(D) Any stationary source that has emit-  
25 ted 25,000 or more tons of carbon dioxide

1 equivalent of nitrogen trifluoride in 2008 or any  
2 subsequent year.

3 “(E) Any geologic sequestration site.

4 “(F) Any stationary source in the following  
5 industrial sectors:

6 “(i) Adipic acid production.

7 “(ii) Primary aluminum production.

8 “(iii) Ammonia manufacturing.

9 “(iv) Cement production, excluding  
10 grinding-only operations.

11 “(v) Hydrochlorofluorocarbon produc-  
12 tion.

13 “(vi) Lime manufacturing.

14 “(vii) Nitric acid production.

15 “(viii) Petroleum refining.

16 “(ix) Phosphoric acid production.

17 “(x) Silicon carbide production.

18 “(xi) Soda ash production.

19 “(xii) Titanium dioxide production.

20 “(xiii) Coal-based liquid or gaseous  
21 fuel production.

22 “(G) Any stationary source in the chemical  
23 or petrochemical sector that, in 2008 or any  
24 subsequent year—

601

1                   “(i) produces acrylonitrile, carbon  
2                   black, ethylene, ethylene dichloride, ethyl-  
3                   ene oxide, or methanol; or

4                   “(ii) produces a chemical or petro-  
5                   chemical product if producing that product  
6                   results in annual combustion plus process  
7                   emissions of 25,000 or more tons of carbon  
8                   dioxide equivalent.

9                   “(H) Any stationary source that—

10                   “(i) is in one of the following indus-  
11                   trial sectors: ethanol production; ferroalloy  
12                   production; fluorinated gas production;  
13                   food processing; glass production; hydrogen  
14                   production; beneficiation or other proc-  
15                   essing (including agglomeration) of metal  
16                   ores; iron and steel production; lead pro-  
17                   duction; pulp and paper manufacturing;  
18                   and zinc production; and

19                   “(ii) has emitted 25,000 or more tons  
20                   of carbon dioxide equivalent in 2008 or  
21                   any subsequent year.

22                   “(I) Any fossil fuel-fired combustion device  
23                   (such as a boiler) or grouping of such devices  
24                   that—

1                   “(i) is all or part of an industrial  
2                   source not specified in subparagraph (D),  
3                   (F), (G), or (H); and

4                   “(ii) has emitted 25,000 or more tons  
5                   of carbon dioxide equivalent in 2008 or  
6                   any subsequent year.

7                   “(J) Any natural gas local distribution  
8                   company that (or any group of 2 or more affili-  
9                   ated natural gas local distribution companies  
10                  that, in the aggregate) in 2008 or any subse-  
11                  quent year, delivers 460,000,000 cubic feet or  
12                  more of natural gas to customers that are not  
13                  covered entities.

14                  “(14) CREDITING PERIOD.—The term ‘crediting  
15                  period’ means the period with respect to which an  
16                  offset project is eligible to earn offset credits under  
17                  part D, as determined under section 734(c).

18                  “(15) DESIGNATED REPRESENTATIVE.—The  
19                  term ‘designated representative’ means, with respect  
20                  to a covered entity, a reporting entity, an offset  
21                  project developer, or any other entity receiving or  
22                  holding allowances or offset credits under this title,  
23                  an individual authorized, through a certificate of  
24                  representation submitted to the Administrator by  
25                  the owners and operators or similar entity official, to

1 represent the owners and operators or similar entity  
2 official in all matters pertaining to this title (includ-  
3 ing the holding, transfer, or disposition of allowances  
4 or offset credits), and to make all submissions to the  
5 Administrator under this title.

6 “(16) DEVELOPING COUNTRY.—The term ‘de-  
7 veloping country’ means a country eligible to receive  
8 official development assistance according to the in-  
9 come guidelines of the Development Assistance Com-  
10 mittee of the Organization for Economic Coopera-  
11 tion and Development.

12 “(17) DOMESTIC OFFSET CREDIT.—

13 “(A) IN GENERAL.—The term ‘domestic  
14 offset credit’ means an offset credit issued  
15 under part D, other than an international offset  
16 credit.

17 “(B) EXCLUSION.—The term ‘domestic  
18 offset credit’ does not include a term offset  
19 credit.

20 “(18) ELECTRICITY SOURCE.—The term ‘elec-  
21 tricity source’ means a stationary source that in-  
22 cludes one or more utility units.

23 “(19) EMISSION.—The term ‘emission’ means  
24 the release of a greenhouse gas into the ambient air.  
25 Such term does not include gases that are captured

1 and sequestered, except to the extent that they are  
2 later released into the atmosphere, in which case  
3 compliance must be demonstrated pursuant to sec-  
4 tion 722(b)(5).

5 “(20) EMISSION ALLOWANCE.—The term ‘emis-  
6 sion allowance’ means an allowance established  
7 under section 721(a) or 726(g)(2).

8 “(21) FAIR MARKET VALUE.—The term ‘fair  
9 market value’ means the average daily closing price  
10 on registered exchanges or, if such a price is un-  
11 available, the average price as determined by the Ad-  
12 ministrator, during a specified time period, of an  
13 emission allowance.

14 “(22) FEDERAL LAND.—The term ‘Federal  
15 land’ means land that is owned by the United  
16 States, other than land held in trust for an Indian  
17 or Indian tribe.

18 “(23) FOSSIL FUEL.—The term ‘fossil fuel’  
19 means natural gas, petroleum, or coal, or any form  
20 of solid, liquid, or gaseous fuel derived from such  
21 material, including consumer products that are de-  
22 rived from such materials and are combusted.

23 “(24) FOSSIL FUEL-FIRED.—The term ‘fossil  
24 fuel-fired’ means powered by combustion of fossil

1 fuel, alone or in combination with any other fuel, re-  
2 gardless of the percentage of fossil fuel consumed.

3 “(25) FUGITIVE EMISSIONS.—The term ‘fugi-  
4 tive emissions’ means emissions from leaks, valves,  
5 joints, or other small openings in pipes, ducts, or  
6 other equipment, or from vents.

7 “(26) GEOLOGIC SEQUESTRATION; GEOLOGI-  
8 CALLY SEQUESTERED.—The terms ‘geologic seques-  
9 tration’ and ‘geologically sequestered’ mean the se-  
10 questration of greenhouse gases in subsurface geo-  
11 logic formations for purposes of permanent storage.

12 “(27) GEOLOGIC SEQUESTRATION SITE.—The  
13 term ‘geologic sequestration site’ means a site where  
14 carbon dioxide is geologically sequestered.

15 “(28) GREENHOUSE GAS.—The term ‘green-  
16 house gas’ means any gas described in section  
17 711(a) or designated under section 711(b), (c), or  
18 (e), except to the extent that it is regulated under  
19 title VI.

20 “(29) HIGH CONSERVATION PRIORITY LAND.—  
21 The term ‘high conservation priority land’ means  
22 land that is not Federal land and is—

23 “(A) globally or State ranked as critically  
24 imperiled or imperiled under a State Natural  
25 Heritage Program; or

1           “(B) old-growth or late-successional forest,  
2           as identified by the office of the State Forester  
3           or relevant State agency with regulatory juris-  
4           diction over forestry activities.

5           “(30) HOLD.—The term ‘hold’ means, with re-  
6           spect to an allowance, offset credit, or term offset  
7           credit, to have in the appropriate account in the al-  
8           lowance tracking system, or submit to the Adminis-  
9           trator for recording in such account.

10          “(31) INDUSTRIAL SOURCE.—The term ‘indus-  
11          trial source’ means any stationary source that—

12               “(A) is not an electricity source; and

13               “(B) is in—

14                   “(i) the manufacturing sector (as de-  
15                   fined in North American Industrial Classi-  
16                   fication System codes 31, 32, and 33); or

17                   “(ii) the natural gas processing or  
18                   natural gas pipeline transportation sector  
19                   (as defined in North American Industrial  
20                   Classification System codes 211112 or  
21                   486210).

22          “(32) INTERNATIONAL EMISSION ALLOW-  
23          ANCE.—The term ‘international emission allowance’  
24          means a tradable authorization to emit 1 ton of car-  
25          bon dioxide equivalent of greenhouse gas that is

1 issued by a national or supranational foreign govern-  
2 ment pursuant to a qualifying international program  
3 designated by the Administrator pursuant to section  
4 728(a).

5 “(33) INTERNATIONAL OFFSET CREDIT.—The  
6 term ‘international offset credit’ means an offset  
7 credit issued by the Administrator under section  
8 744.

9 “(34) LEAKAGE.—The term ‘leakage’ means a  
10 significant increase in greenhouse gas emissions, or  
11 significant decrease in sequestration, which is caused  
12 by an offset project and occurs outside the bound-  
13 aries of the offset project.

14 “(35) MARKET STABILITY RESERVE ALLOW-  
15 ANCE.—The term ‘market stability reserve allow-  
16 ance’ means an emission allowance reserved for,  
17 transferred to, or deposited in the market stability  
18 reserve, or established, under section 726.

19 “(36) MINERAL SEQUESTRATION.—The term  
20 ‘mineral sequestration’ means sequestration of car-  
21 bon dioxide from the atmosphere by capturing car-  
22 bon dioxide into a permanent mineral, such as the  
23 aqueous precipitation of carbonate minerals that re-  
24 sults in the storage of carbon dioxide in a mineral  
25 form.

1           “(37) NATURAL GAS LIQUID.—The term ‘nat-  
2           ural gas liquid’ means ethane, butane, isobutane,  
3           natural gasoline, and propane which is ready for  
4           commercial sale or use.

5           “(38) NATURAL GAS LOCAL DISTRIBUTION  
6           COMPANY.—The term ‘natural gas local distribution  
7           company’ has the meaning given the term ‘local dis-  
8           tribution company’ in section 2(17) of the Natural  
9           Gas Policy Act of 1978 (15 U.S.C. 3301(17)).

10          “(39) OFFSET CREDIT.—

11               “(A) IN GENERAL.—The term ‘offset cred-  
12               it’ means an offset credit issued under part D.

13               “(B) EXCLUSION.—The term ‘offset credit’  
14               does not include a term offset credit.

15          “(40) OFFSET PROJECT.—The term ‘offset  
16               project’ means a project or activity that reduces or  
17               avoids greenhouse gas emissions, or sequesters  
18               greenhouse gases, and for which offset credits are or  
19               may be issued under part D.

20          “(41) OFFSET PROJECT DEVELOPER.—The  
21               term ‘offset project developer’ means the individual  
22               or entity designated as the offset project developer  
23               in an offset project approval petition under section  
24               735(c)(1).

1           “(42) QUALIFIED R&D FACILITY.—The term  
2           ‘qualified R&D facility’ means a facility that con-  
3           ducts research and development, that was in oper-  
4           ation as of the date of enactment of this title, and  
5           that is part of a covered entity subject to paragraphs  
6           (1) through (8) of section 722(b).

7           “(43) PETROLEUM.—The term ‘petroleum’ in-  
8           cludes crude oil, tar sands, oil shale, and heavy oils.

9           “(44) REPEATED INTENTIONAL REVERSALS.—  
10          The term ‘repeated intentional reversals’ means at  
11          least 3 intentional reversals, as determined by the  
12          Administrator or a court under section  
13          734(b)(3)(B)(ii).

14          “(45) RESEARCH AND DEVELOPMENT.—The  
15          term ‘research and development’ means activities—

16               “(A) that are conducted in process units or  
17               at laboratory bench-scale settings;

18               “(B) whose purpose is to conduct research  
19               and development for new processes, tech-  
20               nologies, or products that contribute to lower  
21               greenhouse gas emissions; and

22               “(C) that do not manufacture products for  
23               sale.

24          “(46) RENEWABLE BIOMASS.—The term ‘re-  
25          newable biomass’ means any of the following:

1           “(A) Plant material, including waste mate-  
2           rial, harvested or collected from actively man-  
3           aged agricultural land that was in cultivation,  
4           cleared, or fallow and nonforested on January  
5           1, 2009.

6           “(B) Plant material, including waste mate-  
7           rial, harvested or collected from pastureland  
8           that was nonforested on January 1, 2009.

9           “(C) Nonhazardous vegetative matter de-  
10          rived from waste, including separated yard  
11          waste, landscape right-of-way trimmings, con-  
12          struction and demolition debris, or food waste  
13          (but not municipal solid waste, recyclable waste  
14          paper, painted, treated or pressurized wood, or  
15          wood contaminated with plastic or metals).

16          “(D) Animal waste or animal byproducts,  
17          including products of animal waste digesters.

18          “(E) Algae.

19          “(F) Trees, brush, slash, residues, or any  
20          other vegetative matter removed from within  
21          600 feet of any building, campground, or route  
22          designated for evacuation by a public official  
23          with responsibility for emergency preparedness,  
24          or from within 300 feet of a paved road, electric

1 transmission line, utility tower, or water supply  
2 line.

3 “(G) Residues from or byproducts of  
4 milled logs.

5 “(H) Any of the following removed from  
6 forested land that is not Federal and is not  
7 high conservation priority land:

8 “(i) Trees, brush, slash, residues,  
9 interplanted energy crops, or any other  
10 vegetative matter removed from an actively  
11 managed tree plantation established—

12 “(I) prior to January 1, 2009; or

13 “(II) on land that, as of January  
14 1, 2009, was cultivated or fallow and  
15 non-forested.

16 “(ii) Trees, logging residue, thinnings,  
17 cull trees, pulpwood, and brush removed  
18 from naturally regenerated forests or other  
19 non-plantation forests, including for the  
20 purposes of hazardous fuel reduction or  
21 preventative treatment for reducing or con-  
22 taining insect or disease infestation.

23 “(iii) Logging residue, thinnings, cull  
24 trees, pulpwood, brush, and species that  
25 are non-native and noxious, from stands

1           that were planted and managed after Jan-  
2           uary 1, 2009, to restore or maintain native  
3           forest types.

4           “(iv) Dead or severely damaged trees  
5           removed within 5 years of fire, blowdown,  
6           or other natural disaster, and badly in-  
7           fested trees.

8           “(I) Materials, pre-commercial thinnings,  
9           or removed invasive species from National For-  
10          est System land and public lands (as defined in  
11          section 103 of the Federal Land Policy and  
12          Management Act of 1976 (43 U.S.C. 1702)),  
13          including those that are byproducts of preven-  
14          tive treatments (such as trees, wood, brush,  
15          thinnings, chips, and slash), that are removed  
16          as part of a federally recognized timber sale, or  
17          that are removed to reduce hazardous fuels, to  
18          reduce or contain disease or insect infestation,  
19          or to restore ecosystem health, and that are—

20          “(i) not from components of the Na-  
21          tional Wilderness Preservation System,  
22          Wilderness Study Areas, Inventoried  
23          Roadless Areas, old growth or mature for-  
24          est stands, components of the National  
25          Landscape Conservation System, National

1                   Monuments, National Conservation Areas,  
2                   Designated Primitive Areas; or Wild and  
3                   Scenic Rivers corridors;

4                   “(ii) harvested in environmentally sus-  
5                   tainable quantities, as determined by the  
6                   appropriate Federal land manager; and

7                   “(iii) are harvested in accordance with  
8                   Federal and State law, and applicable land  
9                   management plans.

10                  “(47) RETIRE.—The term ‘retire’, with respect  
11                  to an allowance, offset credit, or term offset credit  
12                  established or issued under this title, means to dis-  
13                  qualify such allowance or offset credit for any subse-  
14                  quent use under this title, regardless of whether the  
15                  use is a sale, exchange, or submission of the allow-  
16                  ance, offset credit, or term offset credit to satisfy a  
17                  compliance obligation.

18                  “(48) REVERSAL.—The term ‘reversal’ means  
19                  an intentional or unintentional loss of sequestered  
20                  greenhouse gases to the atmosphere.

21                  “(49) SEQUESTERED AND SEQUESTRATION.—  
22                  The terms ‘sequestered’ and ‘sequestration’ mean  
23                  the separation, isolation, or removal of greenhouse  
24                  gases from the atmosphere, as determined by the  
25                  Administrator. The terms include biological, geo-

1 logic, and mineral sequestration, but do not include  
2 ocean fertilization techniques.

3 “(50) SMALL BUSINESS REFINER.—

4 “(A) IN GENERAL.—The term ‘small busi-  
5 ness refiner’ means a refiner that meets the ap-  
6 plicable Federal refinery capacity and employee  
7 limitations criteria described in section  
8 45H(c)(1) of the Internal Revenue Code of  
9 1986 (as in effect on the date of enactment of  
10 this section and without regard to section  
11 45H(d)).

12 “(B) ELIGIBILITY.—Eligibility of a small  
13 business refiner under this paragraph shall not  
14 be recalculated or disallowed on account of—

15 “(i) a merger of the small business re-  
16 finer with 1 or more other small business  
17 refiners after December 31, 2002; or

18 “(ii) the acquisition by a small busi-  
19 ness refiner of another small business re-  
20 finer (or refinery of such refiner) after De-  
21 cember 31, 2002.

22 “(51) STATIONARY SOURCE.—The term ‘sta-  
23 tionary source’ means any integrated operation com-  
24 prising any plant, building, structure, or stationary  
25 equipment, including support buildings and equip-

1       ment, that is located within one or more contiguous  
2       or adjacent properties, is under common control of  
3       the same person or persons, and emits or may emit  
4       a greenhouse gas.

5           “(52) TON.—The term ‘ton’ means a metric  
6       ton.

7           “(53) UNCAPPED EMISSIONS.—The term ‘un-  
8       capped emissions’ means emissions of greenhouse  
9       gases emitted after December 31, 2011, that are not  
10      capped emissions.

11          “(54) UNITED STATES GREENHOUSE GAS EMIS-  
12      SIONS.—The term ‘United States greenhouse gas  
13      emissions’ means the total quantity of annual green-  
14      house gas emissions from the United States, as cal-  
15      culated by the Administrator and reported to the  
16      United Nations Framework Convention on Climate  
17      Change Secretariat.

18          “(55) UTILITY UNIT.—The term ‘utility unit’  
19      means a combustion device that, on January 1,  
20      2009, or any date thereafter, is fossil fuel-fired and  
21      serves a generator that produces electricity for sale,  
22      unless such combustion device, during the 12-month  
23      period starting the later of January 1, 2009, or the  
24      commencement of commercial operation and each  
25      calendar year starting after such later date—

1           “(A) is part of an integrated cycle system  
2           that cogenerates thermal energy and electricity  
3           during normal operation and that supplies  $\frac{1}{3}$  or  
4           less of its potential electric output capacity and  
5           25 megawatts or less of electrical output for  
6           sale; or

7           “(B) combusts materials of which more  
8           than 95 percent is municipal solid waste on a  
9           heat input basis.

10          “(56) VINTAGE YEAR.—The term ‘vintage year’  
11          means the calendar year for which an emission al-  
12          lowance is established under section 721(a) or which  
13          is assigned to an emission allowance under section  
14          726(g)(3)(A), except that the vintage year for a  
15          market stability reserve allowance shall be the year  
16          in which such allowance is purchased at auction.”.

17   **SEC. 103. OFFSET REPORTING REQUIREMENTS.**

18          Section 114 of Clean Air Act (42 U.S.C. 7414) is  
19          amended by adding at the end the following:

20          “(e) RECORDKEEPING FOR CARBON OFFSETS PRO-  
21          GRAM.—For the purpose of implementing the carbon off-  
22          sets program set forth in subtitle D of title VII, the Ad-  
23          ministrators shall require any person who is an offset  
24          project developer, and may require any person who is a  
25          third party verifier, to establish and maintain records, for

1 a period of not less than the crediting period under section  
2 734(c) plus 5 years, relating to—

3 “(1) any offset project approval petition sub-  
4 mitted to the appropriate officials under section 735;

5 “(2) any reversals which occur with respect to  
6 an offset project;

7 “(3) any verification reports; and

8 “(4) any other aspect of the offset project that  
9 the appropriate officials determines is appropriate.”.

## 10 **Subtitle B—Disposition of** 11 **Allowances**

### 12 **SEC. 111. DISPOSITION OF ALLOWANCES FOR GLOBAL** 13 **WARMING POLLUTION REDUCTION PRO-** 14 **GRAM.**

15 Title VII of the Clean Air Act (as amended by section  
16 141 of this division) is amended by adding at the end the  
17 following:

#### 18 **“PART H—DISPOSITION OF ALLOWANCES**

##### 19 **“SEC. 771. ALLOCATION OF EMISSION ALLOWANCES.**

20 “(a) ALLOCATION.—Subject to subsection (d), of the  
21 total quantity of emission allowances established for each  
22 vintage year under section 721(a), the Administrator shall  
23 allocate emission allowances for the purposes and for the  
24 vintage years and corresponding percentages specified as  
25 follows:

1           “(1) For the program for electricity consumers  
 2           pursuant to section 772, as described in the fol-  
 3           lowing tables:

4           “(A) For distribution to electricity con-  
 5           sumers in accordance with subsections (b), (c),  
 6           and (d) of section 772, the percentages speci-  
 7           fied in the following table:

<b>“Electricity consumers</b>	
<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	43.75
2013 .....	43.75
2014 .....	38.89
2015 .....	38.89
2016 .....	35.00
2017 .....	35.00
2018 .....	35.00
2019 .....	35.00
2020 .....	35.00
2021 .....	35.00
2022 .....	35.00
2023 .....	35.00
2024 .....	35.00
2025 .....	35.00
2026 .....	28.00
2027 .....	21.00
2028 .....	14.00
2029 .....	7.00

8           “(B) For distribution to small LDCs under  
 9           section 772(e), the percentages specified in the  
 10          following table:

<b>“Small LDCs</b>	
<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	0.50
2013 .....	0.50
2014 .....	0.50
2015 .....	0.50
2016 .....	0.50
2017 .....	0.50
2018 .....	0.50
2019 .....	0.50

**“Small LDCs—Continued**

2020 .....	0.50
2021 .....	0.50
2022 .....	0.50
2023 .....	0.50
2024 .....	0.50
2025 .....	0.50
2026 .....	0.40
2027 .....	0.30
2028 .....	0.20
2029 .....	0.10

- 1           “(2) For the program for natural gas con-  
2           sumers pursuant to section 773, as described in the  
3           following table:

**“Natural gas consumers**

<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	0.00
2013 .....	0.00
2014 .....	0.00
2015 .....	0.00
2016 .....	9.00
2017 .....	9.00
2018 .....	9.00
2019 .....	9.00
2020 .....	9.00
2021 .....	9.00
2022 .....	9.00
2023 .....	9.00
2024 .....	9.00
2025 .....	9.00
2026 .....	7.20
2027 .....	5.40
2028 .....	3.60
2029 .....	1.80

- 4           “(3) For the program for home heating oil and  
5           propane consumers pursuant to section 774, as de-  
6           scribed in the following table:

**“Home heating oil and propane consumers**

<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	1.88
2013 .....	1.88
2014 .....	1.67
2015 .....	1.67
2016 .....	1.50

**“Home heating oil and propane consumers—Continued**

2017 .....	1.50
2018 .....	1.50
2019 .....	1.50
2020 .....	1.50
2021 .....	1.50
2022 .....	1.50
2023 .....	1.50
2024 .....	1.50
2025 .....	1.50
2026 .....	1.20
2027 .....	0.90
2028 .....	0.60
2029 .....	0.30

1           “(4) For the program for domestic fuel produc-  
2           tion, including petroleum refiners and small business  
3           refiners, under section 775, for each of vintage years  
4           2014 through 2026, for allocation and distribution  
5           in accordance with section 775—

6           “(A) 0.75 percent of the emission allow-  
7           ances established for each vintage year under  
8           section 721(a) to domestic petroleum refineries  
9           that are covered entities described in section  
10          700(13)(F)(viii);

11          “(B) an additional 0.5 percent of the emis-  
12          sion allowances established for each vintage  
13          year under section 721(a) to mid-sized refiners  
14          that are covered entities described in section  
15          700(13)(F)(viii); and

16          “(C) an additional 1.0 percent of the emis-  
17          sion allowances established for each vintage  
18          year under section 721(a) to small business re-

1           finers that are covered entities described in sec-  
2           tion 700(13)(F)(viii).

3           “(5) In addition to emission allowances reserved  
4           under subsection (d)(5), subject to subparagraph  
5           (G), for the program to ensure real reductions in in-  
6           dustrial emissions under part F, as follows:

7                   “(A) For each of vintage years 2012 and  
8                   2013, up to 4.0 percent of the emission allow-  
9                   ances established for each year under section  
10                  721(a).

11                  “(B) For vintage year 2014, up to 15 per-  
12                  cent of the emission allowances established for  
13                  that year under section 721(a).

14                  “(C) For vintage year 2015, up to the  
15                  product of—

16                          “(i) the quantity specified in subpara-  
17                          graph (B); multiplied by

18                          “(ii) the quantity of emission allow-  
19                          ances established for 2015 under section  
20                          721(a) divided by the quantity of emission  
21                          allowances established for 2014 under sec-  
22                          tion 721(a).

23                  “(D) For vintage year 2016, up to the  
24                  product obtained by multiplying—

1 “(i) the quantity specified in subpara-  
2 graph (C); and

3 “(ii) the quantity of emission allow-  
4 ances established for 2015 under section  
5 721(a) divided by the quantity of emission  
6 allowances established for 2014 under sec-  
7 tion 721(a).

8 “(E) For vintage years 2017 through  
9 2025, up to the product obtained by multi-  
10 plying—

11 “(i) the quantity specified in subpara-  
12 graph (D); and

13 “(ii) the quantity of emission allow-  
14 ances established for that year under sec-  
15 tion 721(a) divided by the quantity of  
16 emission allowances established for 2016  
17 under section 721(a).

18 “(F) For vintage years 2026 through  
19 2050, up to the product of the quantity speci-  
20 fied in subparagraph (D)—

21 “(i) multiplied by the quantity of  
22 emission allowances established for the ap-  
23 plicable year during 2026 through 2050  
24 under section 721(a) divided by the quan-

1                   tity of emission allowances established for  
 2                   2016 under section 721(a); and

3                   “(ii) multiplied by a factor that shall  
 4                   equal 90 percent for 2026 and decline 10  
 5                   percent for each year thereafter until  
 6                   reaching 0.

7                   “(G) If the Administrator has not distrib-  
 8                   uted all of the allowances allocated pursuant to  
 9                   this paragraph for a given vintage year by the  
 10                  end of that year, any emission allowances allo-  
 11                  cated to entities in eligible industrial sectors  
 12                  pursuant to this paragraph that have not been  
 13                  so distributed shall, in accordance with sub-  
 14                  section (e), be exchanged for allowances from  
 15                  the following vintage year and treated as part  
 16                  of the allocation to such entities for that later  
 17                  vintage year.

18                  “(6)(A) Subject to subparagraph (B), for the  
 19                  program for commercial deployment of carbon cap-  
 20                  ture and sequestration technologies under section  
 21                  780, as described in the following table:

<b>“Deployment of carbon capture and sequestration technology</b>	
<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	0.00
2013 .....	0.00
2014 .....	1.75
2015 .....	1.75
2016 .....	1.75
2017 .....	1.75

**“Deployment of carbon capture and sequestration technology—**

Continued

2018 .....	4.75
2019 .....	4.75
Each of vintage years 2020 through 2050 .....	5.00

1           “(B) If the Administrator has not distributed  
2           all of the allowances allocated pursuant to this para-  
3           graph for a given vintage year by the end of that  
4           year, all such undistributed emission allowances  
5           shall, in accordance with subsection (e), be ex-  
6           changed for allowances from the following vintage  
7           year and treated as part of the allocation for the de-  
8           ployment of carbon capture and sequestration tech-  
9           nology under this subsection for that later vintage  
10          year.

11          “(7) For the program for early action recogni-  
12          tion pursuant to section 782, 2.0 percent of the  
13          emission allowances for each of vintage years 2012  
14          and 2013.

15          “(8) For the program for investment in clean  
16          vehicle technology under section 201 of division B of  
17          the Clean Energy Jobs and American Power Act—

18               “(A) for each of vintage years 2012  
19               through 2017, 2.4 percent of the emission al-  
20               lowances; and

21               “(B) for each of vintage years 2018  
22               through 2025, 0.8 percent of the emission al-  
23               lowances.

1           “(9)(A) In addition to the emission allowances  
 2           reserved under subsection (d)(6), subject to subpara-  
 3           graph (B), for the program for State and local in-  
 4           vestment in energy efficiency and renewable energy  
 5           under section 202 of division B of the Clean Energy  
 6           Jobs and American Power Act, as described in the  
 7           following table:

<b>“Investment in energy efficiency and renewable energy</b>	
<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	10.35
2013 .....	10.35
2014 .....	8.55
2015 .....	8.55
2016 .....	5.85
2017 .....	6.12
2018 .....	5.22
2019 .....	5.22
2020 .....	4.95
2021 .....	4.95
2022 .....	0.90
2023 .....	0.90
2024 .....	0.90
2025 .....	0.90
Each of vintage years 2026 through 2050 .....	4.05

8           “(B) At the time at which allowances are dis-  
 9           tributed under subparagraph (A) for each of vintage  
 10          years 2022 through 2025, 3.2 percent of emission  
 11          allowances established under section 721(a) for the  
 12          vintage year that is 4 years after that vintage year  
 13          shall also be distributed (which shall be in addition  
 14          to the emission allowances distributed under sub-  
 15          paragraph (A) for vintage years 2026 through 2050.

16          “(10) For the program for energy efficiency in  
 17          building codes under section 163 of division A, and

1       section 203 of division B, of the Clean Energy Jobs  
2       and American Power Act, 0.50 percent of the emis-  
3       sion allowances for each of vintage years 2012  
4       through 2050.

5           “(11) For the program for Energy Innovation  
6       Hubs pursuant to section 204 of division B of the  
7       Clean Energy Jobs and American Power Act—

8           “(A) for each of vintage years 2012  
9       through 2015, 0.75 percent of the emission al-  
10      lowances; and

11          “(B) for each of vintage years 2016  
12      through 2050, 0.45 percent of the emission al-  
13      lowances.

14          “(12) For the program for ARPA-E research  
15      pursuant to section 205 of division B of the Clean  
16      Energy Jobs and American Power Act—

17          “(A) for each of vintage years 2012 and  
18      2013, 3.25 percent of the emission allowances;  
19      and

20          “(B) for each of vintage years 2014  
21      through 2050, 1.25 percent of the emission al-  
22      lowances.

23          “(13) For the International Clean Energy De-  
24      ployment Program under section 323 of division A,

1       and section 206 of division B, of the Clean Energy  
2       Jobs and American Power Act—

3               “(A) for each of vintage years 2012  
4               through 2021, 1.0 percent of the emission al-  
5               lowances;

6               “(B) for each of vintage years 2022  
7               through 2026, 2.0 percent of the emission al-  
8               lowances; and

9               “(C) for each of vintage years 2027  
10              through 2050, 3.0 percent of the emission al-  
11              lowances.

12             “(14) In addition to the emission allowances re-  
13             served under subsection (d)(8), for the international  
14             climate change adaptation and global security pro-  
15             gram under section 324 of division A, and section  
16             207 of division B, of the Clean Energy Jobs and  
17             American Power Act—

18               “(A) for each of vintage years 2012  
19               through 2021, 1.0 percent of the emission al-  
20               lowances;

21               “(B) for each of vintage years 2022  
22               through 2026, 2.0 percent of the emission al-  
23               lowances; and

1                   “(C) for each of vintage years 2027  
 2                   through 2050, 5.0 percent of the emission al-  
 3                   lowances.

4                   “(15) For State programs for greenhouse gas  
 5                   reduction and climate adaptation pursuant to section  
 6                   210(d) of division B of the Clean Energy Jobs and  
 7                   American Power Act, as described in the following  
 8                   table:

<b>“State programs for greenhouse gas reduction and adaptation</b>	
<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	1.34
2013 .....	1.34
2014 .....	0.50
2015 .....	0.50
2016 .....	0.50
2017 .....	0.50
2018 .....	0.50
2019 .....	0.50
2020 .....	0.50
2021 .....	0.50
2022 .....	1.06
2023 .....	1.06
2024 .....	1.06
2025 .....	1.06
2026 .....	1.06
Each of vintage years 2027 through 2050 .....	2.18

9                   “(16) For State programs for natural resource  
 10                  adaptation activities under the program for climate  
 11                  change safeguards for natural resources conservation  
 12                  under section 370(a)(1) of division A, and section  
 13                  216 of division B, of the Clean Energy Jobs and  
 14                  American Power Act, as described in the following  
 15                  table:

**“State programs for natural resource adaptation**

<b>Vintage Year</b>	<b>Percentage of allowances</b>
2012 .....	0.39
2013 .....	0.39
2014 .....	0.39
2015 .....	0.39
2016 .....	0.39
2017 .....	0.39
2018 .....	0.39
2019 .....	0.39
2020 .....	0.39
2021 .....	0.39
2022 .....	0.77
2023 .....	0.77
2024 .....	0.77
2025 .....	0.77
2026 .....	0.77
Each of vintage years 2027 through 2050 .....	1.54

1       “(b) AUCTIONS.—Subject to subsection (d), of the  
2 total quantity of emission allowances established for each  
3 calendar year under section 721(a), the Administrator  
4 shall auction, pursuant to section 778, emission allow-  
5 ances for the purposes and for the vintage or calendar  
6 years and corresponding percentages specified as follows:

7           “(1) Emission allowances reserved under sub-  
8 section (d)(9) for the Market Stability Reserve Fund  
9 under section 726.

10          “(2) For the program for climate change con-  
11 sumer refunds and low- and moderate-income con-  
12 sumers pursuant to section 776—

13           “(A) emission allowances for consumer re-  
14 bates under section 776(a), pursuant to sub-  
15 section (e)(2); and

1           “(B) emission allowances for energy re-  
2 funds under section 776(b), as follows:

3           “(i) For each of calendar years 2012  
4 through 2029, 15.00 percent of the emis-  
5 sion allowances.

6           “(ii) For each of calendar years 2030  
7 through 2050, 18.50 percent of the emis-  
8 sion allowances.

9           “(iii) For calendar year 2051 and  
10 each calendar year thereafter, 15.00 per-  
11 cent of the emission allowances.

12           “(3) For the program for investment in clean  
13 vehicle technology under section 201 of division B of  
14 the Clean Energy Jobs and American Power Act—

15           “(A) for each of calendar years 2012  
16 through 2017, 0.6 percent of the emission al-  
17 lowances; and

18           “(B) for each of calendar years 2018  
19 through 2025, 0.2 percent of the emission al-  
20 lowances.

21           “(4) For the program for energy efficiency and  
22 renewable energy worker training under section 208  
23 of division B of the Clean Energy Jobs and Amer-  
24 ican Power Act—

1                   “(A) for each of calendar years 2012 and  
2                   2013, 1.0 percent of the emission allowances;  
3                   and

4                   “(B) for each of calendar years 2014 and  
5                   2015, 0.05 percent of the emission allowances.

6                   “(5) For the program for worker transition  
7                   under part 2 of subtitle A of title III of division A,  
8                   and section 209 of division B, of the Clean Energy  
9                   Jobs and American Power Act—

10                  “(A) for each of calendar years 2012  
11                  through 2021, 0.5 percent of the emission al-  
12                  lowances; and

13                  “(B) for each of calendar years 2022  
14                  through 2050, 1.0 percent of the emission al-  
15                  lowances.

16                  “(6) For the program for public health and cli-  
17                  mate change under subpart B of part 1 of subtitle  
18                  C of title III of division A, and section 211 of divi-  
19                  sion B, of the Clean Energy Jobs and American  
20                  Power Act, 0.10 percent of the emission allowances  
21                  for each of calendar years 2012 through 2050.

22                  “(7) For the Natural Resources Climate  
23                  Change Adaptation Account under the program for  
24                  climate change safeguards for natural resources con-  
25                  servation under section 370(a)(2) of division A, and

1       section 212 of division B, of the Clean Energy Jobs  
 2       and American Power Act, as described in the fol-  
 3       lowing table:

<b>“Natural Resources Climate Change Adaptation Account</b>	
<b>Calendar Year</b>	<b>Percentage of allowances</b>
2012 .....	0.62
2013 .....	0.62
2014 .....	0.62
2015 .....	0.62
2016 .....	0.62
2017 .....	0.62
2018 .....	0.62
2019 .....	0.62
2020 .....	0.62
2021 .....	0.62
2022 .....	1.23
2023 .....	1.23
2024 .....	1.23
2025 .....	1.23
2026 .....	1.23
Each of calendar years 2027 through 2050 .....	2.46

4           “(8) For nuclear worker training under section  
 5       132 of division A, and section 213 of division B, of  
 6       the Clean Energy Jobs and American Power Act—  
 7           “(A) for each of calendar years 2012 and  
 8       2013, 0.5 percent of the emission allowances;  
 9       and  
 10          “(B) for each of calendar years 2014 and  
 11       2015, 0.05 percent of the emission allowances.  
 12          “(9) In addition to the emission allowances re-  
 13       served under subsection (d)(3), for the supplemental  
 14       agriculture and forestry greenhouse gas reduction  
 15       and renewable energy program under section 155 of

1 division A, and section 214 of division B, of the  
 2 Clean Energy Jobs and American Power Act—

3 “(A) for each of calendar years 2012 and  
 4 2013, 1.0 percent of the emission allowances;  
 5 and

6 “(B) for each of calendar years 2014  
 7 through 2016, 0.28 percent of the emission al-  
 8 lowances.

9 “(10) TRANSPORTATION GREENHOUSE GAS RE-  
 10 Duction.—In addition to the emission allowances  
 11 reserved under subsection (d)(4), for the transpor-  
 12 tation greenhouse gas reduction program under sec-  
 13 tions 831 and 832 of this Act, and 215 of division  
 14 B, of the Clean Energy Jobs and American Power  
 15 Act, as described in the following table:

<b>“Transportation greenhouse gas reduction</b>	
<b>Calendar Year</b>	<b>Percentage of allowances</b>
2012 .....	2.21
2013 .....	2.21
2014 .....	1.35
2015 .....	1.35
2016 .....	1.05
2017 .....	1.08
2018 .....	0.98
2019 .....	0.98
2020 .....	0.95
2021 .....	0.95
2022 .....	0.94
2023 .....	0.94
2024 .....	0.94
2025 .....	0.94
2026 .....	1.64
2027 .....	2.52
2028 .....	2.52
2029 .....	2.52
Each of calendar years 2030 through 2050 .....	2.17

1 “(c) SUPPLEMENTAL REDUCTIONS.—

2 “(1) IN GENERAL.—Subject to subsection (d)  
3 and paragraphs (2) and (3), the Administrator shall  
4 allocate allowances for each vintage year to achieve  
5 supplemental reductions pursuant to section 753, as  
6 follows:

7 “(A) For each of calendar years 2012  
8 through 2025, 5.0 percent of the emission al-  
9 lowances.

10 “(B) For each of calendar years 2026  
11 through 2030, 3.0 percent of the emission al-  
12 lowances.

13 “(C) For each of calendar years 2031  
14 through 2050, 2.0 percent of the emission al-  
15 lowances.

16 “(2) ADJUSTMENT.—The Administrator shall  
17 modify the allowances allocated under paragraph (1)  
18 as necessary to ensure the achievement of the an-  
19 nual supplemental emissions reduction objective for  
20 2020 and the cumulative reduction objective through  
21 2025 set forth in section 753(b)(1).

22 “(3) CARRYOVER.—If the Administrator has  
23 not distributed all of the allowances allocated pursu-  
24 ant to this subsection for a given vintage year by the  
25 end of that year, all such undistributed emission al-

1 allowances shall, in accordance with subsection (e), be  
2 exchanged for allowances from the following vintage  
3 year and treated as part of the allocation for supple-  
4 mental reductions under this section for that later  
5 vintage year.

6 “(d) INITIAL RESERVATION OF ALLOWANCES.—

7 “(1) IN GENERAL.—Before allocating emission  
8 allowances under subsections (a) through (c) for  
9 each calendar year, the Administrator shall reserve  
10 from the total quantity of emission allowances estab-  
11 lished for the calendar year under section 721(a) the  
12 percentages of allowances specified in paragraphs  
13 (2) through (9), for use for the purposes described  
14 in those paragraphs.

15 “(2) DEFICIT REDUCTION.—For auction pursu-  
16 ant to section 778 to ensure that this title does not  
17 contribute to the deficit for a calendar year, with  
18 proceeds of the auction to be deposited immediately  
19 upon receipt in the Deficit Reduction Fund estab-  
20 lished by section 783, the Administrator shall re-  
21 serve—

22 “(A) for each of calendar years 2012  
23 through 2029, 10 percent of the emission allow-  
24 ances;

1           “(B) for each of calendar years 2030  
2           through 2039, 22 percent of the emission allow-  
3           ances; and

4           “(C) for each of calendar years 2040  
5           through 2050, 25 percent of the emission allow-  
6           ances.

7           “(3) SUPPLEMENTAL AGRICULTURE AND RE-  
8           NEWABLE ENERGY.—For the supplemental agri-  
9           culture and forestry greenhouse gas reduction and  
10          renewable energy program under section 155 of divi-  
11          sion A, and section 214 of division B, of the Clean  
12          Energy Jobs and American Power Act, the Adminis-  
13          trator shall reserve 1.0 percent of the emission al-  
14          lowances for each of calendar years 2012 through  
15          2050.

16          “(4) TRANSPORTATION GREENHOUSE GAS RE-  
17          DUCTION.—For the transportation greenhouse gas  
18          reduction program under sections 831 and 832 of  
19          this Act, and section 215 of division B of the Clean  
20          Energy Jobs and American Power Act, the Adminis-  
21          trator shall reserve for each of calendar years 2012  
22          through 2050, 1.0 percent of the emission allow-  
23          ances.

24          “(5) INDUSTRIAL EMISSIONS.—For the pro-  
25          gram to ensure real reductions in industrial emis-

1       sions under part F, the Administrator shall reserve  
2       0.50 percent of the emission allowances for each of  
3       calendar years 2012 through 2050.

4               “(6) STATE AND LOCAL INVESTMENT IN EN-  
5       ERGY EFFICIENCY AND RENEWABLE ENERGY.—For  
6       the program for State and local investment in en-  
7       ergy efficiency and renewable energy under section  
8       202 of division B of the Clean Energy Jobs and  
9       American Power Act, the Administrator shall reserve  
10      0.50 percent of the emission allowances for each of  
11      calendar years 2012 through 2050.

12              “(7) ELECTRICITY CONSUMERS; SMALL LDCS.—  
13      For distribution to small LDCs under the program  
14      for electricity consumers under section 772(e), the  
15      Administrator shall reserve—

16              “(A) for each of calendar years 2012  
17              through 2025, 0.50 percent of the emission al-  
18              lowances;

19              “(B) for calendar year 2026, 0.40 percent  
20              of the emission allowances;

21              “(C) for calendar year 2027, 0.30 percent  
22              of the emission allowances;

23              “(D) for calendar year 2028, 0.20 percent  
24              of the emission allowances; and

1                   “(E) for calendar year 2029, 0.10 percent  
2                   of the emission allowances.

3                   “(8) INTERNATIONAL CLIMATE CHANGE ADAP-  
4                   TATION AND GLOBAL SECURITY PROGRAM.—For the  
5                   international climate change adaptation and global  
6                   security program under section 324 of division A,  
7                   and section 207 of division B, of the Clean Energy  
8                   Jobs and American Power Act, the Administrator  
9                   shall reserve 0.25 percent of the emission allowances  
10                  for each of calendar years 2012 through 2026.

11                  “(9) MARKET STABILITY RESERVE FUND.—For  
12                  the Market Stability Reserve Fund under section  
13                  726, the Administrator shall reserve—

14                   “(A) for each of calendar years 2012  
15                   through 2019, 2.0 percent of the emission al-  
16                   lowances; and

17                   “(B) for each of calendar years 2020  
18                   through 2050, 3.0 percent of the emission al-  
19                   lowances.

20                  “(e) TREATMENT OF CARRYOVER ALLOWANCES.—

21                   “(1) IN GENERAL.—If there are undistributed  
22                   allowances from a vintage year for eligible industrial  
23                   sectors pursuant to subsection (a)(5), deployment of  
24                   carbon capture and sequestration technology pursu-  
25                   ant to subsection (a)(6), or supplemental reductions

1       pursuant to subsection (c), the Administrator  
2       shall—

3               “(A) use the undistributed allowances to  
4       increase for the same vintage year—

5               “(i) the allocation of allowances to be  
6       auctioned, with the proceeds to be depos-  
7       ited immediately upon receipt in the Def-  
8       icit Reduction Fund established by section  
9       783;

10              “(ii) the allocation of allowances for  
11       the program for climate change consumer  
12       refunds and low- and moderate-income  
13       consumers pursuant to subsection (b)(2);  
14       or

15              “(iii) a combination the purposes de-  
16       scribed in clauses (i) and (ii); and

17              “(B) except as provided in paragraph  
18       (2)—

19              “(i) decrease by the same quantity for  
20       the following vintage year the allocation for  
21       the purpose for which the allocation was  
22       increased pursuant to subparagraph (A);  
23       and

24              “(ii) increase by the same quantity for  
25       the following vintage year the allocation for

1           the purpose for which the undistributed al-  
2           lowances were originally allocated.

3           “(2) EXCESS UNDISTRIBUTED ALLOWANCES.—

4           “(A) IN GENERAL.—For each vintage year  
5           for which this subsection applies, the Adminis-  
6           trator shall determine whether—

7                   “(i) the total quantity of undistrib-  
8                   uted allowances for that vintage year that  
9                   were allocated pursuant to paragraphs  
10                  (5)(G) and (6)(B) of subsection (a), and  
11                  subsection (c); exceeds

12                  “(ii) the total quantity of allowances  
13                  allocated pursuant to subsections (b)(2)  
14                  and (d)(2) for the following vintage year,  
15                  decreased by the quantity of allowances for  
16                  that following vintage year set aside for  
17                  the reserve established by section 778(f).

18           “(B) DETERMINATION OF EXCEEDANCE.—

19           If the Administrator determines under subpara-  
20           graph (A) that the quantity described in sub-  
21           paragraph (A)(i) exceeds the quantity described  
22           in subparagraph (A)(ii)—

23                   “(i) paragraph (1)(B)(ii) shall not  
24                   apply; and

1 “(ii) for each purpose described in  
2 paragraphs (5)(G) and (6)(B) of sub-  
3 section (a), and subsection (c), for which  
4 undistributed allowances for a given vin-  
5 tage year were allocated, the Administrator  
6 shall increase the allocation for the fol-  
7 lowing vintage year by the quantity that  
8 equals the product obtained by multi-  
9 plying—

10 “(iii) the number of undistributed al-  
11 lowances for that purpose; and

12 “(iv) the quantity described in sub-  
13 paragraph (A)(ii) divided by the quantity  
14 described in subparagraph (A)(i).

15 “(f) REMAINING ALLOWANCES.—After making the  
16 allocations of emission allowances under subsections (a)  
17 through (e) for a calendar year, the Administrator shall  
18 allocate any emission allowances remaining from the total  
19 quantity of emission allowances established for the cal-  
20 endar year under section 721(a)—

21 “(1) for each of calendar years 2012 through  
22 2025, for auction in accordance with section 778  
23 and deposit in the Deficit Reduction Fund estab-  
24 lished by section 783; and

1           “(2) for each of calendar years 2026 through  
2           2050, for the program for climate change consumer  
3           refunds and low- and moderate-income consumers  
4           pursuant to section 776.

5   **“SEC. 772. ELECTRICITY CONSUMERS.**

6           “(a) DEFINITIONS.—In this section:

7           “(1) CHP SAVINGS.—The term ‘CHP savings’  
8           means—

9           “(A) CHP system savings from a combined  
10           heat and power system that commences oper-  
11           ation after the date of enactment of this sec-  
12           tion; and

13           “(B) the increase in CHP system savings  
14           from, at any time after the date of the enact-  
15           ment of this section, upgrading, replacing, ex-  
16           panding, or increasing the utilization of a com-  
17           bined heat and power system that commenced  
18           operation on or before the date of enactment of  
19           this section.

20           “(2) CHP SYSTEM SAVINGS.—The term ‘CHP  
21           system savings’ means the increment of electric out-  
22           put of a combined heat and power system that is at-  
23           tributable to the higher efficiency of the combined  
24           system (as compared to the efficiency of separate  
25           production of the electric and thermal outputs).

1           “(3) COAL-FUELED UNIT.—The term ‘coal-  
2           fueled unit’ means a utility unit that derives at least  
3           85 percent of its heat input from coal, petroleum  
4           coke, or any combination of those 2 fuels.

5           “(4) COST-EFFECTIVE.—The term ‘cost-effec-  
6           tive’, with respect to an energy efficiency program,  
7           means that the program meets the total resource  
8           cost test, which requires that the net present value  
9           of economic benefits over the life of the program, in-  
10          cluding avoided supply and delivery costs and de-  
11          ferred or avoided investments, is greater than the  
12          net present value of the economic costs over the life  
13          of the program, including program costs and incre-  
14          mental costs borne by the energy consumer.

15          “(5) ELECTRICITY LOCAL DISTRIBUTION COM-  
16          PANY.—The term ‘electricity local distribution com-  
17          pany’ means an electric utility—

18                 “(A) that has a legal, regulatory, or con-  
19                 tractual obligation to deliver electricity directly  
20                 to retail consumers in the United States, re-  
21                 gardless of whether that entity or another enti-  
22                 ty sells the electricity as a commodity to those  
23                 retail consumers; and

1           “(B) the retail rates of which, except in  
2           the case of an electric cooperative, are regulated  
3           or set by—

4                   “(i) a State regulatory authority;

5                   “(ii) a State or political subdivision  
6                   thereof (or an agency or instrumentality  
7                   of, or corporation wholly owned by, either  
8                   of the foregoing); or

9                   “(iii) an Indian tribe pursuant to trib-  
10                  al law.

11           “(6) ELECTRICITY SAVINGS.—The term ‘elec-  
12           tricity savings’ means reductions in electricity con-  
13           sumption, relative to business-as-usual projections,  
14           achieved through measures implemented after the  
15           date of enactment of this section, limited to—

16                   “(A) customer facility savings of elec-  
17                   tricity, adjusted to reflect any associated in-  
18                   crease in fuel consumption at the facility;

19                   “(B) reductions in distribution system  
20                   losses of electricity achieved by a retail elec-  
21                   tricity distributor, as compared to losses attrib-  
22                   utable to new or replacement distribution sys-  
23                   tem equipment of average efficiency;

24                   “(C) CHP savings; and

25                   “(D) fuel cell savings.

1           “(7) FUEL CELL.—The term ‘fuel cell’ means a  
2           device that directly converts the chemical energy of  
3           a fuel and an oxidant into electricity by electro-  
4           chemical processes occurring at separate electrodes  
5           in the device.

6           “(8) FUEL CELL SAVINGS.—The term ‘fuel cell  
7           savings’ means the electricity saved by a fuel cell  
8           that is installed after the date of enactment of this  
9           section, or by upgrading a fuel cell that commenced  
10          operation on or before the date of enactment of this  
11          section, as a result of the greater efficiency with  
12          which the fuel cell transforms fuel into electricity as  
13          compared with sources of electricity delivered  
14          through the grid, provided that—

15               “(A) the fuel cell meets such requirements  
16               relating to efficiency and other operating char-  
17               acteristics as the Federal Energy Regulatory  
18               Commission may promulgate by regulation; and

19               “(B) the net sales of electricity from the  
20               fuel cell to customers not consuming the ther-  
21               mal output from the fuel cell, if any, do not ex-  
22               ceed 50 percent of the total annual electricity  
23               generation by the fuel cell.

1           “(9) INDEPENDENT POWER PRODUCTION FA-  
2           CILITY.—The term ‘independent power production  
3           facility’ means a facility—

4                   “(A) that is used for the generation of  
5                   electric energy, at least 80 percent of which is  
6                   sold at wholesale; and

7                   “(B) the sales of the output of which are  
8                   not subject to retail rate regulation or setting  
9                   of retail rates by—

10                   “(i) a State regulatory authority;

11                   “(ii) a State or political subdivision  
12                   thereof (or an agency or instrumentality  
13                   of, or corporation wholly owned by, either  
14                   of the foregoing);

15                   “(iii) an electric cooperative; or

16                   “(iv) an Indian tribe pursuant to trib-  
17                   al law.

18           “(10) LONG-TERM CONTRACT GENERATOR.—

19                   “(A) IN GENERAL.—The term ‘long-term  
20                   contract generator’ means a qualifying small  
21                   power production facility, a qualifying cogenera-  
22                   tion facility ), an independent power production  
23                   facility, or a facility for the production of elec-  
24                   tric energy for sale to others that is owned and  
25                   operated by an electric cooperative that is—

1 “(i) a covered entity; and

2 “(ii) as of the date of enactment of  
3 this title—

4 “(I) a facility with 1 or more  
5 sales or tolling agreements executed  
6 before March 1, 2007, that govern the  
7 facility’s electricity sales and provide  
8 for sales at a price (whether a fixed  
9 price or a price formula) for electricity  
10 that does not allow for recovery of the  
11 costs of compliance with the limitation  
12 on greenhouse gas emissions under  
13 this title, provided that such agree-  
14 ments are not between entities that  
15 were affiliates of one another at the  
16 time at which the agreements were  
17 entered into; or

18 “(II) a facility consisting of 1 or  
19 more cogeneration units that makes  
20 useful thermal energy available to an  
21 industrial or commercial process with  
22 1 or more sales agreements executed  
23 before March 1, 2007, that govern the  
24 facility’s useful thermal energy sales  
25 and provide for sales at a price

1 (whether a fixed price or price for-  
2 mula) for useful thermal energy that  
3 does not allow for recovery of the  
4 costs of compliance with the limitation  
5 on greenhouse gas emissions under  
6 this title, provided that such agree-  
7 ments are not between entities that  
8 were affiliates of one another at the  
9 time at which the agreements were  
10 entered into.

11 “(B) AFFILIATE.—In this paragraph, the  
12 term ‘affiliate’, when used in relation to a cov-  
13 ered entity, means another entity that directly  
14 or indirectly owned or controlled, was owned or  
15 controlled by, or that had 50 percent or more  
16 of its equity interests under common ownership  
17 or control with, the covered entity.

18 “(11) MERCHANT COAL UNIT.—The term ‘mer-  
19 chant coal unit’ means a coal-fueled unit that—

20 “(A) is or is part of a covered entity;

21 “(B) is not owned by a Federal, State, or  
22 regional agency or power authority; and

23 “(C) generates electricity solely for sale to  
24 others, provided that all or a portion of such  
25 sales are made by a separate legal entity that—

1                   “(i) has a full or partial ownership or  
2                   leasehold interest in the unit, as certified  
3                   in accordance with such requirements as  
4                   the Administrator shall prescribe; and

5                   “(ii) is not subject to retail rate regu-  
6                   lation or setting of retail rates by—

7                   “(I) a State regulatory authority;

8                   “(II) a State or political subdivi-  
9                   sion thereof (or an agency or instru-  
10                  mentality of, or corporation wholly  
11                  owned by, either of the foregoing);

12                  “(III) an electric cooperative; or

13                  “(IV) an Indian tribe pursuant  
14                  to tribal law.

15                  “(12) MERCHANT COAL UNIT SALES.—The  
16                  term ‘merchant coal unit sales’ means sales to oth-  
17                  ers of electricity generated by a merchant coal unit  
18                  that are made by the owner or leaseholder described  
19                  in paragraph (11)(C).

20                  “(13) NEW COAL-FUELED UNIT.—The term  
21                  ‘new coal-fueled unit’ means a coal-fueled unit that  
22                  commenced operation on or after January 1, 2009  
23                  and before January 1, 2013.

1                   “(14) NEW MERCHANT COAL UNIT.—The term  
2           ‘new merchant coal unit’ means a merchant coal  
3           unit—

4 “(A) that commenced operation on or after  
5 January 1, 2009 and before January 1, 2013;  
6 and

7 “(B) the actual, on-site construction of  
8 which commenced prior to January 1, 2009.

9                   “(15) QUALIFIED HYDROPOWER.—The term  
10           ‘qualified hydropower’ means—

“(A) energy produced from increased efficiency achieved, or additions of capacity made, on or after January 1, 1988, at a hydroelectric facility that was placed in service before that date and does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions; or

19 “(B) energy produced from generating ca-  
20 pacity added to a dam on or after January 1,  
21 1988, provided that the Federal Energy Regu-  
22 latory Commission certifies that—

“ (i) the dam was placed in service be-  
fore the date of the enactment of this sec-  
tion and was operated for flood control,

1 navigation, or water supply purposes and  
2 was not producing hydroelectric power  
3 prior to the addition of such capacity;

4 “(ii) the hydroelectric project installed  
5 on the dam is licensed (or is exempt from  
6 licensing) by the Federal Energy Regu-  
7 latory Commission and is in compliance  
8 with the terms and conditions of the li-  
9 cense or exemption, and with other appli-  
10 cable legal requirements for the protection  
11 of environmental quality, including applica-  
12 ble fish passage requirements; and

13 “(iii) the hydroelectric project in-  
14 stalled on the dam is operated so that the  
15 water surface elevation at any given loca-  
16 tion and time that would have occurred in  
17 the absence of the hydroelectric project is  
18 maintained, subject to any license or ex-  
19 emption requirements that require changes  
20 in water surface elevation for the purpose  
21 of improving the environmental quality of  
22 the affected waterway.

23 “(16) QUALIFYING SMALL POWER PRODUCTION  
24 FACILITY; QUALIFYING COGENERATION FACILITY.—

25 The terms ‘qualifying small power production facil-

1       ity’ and ‘qualifying cogeneration facility’ have the  
2       meanings given those terms in section 3(17)(C) and  
3       3(18)(B) of the Federal Power Act (16 U.S.C.  
4       796(17)(C) and 796(18)(B)).

5           “(17) RENEWABLE ENERGY RESOURCE.—The  
6       term ‘renewable energy resource’ means each of the  
7       following:

8           “(A) Wind energy.

9           “(B) Solar energy.

10          “(C) Geothermal energy.

11          “(D) Renewable biomass.

12          “(E) Biogas derived exclusively from re-  
13       newable biomass.

14          “(F) Biofuels derived exclusively from re-  
15       newable biomass.

16          “(G) Qualified hydropower.

17          “(H) Marine and hydrokinetic renewable  
18       energy, as that term is defined in section 632  
19       of the Energy Independence and Security Act  
20       of 2007 (42 U.S.C. 17211).

21          “(18) SMALL LDC.—The term ‘small LDC’  
22       means, for any given year, an electricity local dis-  
23       tribution company that delivered less than 4,000,000  
24       megawatt hours of electric energy directly to retail  
25       consumers in the preceding year.

1           “(19) STATE REGULATORY AUTHORITY.—The  
2           term ‘State regulatory authority’ has the meaning  
3           given that term in section 3(17) of the Public Utility  
4           Regulatory Policies Act of 1978 (16 U.S.C.  
5           2602(17)).

6           “(20) USEFUL THERMAL ENERGY.—The term  
7           ‘useful thermal energy’ has the meaning given that  
8           term in section 371(7) of the Energy Policy and  
9           Conservation Act (42 U.S.C. 6341(7)).

10          “(b) ELECTRICITY LOCAL DISTRIBUTION COMPA-  
11 NIES.—

12           “(1) DISTRIBUTION OF ALLOWANCES.—The  
13           Administrator shall distribute to electricity local dis-  
14           tribution companies for the benefit of retail rate-  
15           payers the quantity of emission allowances allocated  
16           for the following vintage year pursuant to section  
17           771(a)(1)(A). Notwithstanding the preceding sen-  
18           tence, the Administrator shall withhold from dis-  
19           tribution under this subsection a quantity of emis-  
20           sion allowances equal to the lesser of 14.3 percent  
21           of the quantity of emission allowances allocated  
22           under section 771(a)(1) for the relevant vintage  
23           year, or 105 percent of the emission allowances for  
24           the relevant vintage year that the Administrator an-  
25           ticipates will be distributed to merchant coal units

1 and to long-term contract generators, respectively,  
2 under subsections (c) and (d), on the condition that  
3 the Administrator shall be authorized to distribute  
4 future vintage year allowances available to long-term  
5 contract generators under subsection (d) in the case  
6 of a shortfall of allowances in any vintage year, sub-  
7 ject to section 772(d)(2). If not required by sub-  
8 sections (c) and (d) to distribute all of these re-  
9 served allowances, the Administrator shall distribute  
10 any remaining emission allowances to electricity local  
11 distribution companies in accordance with this sub-  
12 section.

13 “(2) DISTRIBUTION BASED ON EMISSIONS.—

14 “(A) IN GENERAL.—For each vintage year,  
15 50 percent of the emission allowances available  
16 for distribution under paragraph (1), after re-  
17 serving allowances for distribution under sub-  
18 sections (c) and (d), shall be distributed by the  
19 Administrator among individual electricity local  
20 distribution companies ratably based on the an-  
21 nual average carbon dioxide emissions attrib-  
22 utable to generation of electricity delivered at  
23 retail by each such company during the base  
24 period determined under subparagraph (B).

25 “(B) BASE PERIOD.—

1 “(i) VINTAGE YEARS 2012 AND 2013.—

2 For vintage years 2012 and 2013, an elec-  
3 tricity local distribution company’s base  
4 period shall be—

5 “(I) calendar years 2006 through  
6 2008;

7 “(II) any 3 consecutive calendar  
8 years between 1999 and 2008, inclu-  
9 sive, that such company selects, pro-  
10 vided that the company timely informs  
11 the Administrator of such selection; or

12 “(III) calendar year 2012, in the  
13 case of a local distribution company  
14 that—

15 “(aa) purchased power  
16 through a power purchase agree-  
17 ment with the Bonneville Power  
18 Administration located outside of  
19 the Pacific Northwest (as defined  
20 in section 3 of the Pacific North-  
21 west Electric Power Planning  
22 and Conservation Act (16 U.S.C.  
23 839a)), the service territory of  
24 the Bonneville Power Administra-  
25 tion; and

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1 “(bb) between December 31,  
2 2008, and December 31, 2011,  
3 will be precluded from continuing  
4 power purchase agreements with  
5 the Bonneville Power Administra-  
6 tion.

7 “(ii) VINTAGE YEARS 2014 AND  
8 THEREAFTER.—For vintage years 2014  
9 and thereafter, the base period shall be—

10 “(I) the base period selected  
11 under clause (i); or

12 “(II) calendar year 2012, in the  
13 case of—

14 “(aa) an electricity local dis-  
15 tribution company that owns, co-  
16 owns, or purchases through a  
17 power purchase agreement  
18 (whether directly or through a  
19 cooperative arrangement) a sub-  
20 stantial portion of the electricity  
21 generated by a new coal-fueled  
22 unit, on the condition that such  
23 company timely informs the Ad-  
24 ministrator of its election to use  
25 2012 as its base period; or

1                   “(bb) any small local dis-  
2                   tribution company that is located  
3                   outside of the Pacific Northwest  
4                   (as defined in section 3 of the  
5                   Pacific Northwest Electric Power  
6                   Planning and Conservation Act  
7                   (16 U.S.C. 839a)), the service  
8                   territory of the Bonneville Power  
9                   Administration, and that, be-  
10                  tween December 31, 2008, and  
11                  December 31, 2011, will be pre-  
12                  cluded from continuing power  
13                  purchase agreements with the  
14                  Bonneville Power Administration,  
15                  on the condition that such com-  
16                  pany timely informs the Adminis-  
17                  trator of its election to use 2012  
18                  as its base period.

19                  “(C) DETERMINATION OF EMISSIONS.—

20                  “(i) DETERMINATION FOR 1999–  
21                  2008.—As part of the regulations promul-  
22                  gated pursuant to subsection (g), the Ad-  
23                  ministrator, after consultation with the  
24                  Energy Information Administration, shall  
25                  determine the average amount of carbon

dioxide emissions attributable to generation of electricity delivered at retail by each electricity local distribution company for each of the years 1999 through 2008, taking into account entities' electricity generation, electricity purchases, and electricity sales. In the case of any electricity local distribution company that owns, co-owns, or purchases through a power purchase agreement (whether directly or through a cooperative arrangement) a substantial portion of the electricity generated by, a coal-fueled unit that commenced operation after January 1, 2006, and before December 31, 2008, the Administrator shall adjust the emissions attributable to such company's retail deliveries in calendar years 2006 through 2008 to reflect the emissions that would have occurred if the relevant unit were in operation during the entirety of such 3-year period.

22 “(ii) ADJUSTMENTS FOR NEW COAL-  
23 FUELED UNITS.—

24 “(I) VINTAGE YEARS 2012 AND  
25 2013.—For purposes of emission al-

1 lowance distributions for vintage years  
2 2012 and 2013, in the case of any  
3 electricity local distribution company  
4 that owns, co-owns, or purchases  
5 through a power purchase agreement  
6 (whether directly or through a cooper-  
7 ative arrangement) a substantial por-  
8 tion of the electricity generated by, a  
9 new coal-fueled unit, the Adminis-  
10 trator shall adjust the emissions at-  
11 tributable to such company's retail de-  
12 liveries in the applicable base period  
13 to reflect the emissions that would  
14 have occurred if the new coal-fueled  
15 unit were in operation during such pe-  
16 riod.

17 “(II) VINTAGE YEAR 2014 AND  
18 THEREAFTER.—Not later than nec-  
19 essary for use in making emission al-  
20 lowance distributions under this sub-  
21 section for vintage year 2014, the Ad-  
22 ministrator shall, for any electricity  
23 local distribution company that owns,  
24 co-owns, or purchases through a  
25 power purchase agreement (whether

1 directly or through a cooperative ar-  
2 rangement) a substantial portion of  
3 the electricity generated by a new  
4 coal-fueled unit and has selected cal-  
5 endar year 2012 as its base period  
6 pursuant to subparagraph (B)(ii)(II),  
7 determine the amount of carbon diox-  
8 ide emissions attributable to genera-  
9 tion of electricity delivered at retail by  
10 such company in calendar year 2012.  
11 If the relevant new coal-fueled unit  
12 was not yet operational by January 1,  
13 2012, the Administrator shall adjust  
14 such determination to reflect the  
15 emissions that would have occurred if  
16 such unit were in operation for all of  
17 calendar year 2012.

18 “(iii) REQUIREMENTS.—Determina-  
19 tions under this paragraph shall be as pre-  
20 cise as practicable, taking into account the  
21 nature of data currently available and the  
22 nature of markets and regulation in effect  
23 in various regions of the country. The fol-  
24 lowing requirements shall apply to such de-  
25 terminations:

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1                   “(I) The Administrator shall de-  
2                   termine the amount of fossil fuel-  
3                   based electricity delivered at retail by  
4                   each electricity local distribution com-  
5                   pany, and shall use appropriate emis-  
6                   sion factors to calculate carbon diox-  
7                   ide emissions associated with the gen-  
8                   eration of such electricity.

9                   “(II) Where it is not practical to  
10                  determine the precise fuel mix for the  
11                  electricity delivered at retail by an in-  
12                  dividual electricity local distribution  
13                  company, the Administrator may use  
14                  the best available data, including aver-  
15                  age data on a regional basis with ref-  
16                  erence to Regional Transmission Or-  
17                  ganizations or regional entities (as  
18                  that term is defined in section  
19                  215(a)(7) of the Federal Power Act  
20                  (16 U.S.C. 824o(a)(7)), to estimate  
21                  fuel mix and emissions. Different  
22                  methodologies may be applied in dif-  
23                  ferent regions if appropriate to obtain  
24                  the most accurate estimate.

25                  “(3) DISTRIBUTION BASED ON DELIVERIES.—

1           “(A) INITIAL FORMULA.—Except as pro-  
2           vided in subparagraph (B), for each vintage  
3           year, the Administrator shall distribute 50 per-  
4           cent of the emission allowances available for  
5           distribution under paragraph (1), after reserv-  
6           ing allowances for distribution under sub-  
7           sections (c) and (d), among individual elec-  
8           tricity local distribution companies ratably  
9           based on each electricity local distribution com-  
10          pany’s annual average retail electricity deliv-  
11          eries for calendar years 2006 through 2008, un-  
12          less the owner or operator of the company se-  
13          lects 3 other consecutive years between 1999  
14          and 2008, inclusive, and timely notifies the Ad-  
15          ministrator of its selection.

16          “(B) UPDATING.—Prior to distributing  
17          2015 vintage year emission allowances under  
18          this paragraph and at 3-year intervals there-  
19          after, the Administrator shall update the dis-  
20          tribution formula under this paragraph to re-  
21          flect changes in each electricity local distribu-  
22          tion company’s service territory since the most  
23          recent formula was established. For each suc-  
24          cessive 3-year period, the Administrator shall  
25          distribute allowances ratably among individual

1 electricity local distribution companies based on  
2 the product of—

3 “(i) each electricity local distribution  
4 company’s average annual deliveries per  
5 customer during calendar years 2006  
6 through 2008, or during the 3 alternative  
7 consecutive years selected by such company  
8 under subparagraph (A); and

9 “(ii) the number of customers of such  
10 electricity local distribution company in the  
11 most recent year in which the formula is  
12 updated under this subparagraph.

13 “(4) PROHIBITION AGAINST EXCESS DISTRIBUTIONS.—The regulations promulgated under sub-  
14 section (g) shall ensure that, notwithstanding para-  
15 graphs (2) and (3), no electricity local distribution  
16 company shall receive a greater quantity of allow-  
17 ances under this subsection than is necessary to off-  
18 set any increased electricity costs to such company’s  
19 retail ratepayers, including increased costs attrib-  
20 utable to purchased power costs, due to enactment  
21 of this title. Any emission allowances withheld from  
22 distribution to an electricity local distribution com-  
23 pany pursuant to this paragraph shall be distributed  
24 among all remaining electricity local distribution  
25

1 companies ratably based on emissions pursuant to  
2 paragraph (2).

3 “(5) USE OF ALLOWANCES.—

4 “(A) RATEPAYER BENEFIT.—Emission al-  
5 lowances distributed to an electricity local dis-  
6 tribution company under this subsection shall  
7 be used exclusively for the benefit of retail rate-  
8 payers of such electricity local distribution com-  
9 pany and may not be used to support electricity  
10 sales or deliveries to entities or persons other  
11 than such ratepayers.

12 “(B) RATEPAYER CLASSES.—In using  
13 emission allowances distributed under this sub-  
14 section for the benefit of ratepayers, an elec-  
15 tricity local distribution company shall ensure  
16 that ratepayer benefits are distributed—

17 “(i) among ratepayer classes ratably  
18 based on electricity deliveries to each class;  
19 and

20 “(ii) equitably among individual rate-  
21 payers within each ratepayer class, includ-  
22 ing entities that receive emission allow-  
23 ances pursuant to part F.

24 “(C) LIMITATION.—In general, an elec-  
25 tricity local distribution company shall not use

1           the value of emission allowances distributed  
2           under this subsection to provide to any rate-  
3           payer a rebate that is based solely on the quan-  
4           tity of electricity delivered to such ratepayer.  
5           To the extent an electricity local distribution  
6           company uses the value of emission allowances  
7           distributed under this subsection to provide re-  
8           bates, it shall, to the maximum extent prac-  
9           ticable, provide such rebates with regard to the  
10          fixed portion of ratepayers' bills or as a fixed  
11          credit or rebate on electricity bills.

12                 “(D)   RESIDENTIAL   AND   INDUSTRIAL  
13          RATEPAYERS.—Notwithstanding subparagraph  
14          (C), if compliance with the requirements of this  
15          title results (or would otherwise result) in an  
16          increase in electricity costs for residential or in-  
17          dustrial retail ratepayers of any given electricity  
18          local distribution company (including entities  
19          that receive emission allowances pursuant to  
20          part F), such electricity local distribution com-  
21          pany—

22                         “(i) shall pass through to residential  
23                         retail ratepayers as a class their ratable  
24                         share (based on deliveries to each rate-  
25                         payer class) of the value of the emission al-

1 lowances that reduce electricity cost im-  
2 pacts on such ratepayers; and

3 “(ii) shall pass through to industrial  
4 ratepayers as a class their ratable share  
5 (based on deliveries to each ratepayer  
6 class) of the value of the emission allow-  
7 ances that reduce electricity cost impacts  
8 on such ratepayers. The electricity local  
9 distribution company may do so based on  
10 the quantity of electricity delivered to indi-  
11 vidual industrial retail ratepayers.

12 “(E) GUIDELINES.—As part of the regula-  
13 tions promulgated under subsection (g), the Ad-  
14 ministrator shall, after consultation with State  
15 and tribal regulatory authorities, prescribe  
16 guidelines for the implementation of the re-  
17 quirements of this paragraph. Such guidelines  
18 shall include—

19 “(i) requirements to ensure that resi-  
20 dential and industrial retail ratepayers (in-  
21 cluding entities that receive emission allow-  
22 ances under part F) receive their ratable  
23 share of the value of the allowances dis-  
24 tributed to each electricity local distribu-

1           tion company pursuant to this subsection;  
2           and

3           “(ii) requirements for measurement,  
4           verification, reporting, and approval of  
5           methods used to assure the use of allow-  
6           ance values to benefit retail ratepayers.

7           “(6) REGULATORY PROCEEDINGS.—

8           “(A) REQUIREMENT.—No electricity local  
9           distribution company shall be eligible to receive  
10          emission allowances under this subsection or  
11          subsection (e) unless the State regulatory au-  
12          thority with authority over such company’s re-  
13          tail rates, or the entity with authority to regu-  
14          late or set retail electricity rates of an elec-  
15          tricity local distribution company not regulated  
16          by a State regulatory authority, has—

17               “(i) after public notice and an oppor-  
18               tunity for comment, promulgated a regula-  
19               tion or completed a rate proceeding (or the  
20               equivalent, in the case of a ratemaking en-  
21               tity other than a State regulatory author-  
22               ity) that provides for the full implementa-  
23               tion of the requirements of paragraph (5)  
24               of this subsection and the requirements of  
25               subsection (e); and

1                   “(ii) made available to the Adminis-  
2                   trator and the public a report describing,  
3                   in adequate detail, the manner in which  
4                   the requirements of paragraph (5) and the  
5                   requirements of subsection (e) will be im-  
6                   plemented.

7                   “(B) UPDATING.—The Administrator shall  
8                   require, as a condition of continued receipt of  
9                   emission allowances under this subsection by an  
10                  electricity local distribution company, that a  
11                  new regulation be promulgated or rate pro-  
12                  ceeding be completed , after public notice and  
13                  an opportunity for comment, and a new report  
14                  be made available to the Administrator and the  
15                  public, pursuant to subparagraph (A), not less  
16                  frequently than every 5 years.

17                  “(7) PLANS AND REPORTING.—

18                  “(A) REGULATIONS.—As part of the regu-  
19                  lations promulgated under subsection (g), the  
20                  Administrator shall prescribe requirements gov-  
21                  erning plans and reports to be submitted in ac-  
22                  cordance with this paragraph.

23                  “(B) PLANS.—Not later than April 30 of  
24                  2011 and every 5 years thereafter through  
25                  2026, each electricity local distribution com-

1           pany shall submit to the Administrator a plan,  
2           approved by the State regulatory authority or  
3           other entity charged with regulating tor setting  
4           the retail rates of such company, describing  
5           such company's plans for the disposition of the  
6           value of emission allowances to be received pur-  
7           suant to this subsection and subsection (e), in  
8           accordance with the requirements of this sub-  
9           section and subsection (e). Such plan shall in-  
10          clude a description of the manner in which the  
11          company will provide to industrial retail rate-  
12          payers (including entities that receive emission  
13          allowances under part F) their ratable share of  
14          the value of such allowances.

15               “(C) REPORTS.—Not later than June 30,  
16          2013, and each calendar year thereafter  
17          through 2031, each electricity local distribution  
18          company shall submit a report to the Adminis-  
19          trator, and to the relevant State regulatory au-  
20          thority or other entity charged with regulating  
21          or setting the retail electricity rates of such  
22          company, describing the disposition of the value  
23          of any emission allowances received by such  
24          company in the prior calendar year pursuant to  
25          this subsection and subsection (e), including—

1 “(i) a description of sales, transfer,  
2 exchange, or use by the company for com-  
3 pliance with obligations under this title, of  
4 any such emission allowances;

5 “(ii) the monetary value received by  
6 the company, whether in money or in some  
7 other form, from the sale, transfer, or ex-  
8 change of any such emission allowances;

9 “(iii) the manner in which the com-  
10 pany’s disposition of any such emission al-  
11 lowances complies with the requirements of  
12 this subsection and of subsection (e), in-  
13 cluding each of the requirements of para-  
14 graph (5) of this subsection, including the  
15 requirement that industrial retail rate-  
16 payers (including entities that receive  
17 emission allowances under part F) receive  
18 their ratable share of the value of such al-  
19 lowances; and

20 “(iv) such other information as the  
21 Administrator may require pursuant to  
22 subparagraph (A).

23 “(D) PUBLICATION.—The Administrator  
24 shall make available to the public all plans and  
25 reports submitted under this subsection, includ-

1 ing by publishing such plans and reports on the  
2 Internet.

3 “(8) ADMINISTRATOR AUDIT REPORTS.—

4 “(A) IN GENERAL.—Each year, the Ad-  
5 ministrator shall audit a representative sample  
6 of electricity local distribution companies to en-  
7 sure that emission allowances distributed under  
8 this subsection have been used exclusively for  
9 the benefit of retail ratepayers and that such  
10 companies are complying with the requirements  
11 of this subsection and of subsection (e), includ-  
12 ing the requirement that residential and indus-  
13 trial retail ratepayers (including entities that  
14 receive emission allowances under part F) re-  
15 ceive their ratable share of the value of such al-  
16 lowances. The Administrator shall assess the  
17 degree to which electric local distribution com-  
18 panies have maintained a marginal electric  
19 price signal while protecting consumers on total  
20 cost using the value of emissions allowances. In  
21 selecting companies for audit, the Adminis-  
22 trator shall take into account any credible evi-  
23 dence of noncompliance with such requirements.  
24 The Administrator shall make available to the  
25 public a report describing the results of each

1           such audit, including by publishing such report  
2           on the Internet.

3           “(B) GAO AUDIT REPORT.—Not later  
4           than April 30, 2015, and every 3 years there-  
5           after through 2026, the Comptroller General of  
6           the United States, incorporating results from  
7           the Administrators’ audit report and other rel-  
8           evant information including distribution com-  
9           pany reports, shall conduct an in-depth evalua-  
10          tion and make available to the public a report  
11          on the investments made pursuant to paragraph  
12          (5). Said report shall be made available to the  
13          State regulatory authority, or the entity with  
14          authority to regulate or set retail electricity  
15          rates in the case of an electricity distribution  
16          company that is not regulated by a State regu-  
17          latory authority, and shall include a description  
18          of how the distribution companies in the audit  
19          meet or fail to meet the requirement of para-  
20          graph (5), including for investments made in  
21          cost-effective end-use energy efficiency pro-  
22          grams, the lifetime and annual energy saving  
23          benefits, and capacity benefits of said pro-  
24          grams.

1                   “(C) ADMINISTRATOR COST CONTAINMENT  
2                   REPORT.—Not later than April 30, 2015 and  
3                   every 3 years thereafter through 2026, the Ad-  
4                   ministrator shall transmit a report to Congress  
5                   containing an evaluation of the disposition of  
6                   the value of emission allowances received pursu-  
7                   ant to this subsection and subsection (e) and  
8                   recommendations of ways to more effectively di-  
9                   rect the value of allowances to reduce costs for  
10                  consumers, contain the overall costs of the  
11                  greenhouse gas emissions reduction program,  
12                  and meet the pollution reduction targets of the  
13                  Act. The Administrator shall make available to  
14                  the public such report, including by publishing  
15                  such report on the Internet.

16               “(9) ENFORCEMENT.—A violation of any re-  
17               quirement of this subsection or of subsection (e), ir-  
18               respective of approval by a State regulatory author-  
19               ity, shall be a violation of this Act. Each emission  
20               allowance the value of which is used in violation of  
21               the requirements of this subsection or of subsection  
22               (e) shall be a separate violation.

23               “(c) MERCHANT COAL UNITS.—

24               “(1) QUALIFYING EMISSIONS.—The qualifying  
25               emissions for a merchant coal unit for a given cal-

1       endar year shall be the product of the number of  
2       megawatt hours of merchant coal unit sales gen-  
3       erated by such unit in such calendar year and the  
4       average carbon dioxide emissions per megawatt hour  
5       generated by such unit during the base period under  
6       paragraph (2), provided that the number of mega-  
7       watt hours in a given calendar year for purposes of  
8       such calculation shall be reduced in proportion to  
9       the portion of such unit's carbon dioxide emissions  
10      that are either—

11                   “(A) captured and sequestered in such cal-  
12                   endar year; or

“(B) attributable to the combustion or gas-  
ification of biomass, to the extent that the  
owner or operator of the unit is not required to  
hold emission allowances for such emissions.

“(2) BASE PERIOD.—For purposes of this sub-  
section, the base period for a merchant coal unit  
shall be—

20 “(A) calendar years 2006 through 2008; or

21 “(B) in the case of a new merchant coal  
22 unit—

“(i) the first full calendar year of operation of such unit, if such unit commences operation before January 1, 2012;

1                   “(ii) calendar year 2012, if such unit  
2                   commences operation on or after January  
3                   1, 2012, and before October 1, 2012; or

4                   “(iii) calendar year 2013, if such unit  
5                   commences operation on or after October  
6                   1, 2012, and before January 1, 2013.

7                   “(3) PHASE-DOWN SCHEDULE.—The Adminis-  
8                   trator shall identify an annual phase-down factor,  
9                   applicable to distributions to merchant coal units for  
10                  each of vintage years 2012 through 2029, that cor-  
11                  responds to the overall decline in the amount of  
12                  emission allowances allocated to the electricity sector  
13                  in such years pursuant to section 771(a)(1). Such  
14                  factor shall—

15                  “(A) for vintage year 2012, be equal to  
16                  1.0;

17                  “(B) for each of vintage years 2013  
18                  through 2029, correspond to the quotient of—

19                         “(i) the quantity of emission allow-  
20                         ances allocated under section 771(a)(1) for  
21                         such vintage year; divided by

22                         “(ii) the quantity of emission allow-  
23                         ances allocated under section 771(a)(1) for  
24                         vintage year 2012.

1           “(4) DISTRIBUTION OF EMISSION ALLOW-  
2           ANCES.—Not later than March 1 of 2013 and each  
3           calendar year through 2030, the Administrator shall  
4           distribute emission allowances of the preceding vin-  
5           tage year to the owner or operator of each merchant  
6           coal unit described in subsection (a)(11)(C) in an  
7           amount equal to the product of—

8                   “(A) 0.5;

9                   “(B) the qualifying emissions for such  
10           merchant coal unit for the preceding year, as  
11           determined under paragraph (1); and

12                   “(C) the phase-down factor for the pre-  
13           ceding calendar year, as identified under para-  
14           graph (3).

15           “(5) ADJUSTMENT.—

16                   “(A) STUDY.—Not later than 5 years after  
17           the date of enactment of the Clean Energy Jobs  
18           and American Power Act, the Administrator, in  
19           consultation with the Federal Energy Regu-  
20           latory Commission, shall issue a study to deter-  
21           mine whether the allocation formula under  
22           paragraph (3) is resulting in windfall profits to  
23           merchant coal generators or substantially dis-  
24           parate treatment of merchant coal generators  
25           operating in different markets or regions.

1                   “(B) REGULATION.—If the Administrator,  
2                   in consultation with the Federal Energy Regu-  
3                   latory Commission, makes an affirmative find-  
4                   ing of windfall profits or disparate treatment  
5                   under subparagraph (A), the Administrator  
6                   shall, not later than 18 months after the com-  
7                   pletion of the study described in subparagraph  
8                   (A), promulgate regulations providing for the  
9                   adjustment of the allocation formula under  
10                  paragraph (3) to mitigate, to the extent prac-  
11                  ticable, such windfall profits, if any, and such  
12                  disparate treatment, if any.

13               “(6) LIMITATION ON ALLOWANCES.—Notwith-  
14               standing paragraph (4) or (5), for each vintage year  
15               the Administrator shall distribute under this sub-  
16               section no more than 10 percent of the total quan-  
17               tity of emission allowances available for such vintage  
18               year for distribution to the electricity sector under  
19               section 771(a)(1). If the quantity of emission allow-  
20               ances that would otherwise be distributed pursuant  
21               to paragraph (4) or (5) for any vintage year would  
22               exceed such limit, the Administrator shall distribute  
23               10 percent of the total emission allowances available  
24               for distribution under section 771(a)(1) for such vin-  
25               tage year ratably among merchant coal generators

1       based on the applicable formula under paragraph (4)  
2       or (5).

3           “(7) ELIGIBILITY.—The owner or operator of a  
4       merchant coal unit shall not be eligible to receive  
5       emission allowances under this subsection for any  
6       vintage year for which such owner or operator has  
7       elected to receive emission allowances for the same  
8       unit under subsection (d).

9       “(d) LONG-TERM CONTRACT GENERATORS.—

10           “(1) DISTRIBUTION.—Not later than March 1,  
11       2013, and each calendar year through 2030, the Ad-  
12       ministrator shall distribute to the owner or operator  
13       of each long-term contract generator a quantity of  
14       emission allowances of the preceding vintage year  
15       that is equal to the sum of—

16           “(A) the number of tons of carbon dioxide  
17       emitted as a result of a qualifying electricity  
18       sales agreement referred to in subsection  
19       (a)(10)(B)(i); and

20           “(B) the incremental number of tons of  
21       carbon dioxide emitted solely as a result of a  
22       qualifying thermal sales agreement referred to  
23       in subsection (a)(10)(B)(ii), provided that in no  
24       event shall the Administrator distribute more

1           than 1 emission allowance for the same ton of  
2           emissions.

3           “(2) LIMITATION ON ALLOWANCES.—

4                 “(A) IN GENERAL.—Notwithstanding para-  
5           graph (1), for each vintage year the Adminis-  
6           trator shall distribute under this subsection no  
7           more than 4.3 percent of the total quantity of  
8           emission allowances available for such vintage  
9           year for distribution to the electricity sector  
10          under section 771(a)(1).

11                “(B) FUTURE VINTAGE YEAR ALLOW-  
12          ANCES.—

13                “(i) IN GENERAL.—To the extent that  
14           any quantity of allowances that would oth-  
15           erwise be distributed pursuant to para-  
16           graph (1) would exceed 4.3 percent in any  
17           vintage year, the Administrator shall dis-  
18           tribute future vintage year allowances re-  
19           served for long-term contract generators  
20           under this section to satisfy any such  
21           shortfall in available allowances, subject to  
22           projections by the Administrator of re-  
23           quired allowance needs for long-term con-  
24           tract generators in future vintage years.

1                   “(ii) MAINTENANCE OF YEAR.—Fu-  
2                   ture vintage year allowances distributed  
3                   pursuant to this subsection shall maintain  
4                   the future vintage year assigned to those  
5                   allowances.

6                   “(C) SHORTFALL.—If the quantity of  
7                   emission allowances that would otherwise be  
8                   distributed pursuant to paragraph (1) for any  
9                   vintage year would result in a shortfall based on  
10                  a consideration of available allowances under  
11                  this subsection over the entire allocation period,  
12                  as determined by the Administrator, the Ad-  
13                  ministrator shall distribute the emission allow-  
14                  ances available for distribution under section  
15                  771(a)(1) for such vintage year ratably among  
16                  long-term contract generators in accordance  
17                  with paragraph (1).

18                  “(3) ELIGIBILITY.—

19                  “(A) FACILITY ELIGIBILITY.—The owner  
20                  or operator of a facility shall cease to be eligible  
21                  to receive emission allowances under this sub-  
22                  section upon the earliest date on which the fa-  
23                  cility no longer meets each and every element of  
24                  the definition of a long-term contract generator  
25                  under subsection (a)(10).

1           “(B) CONTRACT ELIGIBILITY.—The owner  
2           or operator of a facility shall cease to be eligible  
3           to receive emission allowances under this sub-  
4           section based on an electricity or thermal sales  
5           agreement referred to in subsection (a)(10)(B)  
6           upon the earliest date that such agreement—

7                   “(i) expires;

8                   “(ii) is terminated; or

9                   “(iii) is amended in any way that  
10           changes the location of the facility, the  
11           price (whether a fixed price or price for-  
12           mula) for electricity or thermal energy sold  
13           under such agreement, the quantity of  
14           electricity or thermal energy sold under the  
15           agreement, or the expiration or termi-  
16           nation date of the agreement.

17           “(4) DEMONSTRATION OF ELIGIBILITY.—To be  
18           eligible to receive allowance distributions under this  
19           subsection, the owner or operator of a long-term  
20           contract generator shall submit each of the following  
21           in writing to the Administrator within 180 days  
22           after the date of enactment of this title, and not  
23           later than September 30 of each vintage year for  
24           which such generator wishes to receive emission al-  
25           lowances:

1           “(A) A certificate of representation de-  
2           scribed in section 700(15).

3           “(B) An identification of each owner and  
4           each operator of the facility.

5           “(C) An identification of the units at the  
6           facility and the location of the facility.

7           “(D) A written certification by the des-  
8           ignated representative that the facility meets all  
9           the requirements of the definition of a long-  
10          term contract generator.

11          “(E) The expiration date of each quali-  
12          fying electricity or thermal sales agreement re-  
13          ferred to in subsection (a)(10)(B).

14          “(F) A copy of each qualifying electricity  
15          or thermal sales agreement referred to in sub-  
16          section (a)(10)(B).

17          “(5) NOTIFICATION.—Not later than 30 days  
18          after, in accordance with paragraph (3), a facility or  
19          an agreement ceases to meet the eligibility require-  
20          ments for distribution of emission allowances pursu-  
21          ant to this subsection, the designated representative  
22          of such facility shall notify the Administrator in  
23          writing when, and on what basis, such facility or  
24          agreement ceased to meet such requirements.

25          “(e) SMALL LDCs.—

1           “(1) DISTRIBUTION.—The Administrator shall,  
2           in accordance with this subsection, distribute emis-  
3           sion allowances allocated pursuant to section  
4           771(a)(1)(B) for the following vintage year. Such al-  
5           lowances shall be distributed ratably among small  
6           LDCs based on historic emissions in accordance with  
7           the same measure of such emissions applied to each  
8           such small LDC for the relevant vintage year under  
9           subsection (b)(2) of this section.

10           “(2) USES.—A small LDC receiving allowances  
11           under this section shall use such allowances exclu-  
12           sively for the following purposes:

13                   “(A) Cost-effective programs to achieve  
14                   electricity savings, provided that such savings  
15                   shall not be transferred or used for compliance  
16                   with any renewable electricity standard estab-  
17                   lished under the Public Utility Regulatory Poli-  
18                   cies Act of 1978 (16 U.S.C. 2601 et seq.).

19                   “(B) Deployment of technologies to gen-  
20                   erate electricity from renewable energy re-  
21                   sources, provided that any Federal renewable  
22                   electricity credits issued based on generation  
23                   supported under this section shall be submitted  
24                   to the Federal Energy Regulatory Commission  
25                   for voluntary retirement and shall not be used

1           for compliance with the Public Utility Regu-  
2           latory Policies Act of 1978 (16 U.S.C. 2601 et  
3           seq.).

4           “(C) Assistance programs to reduce elec-  
5           tricity costs for low-income residential rate-  
6           payers of such small LDC, provided that such  
7           assistance is made available equitably to all res-  
8           idential ratepayers below a certain income level,  
9           which shall not be higher than 200 percent of  
10          the poverty line (as that term is defined in sec-  
11          tion 673(2) of the Community Services Block  
12          Grant Act (42 U.S.C. 9902(2)).

13          “(3) REQUIREMENTS.—As part of the regula-  
14          tions promulgated under subsection (g), the Admin-  
15          istrator shall prescribe—

16               “(A) after consultation with the Federal  
17               Energy Regulatory Commission, requirements  
18               to ensure that programs and projects under  
19               paragraph (2)(A) and (B) are consistent with  
20               the standards established by, and effectively  
21               supplement electricity savings and generation of  
22               electricity from renewable energy resources  
23               achieved by, the Combined Efficiency and Re-  
24               newable Electricity Standard established by  
25               law;

1           “(B) eligibility criteria and guidelines for  
2           consumer assistance programs for low-income  
3           residential ratepayers under paragraph (2)(C);  
4           and

5           “(C) such other requirements as the Ad-  
6           ministrator determines appropriate to ensure  
7           compliance with the requirements of this sub-  
8           section.

9           “(4) REPORTING.—Reports submitted under  
10          subsection (b)(7) shall include, in accordance with  
11          such requirements as the Administrator may pre-  
12          scribe—

13           “(A) a description of any facilities de-  
14           ployed under paragraph (2)(A), the quantity of  
15           resulting electricity generation from renewable  
16           energy resources;

17           “(B) an assessment demonstrating the  
18           cost-effectiveness of, and electricity savings  
19           achieved by, programs supported under para-  
20           graph (2)(B); and

21           “(C) a description of assistance provided to  
22           low-income retail ratepayers under paragraph  
23           (2)(C).

24          “(f) CERTAIN COGENERATION FACILITIES.—

1           “(1) ELIGIBLE COGENERATION FACILITIES.—

2           For purposes of this subsection, an ‘eligible cogen-  
3           eration facility’ is a facility that—

4                   “(A) is a qualifying co-generation facility  
5                   (as that term is defined in section 3(18)(B) of  
6                   the Federal Power Act (16 U.S.C. 796(18)(B));

7                   “(B) derives 80 percent or more of its heat  
8                   input from coal, petroleum coke, or any com-  
9                   bination of these 2 fuels;

10                  “(C) has a nameplate capacity of 100  
11                  megawatts or greater;

12                  “(D) was in operation as of January 1,  
13                  2009, and remains in operation as of the date  
14                  of any distribution of emission allowances under  
15                  this subsection;

16                  “(E) in calendar years 2006 through 2008  
17                  sold, and as of the date of any distribution of  
18                  emission allowances under this section sells,  
19                  steam or electricity directly and solely to mul-  
20                  tiple, separately-owned industrial or commercial  
21                  facilities co-located at the same site with the co-  
22                  generation facility; and

23                  “(F) is not eligible to receive allowances  
24                  under any other subsection of this section or  
25                  under part F of this title.

1           “(2) DISTRIBUTION.—The Administrator shall  
2       distribute the emission allowances allocated pursuant  
3       to section 771(a)(1) to owners or operators of eligi-  
4       ble cogeneration facilities ratably based on the car-  
5       bon dioxide emissions of each such facility in cal-  
6       endar years 2006 through 2008. The Adminis-  
7       trator—

8           “(A) shall not, in any year, distribute  
9       emission allowances under this subsection to the  
10      owner or operator of any eligible cogeneration  
11      facility in excess of the amount necessary to  
12      offset such facility’s cost of compliance with the  
13      requirements of this title in that year; and

14          “(B) may distribute such allowances over a  
15      period of years if annual distributions under  
16      this subsection would otherwise exceed the limi-  
17      tation in subparagraph (A), provided that in no  
18      event shall distributions be made under this  
19      subsection after calendar year 2025.

20          “(3) REQUIREMENTS.—The Administrator  
21      shall, by regulation, establish requirements to ensure  
22      that the value of any emission allowances distributed  
23      pursuant to this subsection are passed through, on  
24      an equitable basis, to the facilities to which the rel-  
25      evant cogeneration facility provides electricity or

1 steam deliveries, including any facility owned or op-  
2 erated by the owner or operator of the cogeneration  
3 facility.

4 “(g) REGULATIONS.—Not later than 2 years after  
5 the date of enactment of this title, the Administrator, in  
6 consultation with the Federal Energy Regulatory Commis-  
7 sion, shall promulgate regulations to implement the re-  
8 quirements of this section.

9 **“SEC. 773. NATURAL GAS CONSUMERS.**

10 “(a) DEFINITION.—For purposes of this section, the  
11 term ‘cost-effective’, with respect to an energy efficiency  
12 program, means that the program meets the Total Re-  
13 source Cost Test, which requires that the net present  
14 value of economic benefits over the life of the program,  
15 including avoided supply and delivery costs and deferred  
16 or avoided investments, is greater than the net present  
17 value of the economic costs over the life of the program,  
18 including program costs and incremental costs borne by  
19 the energy consumer.

20 “(b) ALLOCATION.—Not later than June 30, 2015,  
21 and each calendar year thereafter through 2028, the Ad-  
22 ministrator shall distribute to natural gas local distribu-  
23 tion companies for the benefit of retail ratepayers the  
24 quantity of emission allowances allocated for the following  
25 vintage year pursuant to section 771(a)(2). Such allow-

1 ances shall be distributed among local natural gas dis-  
2 tribution companies based on the following formula:

3           “(1) INITIAL FORMULA.—Except as provided in  
4 paragraph (2), for each vintage year, the Adminis-  
5 trator shall distribute emission allowances among  
6 natural gas local distribution companies on a pro  
7 rata basis based on each such company’s annual av-  
8 erage retail natural gas deliveries for 2006 through  
9 2008, unless the owner or operator of the company  
10 selects 3 other consecutive years between 1999 and  
11 2008, inclusive, and timely notifies the Adminis-  
12 trator of its selection.

13           “(2) UPDATING.—Prior to distributing 2019  
14 vintage emission allowances and at 3-year intervals  
15 thereafter, the Administrator shall update the dis-  
16 tribution formula under this subsection to reflect  
17 changes in each natural gas local distribution com-  
18 pany’s service territory since the most recent for-  
19 mula was established. For each successive 3-year pe-  
20 riod, the Administrator shall distribute allowances  
21 on a pro rata basis among natural gas local distribu-  
22 tion companies based on the product of—

23           “(A) each natural gas local distribution  
24 company’s average annual natural gas deliveries  
25 per customer during calendar years 2006

1 through 2008, or during the 3 alternative con-  
2 secutive years selected by such company under  
3 paragraph (1); and

4 “(B) the number of customers of such nat-  
5 ural gas local distribution company in the most  
6 recent year in which the formula is updated  
7 under this paragraph.

8 “(c) USE OF ALLOWANCES.—

9 “(1) RATEPAYER BENEFIT.—Emission allow-  
10 ances distributed to a natural gas local distribution  
11 company under this section shall be used exclusively  
12 for the benefit of retail ratepayers of such natural  
13 gas local distribution company and may not be used  
14 to support natural gas sales or deliveries to entities  
15 or persons other than such ratepayers.

16 “(2) RATEPAYER CLASSES.—In using emission  
17 allowances distributed under this section for the ben-  
18 efit of ratepayers, a natural gas local distribution  
19 company shall ensure that ratepayer benefits are  
20 distributed—

21 “(A) among ratepayer classes on a pro  
22 rata basis based on natural gas deliveries to  
23 each class; and

24 “(B) equitably among individual ratepayers  
25 within each ratepayer class.

1           “(3) LIMITATION.—A natural gas local dis-  
2       tribution company shall not use the value of emis-  
3       sion allowances distributed under this section to pro-  
4       vide to any ratepayer a rebate that is based solely  
5       on the quantity of natural gas delivered to such  
6       ratepayer. To the extent a natural gas local distribu-  
7       tion company uses the value of emission allowances  
8       distributed under this section to provide rebates, it  
9       shall, to the maximum extent practicable, provide  
10      such rebates with regard to the fixed portion of rate-  
11      payers’ bills or as a fixed creditor rebate on natural  
12      gas bills.

13           “(4) ENERGY EFFICIENCY PROGRAMS.—The  
14      value of no less than one-third of the emission allow-  
15      ances distributed to natural gas local distribution  
16      companies pursuant to this section in any calendar  
17      year shall be used for cost-effective energy efficiency  
18      programs for natural gas consumers. Such programs  
19      must be authorized and overseen by the State regu-  
20      latory authority, or by the entity with regulatory au-  
21      thority over retail natural gas rates in the case of  
22      a natural gas local distribution company that is not  
23      regulated by a State regulatory authority.

24           “(5) CERTAIN INTRACOMPANY DELIVERIES.—If  
25      a natural gas local distribution company makes an

1 intracompany delivery of natural gas to a customer  
2 that is not a covered entity, for which such company  
3 is required to hold emission allowances under section  
4 722, such customer shall, for purposes of this sec-  
5 tion, be considered to be a retail ratepayer and a  
6 member of a ratepayer class to be determined by the  
7 relevant State regulatory authority (or other entity  
8 with authority to regulate or set natural gas rates,  
9 in the case of a company not regulated by a State  
10 regulatory authority).

11 “(6) GUIDELINES.—As part of the regulations  
12 promulgated under subsection (h), the Administrator  
13 shall prescribe specific guidelines for the implemen-  
14 tation of the requirements of this subsection.

15 “(d) REGULATORY PROCEEDINGS.—

16 “(1) REQUIREMENT.—No natural gas local dis-  
17 tribution company shall be eligible to receive emis-  
18 sion allowances under this section unless the State  
19 regulatory authority with authority over such com-  
20 pany, or the entity with authority to regulate retail  
21 rates of a natural gas local distribution company not  
22 regulated by a State regulatory authority, has—

23 “(A) promulgated a regulation or com-  
24 pleted a rate proceeding (or the equivalent, in  
25 the case of a ratemaking entity other than a

1 State regulatory authority) that provides for  
2 the full implementation of the requirements of  
3 subsection (c); and

4 “(B) made available to the Administrator  
5 and the public a report describing, in adequate  
6 detail, the manner in which the requirements of  
7 subsection (c) will be implemented.

8 “(2) UPDATING.—The Administrator shall re-  
9 quire, as a condition of continued receipt of emission  
10 allowances under this section, that a new regulation  
11 be promulgated or rule proceeding be completed, and  
12 a new report be made available to the Administrator  
13 and the public, pursuant to paragraph (1), not less  
14 frequently than every 5 years.

15 “(e) PLANS AND REPORTING.—

16 “(1) REGULATIONS.—As part of the regulations  
17 promulgated under subsection (h), the Administrator  
18 shall prescribe requirements governing plans and re-  
19 ports to be submitted in accordance with this sub-  
20 section.

21 “(2) PLANS.—Not later than April 30, 2015,  
22 and every 5 years thereafter through 2025, each  
23 natural gas local distribution company shall submit  
24 to the Administrator a plan, approved by the State  
25 regulatory authority or other entity charged with

1 regulating the retail rates of such company, describ-  
2 ing such company's plans for the disposition of the  
3 value of emission allowances to be received pursuant  
4 to this section, in accordance with the requirements  
5 of this section.

6 “(3) REPORTS.—Not later than June 30, 2017,  
7 and each calendar year thereafter through 2031,  
8 each natural gas local distribution company shall  
9 submit a report to the Administrator, approved by  
10 the relevant State regulatory authority or other enti-  
11 ty charged with regulating the retail natural gas  
12 rates of such company, describing the disposition of  
13 the value of any emission allowances received by  
14 such company in the prior calendar year pursuant to  
15 this subsection, including—

16 “(A) a description of sales, transfer, ex-  
17 change, or use by the company for compliance  
18 with obligations under this title, of any such  
19 emission allowances;

20 “(B) the monetary value received by the  
21 company, whether in money or in some other  
22 form, from the sale, transfer, or exchange of  
23 emission allowances received by the company  
24 under this section;

1           “(C) the manner in which the company’s  
2           disposition of emission allowances received  
3           under this subsection complies with the require-  
4           ments of this section, including each of the re-  
5           quirements of subsection (c);

6           “(D) the cost-effectiveness of, and energy  
7           savings achieved by, energy efficiency programs  
8           supported through such emission allowances;  
9           and

10           “(E) such other information as the Admin-  
11           istrator may require pursuant to paragraph (1).

12           “(4) PUBLICATION.—The Administrator shall  
13           make available to the public all plans and reports  
14           submitted by natural gas local distribution compa-  
15           nies under this subsection, including by publishing  
16           such plans and reports on the Internet.

17           “(f) AUDITING.—

18           “(1) ADMINISTRATOR AUDIT REPORT.—Each  
19           year, the Administrator shall audit a significant rep-  
20           resentative sample of natural gas local distribution  
21           companies to ensure that emission allowances dis-  
22           tributed under this section have been used exclu-  
23           sively for the benefit of retail ratepayers and that  
24           such companies are complying with the requirements  
25           of this section. In selecting companies for audit, the

1 Administrator shall take into account any credible  
2 evidence of noncompliance with such requirements.  
3 The Administrator shall make available to the public  
4 a report describing the results of each such audit,  
5 including by publishing such report on the Internet.

6 “(2) GAO AUDIT REPORT.—Not later April 30,  
7 2015 and every 3 years thereafter through April 30,  
8 2026, the Comptroller General of the United States,  
9 incorporating results from the Administrators’ audit  
10 report and other relevant information including dis-  
11 tribution company reports, shall conduct an in-depth  
12 evaluation and make available to the public a report  
13 on the investments made pursuant to subsection (c).  
14 Said report shall be made available to the State reg-  
15 ulatory authority, or the entity with authority to  
16 regulate or set retail natural gas rates in the case  
17 of a natural gas distribution company that is not  
18 regulated by a State regulatory authority, and shall  
19 include a description how the distribution companies  
20 in the audit meet or fail to meet the requirement of  
21 subsection (c), including for investments made in  
22 cost-effective end-use energy efficiency programs, the  
23 lifetime and annual energy saving benefits, and ca-  
24 pacity benefits of said programs.

1           “(3) ADMINISTRATOR COST CONTAINMENT RE-  
2           PORT.—Not later April 30, 2015, and every 3 years  
3           thereafter through April 30, 2026, the Adminis-  
4           trator shall transmit a report to Congress containing  
5           an evaluation of the disposition of the value of emis-  
6           sion allowances received pursuant to this subsection  
7           and recommendations of ways to more effectively di-  
8           rect the value of allowances to reduce costs for con-  
9           sumers, contain the overall costs of the greenhouse  
10          gas emissions reduction program, and meet the pol-  
11          lution reduction targets of the Act. The Adminis-  
12          trator shall make available to the public such report,  
13          including by publishing such report on the Internet.

14          “(g) ENFORCEMENT.—A violation of any require-  
15          ment of this section, irrespective of approval by a State  
16          regulatory authority, shall be a violation of this Act. Each  
17          emission allowance the value of which is used in violation  
18          of the requirements of this section shall be a separate vio-  
19          lation.

20          “(h) REGULATIONS.—Not later than January 1,  
21          2014, the Administrator, in consultation with the Federal  
22          Energy Regulatory Commission, shall promulgate regula-  
23          tions to implement the requirements of this section.

24          **“SEC. 774. HOME HEATING OIL AND PROPANE CONSUMERS.**

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

1           “(1) CARBON CONTENT.—The term ‘carbon  
2           content’ means the amount of carbon dioxide that  
3           would be emitted as a result of the combustion of a  
4           fuel.

5           “(2) COST-EFFECTIVE.—The term ‘cost-effec-  
6           tive’ has the meaning given that term in section  
7           773(a).

8           “(b) ALLOCATION.—The Administrator shall dis-  
9           tribute among the States, in accordance with this section,  
10          the quantity of emission allowances allocated pursuant to  
11          section 771(a)(3). The Administrator shall distribute a  
12          percentage of such allowances determined by the Adminis-  
13          trator, after consultation with the Secretary of the Inte-  
14          rior, pursuant to subsection (f).

15          “(c) DISTRIBUTION AMONG STATES.—The Adminis-  
16          trator shall distribute emission allowances among the  
17          States under this section each year on a pro rata basis  
18          based on the ratio of—

19               “(1) the carbon content of home heating oil and  
20               propane sold to consumers within each State in the  
21               preceding year for residential or commercial uses; to

22               “(2) the carbon content of home heating oil and  
23               propane sold to consumers within the United States  
24               in the preceding year for residential or commercial  
25               uses.

1 “(d) USE OF ALLOWANCES.—

2 “(1) IN GENERAL.—States shall use emission  
3 allowances distributed under this section exclusively  
4 for the benefit of consumers of home heating oil or  
5 propane for residential or commercial purposes.  
6 Such proceeds shall be used exclusively for—

7 “(A) cost-effective energy efficiency pro-  
8 grams for consumers that use home heating oil  
9 or propane for residential or commercial pur-  
10 poses; or

11 “(B) rebates or other direct financial as-  
12 sistance programs for consumers of home heat-  
13 ing oil or propane used for residential or com-  
14 mercial purposes.

15 “(2) ADMINISTRATION AND DELIVERY MECHA-  
16 NISMS.—In administering programs supported by  
17 this section, States shall—

18 “(A) use no less than 50 percent of the  
19 value of emission allowances received under this  
20 section for cost-effective energy efficiency pro-  
21 grams to reduce consumers’ overall fuel costs;

22 “(B) to the extent practicable, deliver con-  
23 sumer support under this section through exist-  
24 ing energy efficiency and consumer energy as-  
25 sistance programs or delivery mechanisms, in-

1 cluding, where appropriate, programs or mecha-  
2 nisms administered by parties other than the  
3 State; and

4 “(C) seek to coordinate the administration  
5 and delivery of energy efficiency and consumer  
6 energy assistance programs supported under  
7 this section, with one another and with existing  
8 programs for various fuel types, so as to deliver  
9 comprehensive, fuel-blind, coordinated programs  
10 to consumers.

11 “(e) REPORTING.—Each State receiving emission al-  
12 lowances under this section shall submit to the Adminis-  
13 trator, within 12 months of each receipt of such allow-  
14 ances, a report, in accordance with such requirements as  
15 the Administrator may prescribe, that—

16 “(1) describes the State’s use of emission allow-  
17 ances distributed under this section, including a de-  
18 scription of the energy efficiency and consumer as-  
19 sistance programs supported with such allowances;

20 “(2) demonstrates the cost-effectiveness of, and  
21 the energy savings achieved by, energy efficiency  
22 programs supported under this section; and

23 “(3) includes a report prepared by an inde-  
24 pendent third party, in accordance with such regula-  
25 tions as the Administrator may promulgate, evalu-

1        ating the performance of the energy efficiency and  
2        consumer assistance programs supported under this  
3        section.

4        “(f) DISTRIBUTION TO INDIAN TRIBES.—Not later  
5        than 18 months after the date of enactment of this title,  
6        the Administrator shall, in consultation with the Secretary  
7        of the Interior and Indian tribes, promulgate regulations  
8        establishing a program to distribute the emission allow-  
9        ances made available to Indian tribes under this section.

10       “(g) ENFORCEMENT.—

11           “(1) IN GENERAL.—If the Administrator deter-  
12        mines that a State or Indian tribe is not in compli-  
13        ance with this section, the Administrator may with-  
14        hold a portion of the emission allowances, the quan-  
15        tity of which is equal to up to twice the quantity of  
16        the allowances that the State or Indian tribe failed  
17        to use in accordance with the requirements of this  
18        section, that such State or Indian tribe would other-  
19        wise be eligible to receive under this section in later  
20        years.

21           “(2) WITHHELD ALLOWANCES.—

22           “(A) STATES.—Allowances withheld from  
23        States pursuant to this subsection shall be dis-  
24        tributed among the remaining States on a pro

1           rata basis in accordance with the formula in  
2           subsection (c).

3                   “(B) INDIAN TRIBES.—Allowances with-  
4           held from Indian tribes pursuant to this sub-  
5           section shall be distributed among the remain-  
6           ing Indian tribes on a pro rata basis in accord-  
7           ance with the program established under sub-  
8           section (f).

9   **“SEC. 775. DOMESTIC FUEL PRODUCTION.**

10           “(a) PURPOSE.—The purpose of this section is to  
11   provide emission allowance rebates to petroleum refineries  
12   in the United States in a manner that promotes energy  
13   efficiency and a reduction in greenhouse gas emissions at  
14   such facilities.

15           “(b) DEFINITIONS.—In this section:

16                   “(1) EMISSIONS.—The term ‘emissions’ in-  
17           cludes direct emissions from fuel combustion, proc-  
18           ess emissions, and indirect emissions from the gen-  
19           eration of electricity, steam, and hydrogen used to  
20           produce the output of a petroleum refinery or the  
21           petroleum refinery sector.

22                   “(2) MAJOR INTEGRATED OIL COMPANY.—The  
23           term ‘major integrated oil company’ means a refiner  
24           that meets the definition of the term ‘major inte-

1       grated oil company’ under section 167(h)(5) of the  
2       Internal Revenue Code of 1986.

3           “(3) MID-SIZED REFINER.—The term ‘mid-  
4       sized refiner’ means a refiner that is not a major in-  
5       tegrated oil company or a small business refiner.

6           “(4) PETROLEUM REFINERY.—The term ‘petro-  
7       leum refinery’ means a facility classified under code  
8       324110 of the North American Industrial Classifica-  
9       tion System of 2002.

10          “(5) SMALL BUSINESS REFINER.—The term  
11       ‘small business refiner’ means a refiner that meets  
12       the applicable Federal refinery capacity and em-  
13       ployee limitations criteria described in section  
14       45H(c)(1) of the Internal Revenue Code of 1986 (as  
15       in effect on the date of enactment of this section and  
16       without regard to section 45H(d)). Eligibility of a  
17       small business refiner under this paragraph shall not  
18       be recalculated or disallowed on account of (i) its  
19       merger with another small business refiner or refin-  
20       ers after December 31, 2002 or (ii) its acquisition  
21       of another small business refiner (or refinery of such  
22       refiner) after December 31, 2002.

23          “(c) DISTRIBUTION OF ALLOWANCES.—The Admin-  
24       istrator shall distribute allowances pursuant to this section

1 to owners and operators of petroleum refineries, including  
2 small business refiners, in the United States.

3 “(d) DISTRIBUTION SCHEDULE.—The Administrator  
4 shall distribute emission allowances pursuant to the regu-  
5 lations issued under subsection (e) for each vintage year  
6 no later than October 31 of the preceding calendar year.

7 “(e) REGULATIONS.—

8 “(1) IN GENERAL.—Not later than 3 years  
9 after the date of enactment of this title, the Admin-  
10 istrator, in consultation with the Administrator of  
11 the Energy Information Administration, shall pro-  
12 mulgate regulations in accordance with the purpose  
13 of this section that establish separate formulas for  
14 distribution of emission allowances provided to—

15 “(A) petroleum refineries pursuant to sec-  
16 tion 771(a)(4)(A);

17 “(B) small business refiners pursuant to  
18 section 771(a)(4)(C); and

19 “(C) mid-sized refiners pursuant to section  
20 771(a)(4)(B).

21 “(2) CONSIDERATIONS.—In establishing the  
22 formulas under paragraph (1), the Administrator  
23 shall consider—

24 “(A) the relative complexity of refinery  
25 processes and appropriate mechanisms to take

1 energy efficiency and greenhouse gas reductions  
2 into account;

3 “(B) direct emissions from fuel combus-  
4 tion;

5 “(C) process emissions;

6 “(D) indirect emissions for the generation  
7 of electricity, steam, and hydrogen used to  
8 produce the output of a petroleum refinery; and

9 “(E) emissions from the combustion of  
10 products produced at a petroleum refinery or by  
11 the petroleum refinery sector.

12 “(3) EXCESS DISTRIBUTION.—If the electricity  
13 provider for a petroleum refinery received a free allo-  
14 cation of emission allowances pursuant to section  
15 771(a)(1), the Administrator shall take the free allo-  
16 cation into account when establishing the applicable  
17 formula under this subsection to avoid rebates to a  
18 petroleum refinery for costs that the Administrator  
19 determines were not incurred by the petroleum refin-  
20 ery because the allowances were—

21 “(A) freely allocated to the electricity pro-  
22 vider of the petroleum refinery; and

23 “(B) used for the benefit of the petroleum  
24 refinery.

1   **“SEC. 776. CONSUMER PROTECTION.**

2       “(a) CONSUMER REBATES.—

3           “(1) ESTABLISHMENT OF FUND.—There is es-  
4       tablished in the Treasury a separate account, to be  
5       known as the ‘Consumer Rebate Fund’).

6           “(2) AVAILABILITY OF AMOUNTS.—All amounts  
7       deposited in the Consumer Rebate Fund shall be  
8       available without further appropriation or fiscal year  
9       limitation.

10          “(3) DISTRIBUTION OF AMOUNTS.—Beginning  
11       in 2026, for each year after deposits are made in the  
12       Consumer Rebate Fund pursuant to section  
13       771(b)(2)(A), the President shall use the funds in  
14       accordance with Federal statutory authority to pro-  
15       vide relief to consumers and others affected by the  
16       enactment of the Clean Energy Jobs and American  
17       Power Act (and amendments made by that Act).

18       “(b) ENERGY REFUND PROGRAM.—

19           “(1) ESTABLISHMENT OF FUND.—There is es-  
20       tablished in the Treasury a separate account, to be  
21       known as the ‘Energy Refund Account’).

22           “(2) AVAILABILITY OF AMOUNTS.—All amounts  
23       deposited in the Energy Refund Account shall be  
24       available without further appropriation or fiscal year  
25       limitation.

1           “(3) DISTRIBUTION OF AMOUNTS.—For each  
2       year after deposits are made to the Energy Refund  
3       Account pursuant to section 771(b)(2)(B), the  
4       President shall use the funds in accordance with  
5       Federal statutory authority to offset energy cost im-  
6       pacts on low- and moderate-income households.

7       **“SEC. 777. EXCHANGE FOR STATE-ISSUED ALLOWANCES.**

8           “(a) IN GENERAL.—Not later than 1 year after the  
9       date of enactment of this title, the Administrator shall  
10      issue regulations allowing any person in the United States  
11      to exchange greenhouse gas emission allowances issued be-  
12      fore the later of December 31, 2011, or the date that is  
13      9 months after the first auction under section 778, by the  
14      State of California or for the Regional Greenhouse Gas  
15      Initiative, or the Western Climate Initiative (in this sec-  
16      tion referred to as ‘State allowances’) for emission allow-  
17      ances established by the Administrator under section  
18      721(a).

19          “(b) REGULATIONS.—Regulations issued under sub-  
20      section (a) shall—

21           “(1) provide that a person exchanging State al-  
22      lowances under this section receive emission allow-  
23      ances established under section 721(a) in the  
24      amount that is sufficient to compensate for the cost  
25      of obtaining and holding such State allowances;

1           “(2) establish a deadline by which persons must  
2       exchange the State allowances;

3           “(3) provide that the Federal emission allow-  
4       ances disbursed pursuant to this section shall be de-  
5       ducted from the allowances to be auctioned pursuant  
6       to section 771(b); and

7           “(4) require that, once exchanged, the credit or  
8       other instrument be retired for purposes of use  
9       under the program by or for which it was originally  
10      issued.

11       “(c) COST OF OBTAINING STATE ALLOWANCE.—For  
12      purposes of this section, the cost of obtaining a State al-  
13      lowance shall be the average auction price, for emission  
14      allowances issued in the year in which the State allowance  
15      was issued, under the program under which the State al-  
16      lowance was issued.

17   **“SEC. 778. AUCTION PROCEDURES.**

18       “(a) IN GENERAL.—To the extent that auctions of  
19      emission allowances by the Administrator are authorized  
20      by this part, such auctions shall be carried out pursuant  
21      to this section and the regulations established hereunder.

22       “(b) INITIAL REGULATIONS.—Not later than 12  
23      months after the date of enactment of this title, the Ad-  
24      ministrator, in consultation with other agencies, as appro-  
25      priate, shall promulgate regulations governing the auction

1 of allowances under this section. Such regulations shall in-  
2 clude the following requirements:

3 “(1) FREQUENCY; FIRST AUCTION.—Auctions  
4 shall be held four times per year at regular intervals,  
5 with the first auction to be held no later than March  
6 31, 2011.

7 “(2) AUCTION SCHEDULE; CURRENT AND FU-  
8 TURE VINTAGES.—The Administrator shall, at each  
9 quarterly auction under this section, offer for sale  
10 both a portion of the allowances with the same vin-  
11 tage year as the year in which the auction is being  
12 conducted and a portion of the allowances with vin-  
13 tage years from future years. The preceding sen-  
14 tence shall not apply to auctions held before 2012,  
15 during which period, by necessity, the Administrator  
16 shall auction only allowances with a vintage year  
17 that is later than the year in which the auction is  
18 held. Beginning with the first auction and at each  
19 quarterly auction held thereafter, the Administrator  
20 may offer for sale allowances with vintage years of  
21 up to 4 years after the year in which the auction is  
22 being conducted.

23 “(3) AUCTION FORMAT.—Auctions shall follow  
24 a single-round, sealed-bid, uniform price format.

1           “(4) PARTICIPATION; FINANCIAL ASSURANCE.—  
2       Auctions shall be open to any person, except that  
3       the Administrator may establish financial assurance  
4       requirements to ensure that auction participants can  
5       and will perform on their bids.

6           “(5) DISCLOSURE OF BENEFICIAL OWNER-  
7       SHIP.—Each bidder in the auction shall be required  
8       to disclose the person or entity sponsoring or bene-  
9       fitting from the bidder’s participation in the auction  
10      if such person or entity is, in whole or in part, other  
11      than the bidder.

12          “(6) PURCHASE LIMITS.—No person may, di-  
13      rectly or in concert with another participant, pur-  
14      chase more than 5 percent of the allowances offered  
15      for sale at any quarterly auction.

16          “(7) PUBLICATION OF INFORMATION.—After  
17      the auction, the Administrator shall, in a timely  
18      fashion, publish the identities of winning bidders,  
19      the quantity of allowances obtained by each winning  
20      bidder, and the auction clearing price.

21          “(8) OTHER REQUIREMENTS.—The Adminis-  
22      trator may include in the regulations such other re-  
23      quirements or provisions as the Administrator, in  
24      consultation with other agencies, as appropriate,  
25      considers appropriate to promote effective, efficient,

1 transparent, and fair administration of auctions  
2 under this section.

3 “(c) REVISION OF REGULATIONS.—The Adminis-  
4 trator may, in consultation with other agencies, as appro-  
5 priate, at any time, revise the initial regulations promul-  
6 gated under subsection (b) by promulgating new regula-  
7 tions. Such revised regulations need not meet the require-  
8 ments identified in subsection (b) if the Administrator de-  
9 termines that an alternative auction design would be more  
10 effective, taking into account factors including costs of ad-  
11 ministration, transparency, fairness, and risks of collusion  
12 or manipulation. In determining whether and how to re-  
13 vise the initial regulations under this subsection, the Ad-  
14 ministrator shall not consider maximization of revenues to  
15 the Federal Government.

16 “(d) RESERVE AUCTION PRICE.—The minimum re-  
17 serve auction price shall be \$10 (in constant 2005 dollars)  
18 for auctions occurring in 2012. The minimum reserve  
19 price for auctions occurring in years after 2012 shall be  
20 the minimum reserve auction price for the previous year  
21 increased by 5 percent plus the rate of inflation (as meas-  
22 ured by the Consumer Price Index for all urban con-  
23 sumers).

24 “(e) DELEGATION OR CONTRACT.—Pursuant to reg-  
25 ulations under this section, the Administrator may by del-

1 egation or contract provide for the conduct of auctions  
2 under the Administrator's supervision by other depart-  
3 ments or agencies of the Federal Government or by non-  
4 governmental agencies, groups, or organizations.

5 “(f) SMALL BUSINESS REFINER RESERVE.—The Ad-  
6 ministrator shall, in accordance with this subsection, issue  
7 regulations setting aside a specified number of allowances,  
8 as determined by the Administrator, that small business  
9 refiners may purchase at the average auction price and  
10 may use to demonstrate compliance pursuant to section  
11 722. These regulations shall provide the following:

12 “(1) AMOUNT.—The Administrator shall place  
13 in the small business refiner reserve account allow-  
14 ances that are to be sold at auction pursuant to the  
15 allocations under section 771 in an amount equal  
16 to—

17 “(A) for each of vintage years 2012 and  
18 2013, 6.2 percent of the emission allowances es-  
19 tablished under section 721(a);

20 “(B) for each of vintage years 2014 and  
21 2015, 5.4 percent of the emission allowances es-  
22 tablished under section 721(a); and

23 “(C) for each of vintage years 2016  
24 through 2024, 4.9 percent of the emission al-  
25 lowances established under section 721(a).

1           “(2) ALLOWED PURCHASES.—From January 1  
2           of the calendar year that matches the vintage year  
3           for which allowances have been placed in the reserve,  
4           through January 14 of the following year, small  
5           business refiners (as defined in section 775(b)) may  
6           purchase allowances from this reserve at the price  
7           determined pursuant to paragraph (3).

8           “(3) PRICE.—The price for allowances pur-  
9           chased from this reserve shall be the average auction  
10          price for allowances of the same vintage year pur-  
11          chased at auctions conducted pursuant to this sec-  
12          tion during the 12 months preceding the purchase of  
13          the allowances.

14          “(4) USE OF ALLOWANCES.—Allowances pur-  
15          chased from this reserve shall only be used by the  
16          purchaser to demonstrate compliance pursuant to  
17          section 722 for attributable greenhouse gas emis-  
18          sions in the calendar year that matches the vintage  
19          year of the purchased allowance. Allowances pur-  
20          chased from this reserve may not be banked, traded  
21          or borrowed.

22          “(5) LIMITATIONS ON PURCHASE AMOUNT.—  
23          The Administrator, by regulation adopted after pub-  
24          lic notice and an opportunity for comment, shall es-  
25          tablish procedures to distribute the ability to pur-

1       chase allowances from the reserve fairly among all  
2       small business refiners interested in purchasing al-  
3       lowances from this reserve so as to address the po-  
4       tential that requests to purchase allowances exceed  
5       the number of allowances available in the reserve.  
6       This regulation may place limits on the number of  
7       allowances a small business refiner may purchase  
8       from the reserve.

9               “(6) UNSOLD ALLOWANCES.—Vintage year al-  
10      lowances not sold from the reserve on or before Jan-  
11      uary 15 of the calendar year following the vintage  
12      year shall be sold at an auction conducted pursuant  
13      to this section no later than March 31 of the cal-  
14      endar year following the vintage year. If significantly  
15      more allowances are being placed in the reserve than  
16      are being purchased from the reserve several years  
17      in a row, the Administrator may adjust either the  
18      percent of allowances placed in the reserve or the  
19      date by which allowances may be purchased from the  
20      reserve.

21   **“SEC. 779. AUCTIONING ALLOWANCES FOR OTHER ENTI-**  
22               **TIES.**

23               “(a) CONSIGNMENT.—Any entity holding emission al-  
24      lowances or compensatory allowances may request that the

1 Administrator auction, pursuant to section 778, the allow-  
2 ances on consignment.

3 “(b) PRICING.—When the Administrator acts under  
4 this section as the agent of an entity in possession of emis-  
5 sion allowances, the Administrator is not obligated to ob-  
6 tain the highest price possible for the emission allowances,  
7 and instead shall auction consignment allowances in the  
8 same manner and pursuant to the same rules as auctions  
9 of other allowances under section 778. The Administrator  
10 may permit the entity offering the allowance for sale to  
11 condition the sale of its allowances pursuant to this section  
12 on a minimum reserve price that is different than the re-  
13 serve auction price set pursuant to section 778(d).

14 “(c) PROCEEDS.—For emission allowances and com-  
15 pensatory allowances auctioned pursuant to this section,  
16 notwithstanding section 3302 of title 31, United States  
17 Code, or any other provision of law, within 90 days of re-  
18 ceipt, the United States shall transfer the proceeds from  
19 the auction to the entity which held the allowances auc-  
20 tioned. No funds transferred from a purchaser to a seller  
21 of emission allowances or compensatory allowances under  
22 this subsection shall be held by any officer or employee  
23 of the United States or treated for any purpose as public  
24 monies.

1       “(d) REGULATIONS.—The Administrator shall issue  
2 regulations within 24 months after the date of enactment  
3 of this title to implement this section.

4       **“SEC. 780. COMMERCIAL DEPLOYMENT OF CARBON CAP-**  
5                   **TURE AND PERMANENT SEQUESTRATION**  
6                   **TECHNOLOGIES.**

7       “(a) DEFINITIONS.—In this section:

8               “(1) CARBON CAPTURE AND PERMANENT SE-  
9       QUESTRATION.—The term ‘carbon capture and per-  
10      manent sequestration’ shall—

11                   “(A) have such meaning as the Adminis-  
12                   trator shall determine by regulation; and

13                   “(B) include—

14                               “(i) permanent geological sequestra-  
15                               tion; and

16                               “(ii) conversion of captured carbon di-  
17                               oxide to a stable form that will safely and  
18                               permanently sequester the carbon dioxide.

19       “(2) ENHANCED HYDROCARBON RECOVERY.—

20               “(A) IN GENERAL.—The term ‘enhanced  
21      hydrocarbon recovery’ means a process by  
22      which oil, methane, or other natural gases are  
23      recovered by the injection of carbon dioxide into  
24      a geologic formation.

1                   “(B) EXCLUSION.—The term ‘enhanced  
2                   hydrocarbon recovery’ does not include the in  
3                   situ generation of a new hydrocarbon.

4                   “(3) QUALIFYING ELECTRIC GENERATING  
5                   UNIT.—The term ‘qualifying electric generating unit’  
6                   means an electric utility unit—

7                   “(A) that derives at least 50 percent of the  
8                   annual fuel input of the unit from—

9                   “(i) coal or waste coal;

10                  “(ii) petroleum coke; or

11                  “(iii) any combination of those 2  
12                  fuels; and

13                  “(B)(i) that has a nameplate capacity of  
14                  200 megawatts or more; or

15                  “(ii) in the case of retrofit applications, the  
16                  carbon capture and permanent sequestration  
17                  technology of which is applied to the flue gas or  
18                  fuel gas stream from at least 200 megawatts of  
19                  the total nameplate generating capacity of the  
20                  unit.

21                  “(4) QUALIFYING INDUSTRIAL SOURCE.—The  
22                  term ‘qualifying industrial source’ means a source  
23                  that—

24                  “(A) is not a qualifying electric generating  
25                  unit;

1           “(B) absent carbon capture and permanent  
2           sequestration, would emit greater than 50,000  
3           tons per year of carbon dioxide; and

4           “(C) does not produce a liquid transpor-  
5           tation fuel from a solid fossil-based feedstock.

6           “(5) TREATED GENERATING CAPACITY.—

7           “(A) IN GENERAL.—The term ‘treated  
8           generating capacity’ means the portion of the  
9           total generating capacity of an electric gener-  
10          ating unit (or industrial source, measured by  
11          such method as the Administrator may des-  
12          ignate to be equivalent to the calculation under  
13          subparagraph (B)) for which the flue gas or  
14          fuel gas is treated by the carbon capture and  
15          permanent sequestration technology.

16          “(B) CALCULATION.—In determining the  
17          treated portion of flue gas or fuel gas of an  
18          electric generating unit under subparagraph  
19          (A), the Administrator shall multiply the name-  
20          plate capacity of the unit by the ratio that—

21                 “(i) the mass of flue gas or fuel gas  
22                 that is treated by the carbon capture and  
23                 permanent sequestration technology; bears  
24                 to

1                   “(ii) the total mass of the flue gas or  
2                   fuel gas that is produced when the unit is  
3                   operating at maximum capacity.

4           “(b) REGULATIONS.—Not later than 2 years after  
5 the date of enactment of this title, the Administrator shall  
6 promulgate regulations providing for the distribution of  
7 emission allowances allocated under section 771(a)(6),  
8 pursuant to the requirements of this section, to support  
9 the commercial deployment of carbon capture and perma-  
10 nent sequestration technologies in electric power genera-  
11 tion and industrial operations.

12          “(c) ELIGIBILITY CRITERIA AND METHOD OF DIS-  
13 TRIBUTION.—

14               “(1) ELIGIBILITY.—For an owner or operator  
15 of a project to be eligible to receive emission allow-  
16 ances under this section, the project shall—

17                   “(A) implement carbon capture and per-  
18 manent sequestration technology—

19                       “(i) at a qualifying electric generating  
20 unit that, upon implementation of the car-  
21 bon capture and permanent sequestration  
22 technology, will achieve an emission limita-  
23 tion that is at least a 50-percent reduction  
24 in emissions of the carbon dioxide pro-  
25 duced by—

1                   “(I) the unit, measured on an  
2                   annual basis, as determined by the  
3                   Administrator; or

4                   “(II) in the case of retrofit appli-  
5                   cations described in subsection  
6                   (a)(2)(B)(ii), the treated portion of  
7                   flue gas from the unit, measured on  
8                   an annual basis, as determined by the  
9                   Administrator; or

10                  “(ii) at a qualifying industrial source  
11                  that, upon implementation, will achieve an  
12                  emission limitation that is at least a 50-  
13                  percent reduction in emissions of the car-  
14                  bon dioxide produced by the emission  
15                  point, measured on an annual basis, as de-  
16                  termined by the Administrator;

17                  “(B)(i) geologically sequester carbon diox-  
18                  ide at a site that meets all applicable permitting  
19                  and certification requirements for permanent  
20                  geological sequestration; or

21                  “(ii) pursuant to such requirements as the  
22                  Administrator may prescribe by regulation, con-  
23                  vert captured carbon dioxide to a stable form  
24                  that will safely and permanently sequester the  
25                  carbon dioxide;

1           “(C) meet all other applicable State, tribal,  
2           and Federal permitting requirements; and

3           “(D) be located in the United States.

4           “(2) METHOD OF DISTRIBUTION.—

5           “(A) PERIOD.—The Administrator shall  
6           distribute emission allowances allocated under  
7           section 771(a)(6) to eligible projects for each of  
8           the first 10 calendar years for which each eligi-  
9           ble project is in commercial operation.

10           “(B) BONUS ALLOWANCE FORMULA FOR  
11           ELECTRIC GENERATING UNITS.—

12           “(i) PHASE I DISTRIBUTION.—For  
13           each project that is certified under sub-  
14           section (h), the quantity of emission allow-  
15           ances that the Administrator shall dis-  
16           tribute for a calendar year to the owner or  
17           operator of the eligible project shall be  
18           equal to the quotient obtained by divid-  
19           ing—

20           “(I) the product obtained by mul-  
21           tiplying—

22           “(aa) the number of metric  
23           tons of carbon dioxide emissions  
24           avoided through carbon capture  
25           and permanent sequestration of

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1 emissions by the project for a  
2 particular year, as determined  
3 pursuant to such methodology as  
4 the Administrator shall prescribe  
5 by regulation; and

6 “(bb) a bonus allowance  
7 value that is assigned to the  
8 project under subsection (d)(2);  
9 by

10 “(II) the average fair market  
11 value of an emission allowance during  
12 the calendar year preceding the earlier  
13 of—

14 “(aa) the year during which  
15 the project captured and seques-  
16 tered the carbon dioxide emis-  
17 sions; or

18 “(bb) the year in which the  
19 project receives an advanced dis-  
20 tribution of emission allowances  
21 under subsection (h)(3)(B).

22 “(ii) PHASE II DISTRIBUTION.—For  
23 each project that qualifies under subsection  
24 (e), the quantity of emission allowances  
25 that the Administrator shall distribute for

1 a calendar year to the owner or operator of  
2 the eligible project shall be determined  
3 through—

4 “(I) reverse auction, as pre-  
5 scribed by regulation under subsection  
6 (e)(3); or

7 “(II) if the Administrator decides  
8 not to distribute allowances through a  
9 reverse auction, an alternate distribu-  
10 tion method established by regulation  
11 under subsection (e)(4).

12 “(C) FORMULA FOR INDUSTRIAL  
13 SOURCES.—For each project that qualifies  
14 under subsection (g), the quantity of emission  
15 allowances that the Administrator shall dis-  
16 tribute for a calendar year to the owner or op-  
17 erator of the eligible project shall be determined  
18 in accordance with subsection (g)(2).

19 “(D) CONSISTENCY.—The Administrator  
20 shall develop a method of distribution for each  
21 category of eligible projects under this para-  
22 graph in a manner that is consistent with the  
23 certification and distribution requirements  
24 under subsection (h).

1       “(d) PHASE I DISTRIBUTION TO ELECTRIC GENER-  
2     ATING UNITS.—

3               “(1) APPLICABILITY.—

4                       “(A) IN GENERAL.—Subject to subpara-  
5     graph (B), this subsection shall apply to  
6     projects that are undertaken at qualifying elec-  
7     tric generating units that the Administrator de-  
8     termines to be eligible to receive emission allow-  
9     ances under this section.

10                      “(B) CAPACITY.—The total cumulative  
11     generating capacity of the projects described in  
12     subparagraph (A) shall be equal to approxi-  
13     mately 20 gigawatts of the treated generating  
14     capacity.

15               “(2) BONUS ALLOWANCE VALUES.—

16                      “(A) FIRST TRANCHE.—

17                               “(i) IN GENERAL.—The first tranche  
18     shall include the first 10 gigawatts of  
19     treated generating capacity undertaken at  
20     qualifying electric generating units that re-  
21     ceive emission allowances under this sec-  
22     tion.

23                               “(ii) CERTAIN UNITS.—For an eligible  
24     project achieving carbon capture and per-  
25     manent sequestration of 90 percent or

1 more of the carbon dioxide that otherwise  
2 would be emitted by the unit, the bonus al-  
3 lowance value shall be \$96 per ton of car-  
4 bon dioxide emissions avoided through the  
5 use of carbon capture and permanent se-  
6 questration.

7 “(iii) BONUS ALLOWANCE VALUE.—  
8 The Administrator shall establish, by regu-  
9 lation, a bonus allowance value for each  
10 rate of carbon capture and permanent se-  
11 questration achieved by an eligible  
12 project—

13 “(I) beginning at a minimum of  
14 \$50 per ton for a 50-percent rate; and

15 “(II) varying in direct proportion  
16 with increasing rates of carbon cap-  
17 ture and permanent sequestration up  
18 to \$96 per ton for an 90-percent rate.

19 “(B) SECOND TRANCHE.—

20 “(i) IN GENERAL.—The second  
21 tranche shall include the second 10  
22 gigawatts of treated generating capacity  
23 undertaken at qualifying electric gener-  
24 ating units that receive emission allow-  
25 ances under this section.

1                   “(ii) CERTAIN UNITS.—For an eligible  
2                   project achieving the carbon capture and  
3                   permanent sequestration of 90 percent or  
4                   more of the carbon dioxide that otherwise  
5                   would be emitted by the eligible project,  
6                   the bonus allowance value shall be \$85 per  
7                   ton of carbon dioxide emissions avoided  
8                   through the use of capture and permanent  
9                   sequestration.

10                  “(iii) BONUS ALLOWANCE VALUE.—  
11                  The Administrator shall establish, by regu-  
12                  lation, a bonus allowance value for each  
13                  rate of carbon capture and permanent se-  
14                  questration achieved by an eligible  
15                  project—

16                         “(I) beginning at a minimum of  
17                         \$50 per ton for a 50-percent rate; and

18                         “(II) varying in direct proportion  
19                         with increasing rates of carbon cap-  
20                         ture and permanent sequestration up  
21                         to \$85 per ton for a 90-percent rate.

22                  “(C) INCREASE IN BONUS ALLOWANCE  
23                  VALUE.—For an eligible project that com-  
24                  mences commercial operation by not later than  
25                  January 1, 2017, and that meets the eligibility

1 criteria under subsection (c), the otherwise-ap-  
2 plicable bonus allowance value under this para-  
3 graph shall be increased by \$10, if the owner  
4 or operator of the eligible project submits to the  
5 Administrator by not later than January 1,  
6 2012, a notification of the intent to implement  
7 carbon capture and permanent sequestration  
8 technology at a qualifying electric generating  
9 unit in accordance with subsection (c).

10 “(D) REDUCTION.—

11 “(i) IN GENERAL.—For a carbon cap-  
12 ture and permanent sequestration project  
13 sequestering in a geological formation for  
14 purposes of enhanced hydrocarbon recov-  
15 ery, the Administrator, by regulation, shall  
16 reduce the applicable bonus allowance  
17 value under this paragraph to reflect the  
18 lower net cost of the project, as compared  
19 to permanent sequestration into geological  
20 formations solely for purposes of seques-  
21 tration.

22 “(ii) ASSESSMENT OF NET COST.—

23 For the purpose of this subparagraph, an  
24 assessment of net cost of a project shall  
25 account for the cost of the injection of car-

1           bon dioxide, or other method of enhanced  
2           hydrocarbon recovery, that would have oth-  
3           erwise been undertaken in the absence of  
4           the carbon capture and permanent seques-  
5           tration project under consideration.

6           “(E) ADJUSTMENTS.—The Administrator  
7           shall annually adjust for monetary inflation the  
8           bonus allowance values established under this  
9           paragraph.

10          “(F) MEASUREMENT.—The Administrator  
11          shall measure the tranches and capture levels  
12          for assigning the bonus allowance values under  
13          this subsection based on the treated generating  
14          capacity of the qualifying electric generating  
15          units and qualifying industrial sources that re-  
16          ceive emission allowances under this subsection.

17          “(G) AVERAGE FAIR MARKET VALUE.—

18               “(i) IN GENERAL.—The Administrator  
19               and the Secretary of Energy may jointly  
20               determine that the average fair market  
21               value for emission allowances or the bonus  
22               allowances have been too low or too high to  
23               achieve efficient and cost-effective commer-  
24               cial deployment of carbon capture and per-

1                   manent sequestration technology in a given  
2                   calendar year.

3                   “(ii) ACTION ON DETERMINATION.—

4                   On making a determination under clause  
5                   (i), the Administrator may—

6                   “(I) promulgate regulations to  
7                   adjust the bonus allowance value  
8                   under this paragraph; or

9                   “(II) distribute an appropriate  
10                  quantity of emission allowances allo-  
11                  cated under section 771(a)(6) from  
12                  any future vintage year.

13               “(e) PHASE II DISTRIBUTION TO ELECTRIC GENER-  
14               ATING UNITS.—

15               “(1) APPLICATION.—This subsection shall  
16               apply only to the distribution of emission allowances  
17               for carbon capture and permanent sequestration  
18               projects undertaken at qualifying electric generating  
19               units and qualifying industrial sources after the  
20               treated generating capacity threshold identified  
21               under subsection (d)(1) is reached.

22               “(2) REGULATIONS.—Not later than 2 years  
23               before the date on which the capacity threshold iden-  
24               tified in subsection (d)(1) is projected to be reached,  
25               the Administrator shall promulgate regulations to

1       govern the distribution of emission allowances to the  
2       owners or operators of eligible projects under this  
3       subsection.

4           “(3) REVERSE AUCTIONS.—

5               “(A) IN GENERAL.—Except as provided in  
6       paragraph (4), the regulations promulgated  
7       pursuant to paragraph (2) shall provide for the  
8       distribution of emission allowances to the own-  
9       ers or operators of eligible projects under this  
10      subsection through at least 2 reverse auctions,  
11      each of which shall be held not less frequently  
12      than once each calendar year.

13           “(B) REQUIREMENTS.—

14               “(i) PROJECTS AT INDUSTRIAL  
15      SOURCES.—The Administrator shall annu-  
16      ally establish a reverse auction for projects  
17      at industrial sources, which may not par-  
18      ticipate in other auctions.

19               “(ii) OTHER AUCTIONS.—The Admin-  
20      istrator may establish a separate auction  
21      for each of not more than 5 different  
22      project categories, as defined based on—

23                   “(I) coal type;

24                   “(II) capture technology;

25                   “(III) geological formation type;

1 “(IV) new unit versus retrofit ap-  
2 plication;

3 “(V) such other factors as the  
4 Administrator may prescribe; or

5 “(VI) any combination of the fac-  
6 tors described in subclauses (I)  
7 through (V).

8 “(iii) EFFICIENT DISTRIBUTION.—  
9 The Administrator shall establish proce-  
10 dures for the auction of emission allow-  
11 ances under this subparagraph to ensure  
12 that the establishment of separate auctions  
13 for different project categories will not un-  
14 duly impede the efficient and expeditious  
15 distribution of emission allowances to eligi-  
16 ble projects under this subsection.

17 “(iv) MINIMUM RATES.—The Admin-  
18 istrator may establish appropriate min-  
19 imum rates of carbon capture and perma-  
20 nent sequestration for the treated gener-  
21 ating capacity of a project in implementing  
22 this subparagraph.

23 “(C) AUCTION PROCESS.—At each reverse  
24 auction under this paragraph—

1 “(i) the Administrator shall solicit  
2 bids from eligible projects;

3 “(ii) owners or operators of eligible  
4 projects participating in the auction shall  
5 submit a bid, including the desired level of  
6 carbon dioxide permanent sequestration in-  
7 centive per ton and the estimated quantity  
8 of carbon dioxide that the project will per-  
9 manently sequester during a 10-year pe-  
10 riod; and

11 “(iii) the Administrator shall select  
12 bids within each auction for the permanent  
13 sequestration quantity submitted, begin-  
14 ning with the eligible project for which the  
15 bid is submitted for the lowest level of per-  
16 manent sequestration incentive on a per-  
17 ton basis and meeting such other require-  
18 ments as the Administrator may specify,  
19 until the amounts available for the reverse  
20 auction are committed.

21 “(D) FORM OF DISTRIBUTION.—The Ad-  
22 ministrator shall distribute emission allowances  
23 to the owners or operators of eligible projects  
24 selected through a reverse auction under this  
25 paragraph pursuant to a formula equivalent to

1 the formula contained in subsection (c)(2)(B),  
2 except that the bonus allowance value that is  
3 bid by the applicable entity shall be substituted  
4 for the bonus allowance values described in sub-  
5 section (c)(2).

6 “(4) ALTERNATIVE DISTRIBUTION METHOD.—

7 “(A) IN GENERAL.—If the Administrator  
8 determines that a reverse auction will not result  
9 in efficient and cost-effective commercial de-  
10 ployment of carbon capture and permanent se-  
11 questration technologies, the Administrator,  
12 pursuant to regulations under paragraph (2) or  
13 (5), shall prescribe a schedule for the provision  
14 of bonus allowances to the owners or operators  
15 of eligible projects under this subsection, in ac-  
16 cordance with the requirements of this para-  
17 graph.

18 “(B) MULTIPLE TRANCHES.—The Admin-  
19 istrator shall divide emission allowances avail-  
20 able for distribution to the owners or operators  
21 of eligible projects into a series of tranches,  
22 each of which—

23 “(i) shall support the deployment of a  
24 specified quantity of cumulative electric  
25 generating capacity using carbon capture

1 and permanent sequestration technology;

2 and

3 “(ii) shall not be greater than 10

4 gigawatts of treated generating capacity.

5 “(C) METHOD OF DISTRIBUTION.—The

6 Administrator shall distribute emission allow-

7 ances within each tranche, on a first-come,

8 first-served basis—

9 “(i) based on the date of full-scale op-

10 eration of carbon capture and permanent

11 sequestration technology; and

12 “(ii) pursuant to a formula that—

13 “(I) is similar to the formula

14 contained in subsection (c)(2)(C), ex-

15 cept that the Administrator may pre-

16 scribe bonus allowance values dif-

17 ferent than those described in sub-

18 section (c)(2) based on the criteria es-

19 tablished under subparagraph (E);

20 and

21 “(II) establishes the number of

22 emission allowances to be distributed

23 per ton of carbon dioxide sequestered

24 by the project.

“(D) REQUIREMENTS.—For each tranche established pursuant to subparagraph (B), the Administrator shall establish a schedule for distributing emission allowances that—

“(i) is based on a sliding scale that provides higher bonus allowance values for projects achieving higher rates of carbon capture and permanent sequestration for the treated generation capacity at the unit;

“(ii) for each carbon capture and permanent sequestration rate, establishes a bonus allowance value that is lower than that established for the applicable rate for the previous tranche (or, in the case of the first tranche, than that established for the applicable rate under subsection (d)(2)); and

“(iii) may establish different bonus allowance levels for not more than 5 different project categories, as defined based on—

“(I) coal type;

“(II) capture and transportation technology;

“(III) geological formation type;

1 “(IV) new unit versus retrofit ap-  
2 plication;

3 “(V) such other factors as the  
4 Administrator may prescribe; or

5 “(VI) any combination of the fac-  
6 tors described in subclauses (I)  
7 through (V).

8 “(E) CRITERIA FOR ESTABLISHING BONUS  
9 ALLOWANCE VALUES.—In establishing bonus al-  
10 lowance values under this paragraph, the Ad-  
11 ministrator shall seek to cover not more than  
12 the reasonable incremental capital and oper-  
13 ating costs of a project that are attributable to  
14 implementation of carbon capture and perma-  
15 nent sequestration technologies and carbon  
16 transportation technologies, taking into ac-  
17 count—

18 “(i) the reduced cost of compliance  
19 with section 722;

20 “(ii) the reduced cost associated with  
21 sequestering in a geological formation for  
22 purposes of enhanced hydrocarbon recov-  
23 ery, as compared to permanent sequestra-  
24 tion into geological formations solely for  
25 purposes of sequestration;

1 “(iii) the relevant factors defining the  
2 project category; and

3 “(iv) such other factors as the Admin-  
4 istrator determines to be appropriate.

5 “(5) REVISION OF REGULATIONS.—The Admin-  
6 istrator shall review and, as appropriate, revise the  
7 applicable regulations under this subsection not less  
8 frequently than once every 8 years.

9 “(f) LIMITS FOR CERTAIN ELECTRIC GENERATING  
10 UNITS.—

11 “(1) DEFINITIONS.—In this subsection, the  
12 terms ‘covered EGU’ and ‘initially permitted’ have  
13 the meanings given those terms in section 812.

14 “(2) COVERED EGUS INITIALLY PERMITTED  
15 FROM 2009 THROUGH 2014.—For a covered EGU  
16 that is initially permitted during the period begin-  
17 ning on January 1, 2009, and ending on December  
18 31, 2014, the Administrator shall reduce the quan-  
19 tity of emission allowances that the owner or oper-  
20 ator of the covered EGU would otherwise be eligible  
21 to receive under this section as follows:

22 “(A) In the case of a covered EGU com-  
23 mencing operation on or before January 1,  
24 2019, if the date in clause (ii)(I) is earlier than

1           the date in clause (ii)(II), by the product ob-  
2           tained by multiplying—

3                   “(i) 20 percent; and

4                   “(ii) the number of years, if any, that  
5           have elapsed between—

6                   “(I) the earlier of—

7                           “(aa) January 1, 2020; and

8                           “(bb) the date that is 5  
9                   years after the commencement of  
10                   operation of the covered EGU;  
11                   and

12                   “(II) the first year that the cov-  
13                   ered EGU achieves (and thereafter  
14                   maintains) an emission limitation that  
15                   is at least a 50-percent reduction in  
16                   emissions of carbon dioxide produced  
17                   by the unit, measured on an annual  
18                   basis, as determined in accordance  
19                   with section 812(b)(2).

20                   “(B) In the case of a covered EGU com-  
21                   mencing operation after January 1, 2019, by  
22                   the product obtained by multiplying—

23                   “(i) 20 percent; and

24                   “(ii) the number of years, if any, that  
25                   have elapsed between—

1                   “(I) the commencement of oper-  
2                   ation of the covered EGU; and

3                   “(II) the first year that the cov-  
4                   ered EGU achieves (and thereafter  
5                   maintains) an emission limitation that  
6                   is at least a 50-percent reduction in  
7                   emissions of carbon dioxide produced  
8                   by the unit, measured on an annual  
9                   basis, as determined in accordance  
10                  with section 812(b)(2).

11               “(3) COVERED EGUS INITIALLY PERMITTED  
12               FROM 2015 THROUGH 2019.—The owner or operator  
13               of a covered EGU that is initially permitted during  
14               the period beginning on January 1, 2015, and end-  
15               ing on December 31, 2019, shall be ineligible to re-  
16               ceive emission allowances under this section if the  
17               covered EGU, on commencement of operations (and  
18               thereafter), does not achieve and maintain an emis-  
19               sion limitation that is at least a 50-percent reduction  
20               in emissions of carbon dioxide produced by the cov-  
21               ered EGU, measured on an annual basis, as deter-  
22               mined in accordance with section 812(b)(2).

23               “(4) COVERED EGUS RECEIVING ADVANCED  
24               DISTRIBUTION.—

1           “(A) IN GENERAL.—For a covered EGU  
2           that receives an advanced distribution of emis-  
3           sion allowances, the Administrator shall reduce  
4           and recover, as applicable, the quantity of emis-  
5           sion allowances that the owner or operator of  
6           the covered EGU has received and remains eli-  
7           gible to receive under this section, which shall  
8           be equal to the product obtained by multi-  
9           plying—

10                   “(i) 20 percent; and

11                   “(ii) the number of years, if any, that  
12           have elapsed between—

13                   “(I) the date that is 18 months  
14           after—

15                   “(aa) in the case of a cov-  
16           ered EGU that was initially per-  
17           mitted on or after January 1,  
18           2009, the date of commencement  
19           of operation of the covered EGU;  
20           or

21                   “(bb) in the case of a cov-  
22           ered EGU that was initially per-  
23           mitted prior to January 1, 2009,  
24           the date that is 3 years after the  
25           date on which the project owner

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1 receives an advanced distribution  
2 for that covered EGU under sub-  
3 section (h)(3)(B); and

4 “(II) the first year that the cov-  
5 ered EGU achieves (and thereafter  
6 maintains) an emission limitation that  
7 is at least a 50-percent reduction in  
8 emissions of carbon dioxide produced  
9 by the covered EGU, measured on an  
10 annual basis.

11 “(B) EXTENSION.—

12 “(i) IN GENERAL.—If an owner or op-  
13 erator of a covered EGU that receives an  
14 advanced distribution of emission allow-  
15 ances determines that the owner or oper-  
16 ator will not be able to achieve at least a  
17 50-percent reduction in emissions of car-  
18 bon dioxide produced by the covered EGU,  
19 as measured on an annual basis, by the  
20 date specified in subparagraph (A)(ii)(I),  
21 the owner or operator may petition the Ad-  
22 ministrator to extend that date by not  
23 more than 18 months.

24 “(ii) TIME OF SUBMISSION OF PETI-  
25 TION.—The owner or operator shall submit

1 a petition described in clause (i) to the Ad-  
2 ministrator as soon as practicable after the  
3 date on which the basis for the petition  
4 arises.

5 “(iii) CONDITIONS FOR EXTENSION.—  
6 The Administrator shall prescribe, by regu-  
7 lation, the conditions under which an ex-  
8 tension under clause (i) may be granted,  
9 including—

10 “(I) an inability of a covered  
11 EGU to sequester at the site, despite  
12 due diligence having been undertaken;  
13 and

14 “(II) legal challenges to the im-  
15 plementation of the carbon capture  
16 and permanent sequestration tech-  
17 nology.

18 “(g) INDUSTRIAL SOURCES.—

19 “(1) EMISSION ALLOWANCES.—The Adminis-  
20 trator—

21 “(A) may distribute not more than 15 per-  
22 cent of the emission allowances allocated under  
23 section 771(a)(6) for any vintage year to the  
24 owners or operators of eligible industrial  
25 sources to support the commercial-scale deploy-

1           ment of carbon capture and permanent seques-  
2           tration technologies at those sources; and

3           “(B) notwithstanding any other provision  
4           of law—

5           “(i) may distribute to eligible indus-  
6           trial sources not more than 15 percent of  
7           the emission allowances allocated under  
8           section 771(a)(6) for any vintage year in  
9           the second tranche of phase I; but

10           “(ii) may not distribute those allow-  
11           ances for any vintage year in the first  
12           tranche of phase I.

13           “(2) DISTRIBUTION.—

14           “(A) IN GENERAL.—The Administrator  
15           shall prescribe, by regulation, requirements for  
16           the distribution of emission allowances to the  
17           owners or operators of industrial sources under  
18           this subsection, based on a bonus allowance for-  
19           mula that awards emission allowances to quali-  
20           fying projects on the basis of tons of carbon di-  
21           oxide captured and permanently sequestered.

22           “(B) METHOD.—The Administrator may  
23           provide for the distribution of emission allow-  
24           ances pursuant to—

“(i) a reverse auction method similar to the method described in subsection (e)(3), including the use of separate auctions for different project categories; or

5 “(ii) an incentive schedule similar to  
6 the schedule described in subsection (e)(4),  
7 which shall ensure that incentives are es-  
8 tablished so as to satisfy the requirement  
9 described in subsection (e)(4)(E).

“(3) REVISION OF REGULATIONS.—The Administrator shall review and, as appropriate, revise the regulations under this subsection not less frequently than once every 8 years.

14 “(h) CERTIFICATION AND DISTRIBUTION.—

15 “(1) CERTIFICATION.—

16 “(A) REQUEST.—

“(i) PHASE I; ALTERNATIVE DIS-  
TRIBUTION METHOD.—In the case of a  
qualifying project that is eligible to receive  
allowances under phase I or under sub-  
section (e)(4), at any time prior to placing  
a carbon capture and permanent seques-  
tration project into commercial operation,  
the owner or operator of the planned  
project may request from the Adminis-

1           trator a certification that the project is eli-  
2           gible to receive emission allowances under  
3           this section.

4           “(ii) REVERSE AUCTIONS.—In the  
5           case of a qualifying project that wins a re-  
6           verse auction under subsection (e) or (g),  
7           within a reasonably brief period following  
8           completion of the auction (as specified by  
9           the Administrator), the owner or operator  
10          of the qualifying project shall request from  
11          the Administrator a certification that the  
12          project is eligible to receive emission allow-  
13          ances under this section.

14          “(iii) ELIGIBLE PROJECTS.—Eligible  
15          projects in phase I and phase II may re-  
16          ceive certification under this paragraph.

17          “(iv) ISSUANCE.—Not later than 90  
18          days after the date on which the Adminis-  
19          trator determines that the owner or oper-  
20          ator of the planned project has submitted  
21          complete documentation pursuant to sub-  
22          paragraph (B), the Administrator shall  
23          issue a certification described in this sub-  
24          paragraph—

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1                   “(I) if the owner or operator  
2 demonstrates a commitment to con-  
3 struct and operate a project that sat-  
4 isfies—

5                   “(aa) the eligibility criteria  
6 of subsection (c); and

7                   “(bb) the requirements of  
8 this paragraph; and

9                   “(II) that is based on the consid-  
10 eration by the Administrator of the  
11 documentation submitted pursuant to  
12 subparagraph (B), as well as other  
13 relevant information, as determined  
14 by the Administrator, in consultation  
15 with the owner or operator.

16                   “(B) DOCUMENTATION.—

17                   “(i) IN GENERAL.—The Administrator  
18 shall prescribe, by regulation, the docu-  
19 mentation necessary for making a deter-  
20 mination of project eligibility for the cer-  
21 tification under subparagraph (A), includ-  
22 ing—

23                   “(I) in the case of a planned  
24 project receiving an advanced dis-  
25 tribution of emission allowances, a

1 commitment to implement carbon and  
2 permanent sequestration technology  
3 upon commencement of operation, to  
4 meet the eligibility requirements of  
5 (c)(1) by not later than 18 months  
6 after the date of commencement of  
7 operation;

8 “(II) technical information re-  
9 garding the carbon capture and per-  
10 manent sequestration technology, coal  
11 type, geological formation type (if ap-  
12 plicable), and other relevant design  
13 features that are planned for the  
14 project;

15 “(III) the annual reductions in  
16 carbon dioxide emissions that the car-  
17 bon capture and permanent sequestra-  
18 tion technology is projected to achieve  
19 during each of the first 10 years that  
20 the project achieves commercial oper-  
21 ation;

22 “(IV) a demonstration that the  
23 owner or operator is committed to  
24 both constructing and operating the  
25 planned project on a timeline marked

1 by reasonable milestones, through the  
2 completion of 1 of the actions speci-  
3 fied in subparagraph (C)(iii);

4 “(V) the amount of Federal  
5 funding the project owner has re-  
6 ceived, if any, to cover the costs of  
7 constructing a project that is eligible  
8 under this paragraph; and

9 “(VI) an assessment of the costs  
10 of constructing the project, which  
11 shall serve as a basis for the deter-  
12 mination of the Administrator regard-  
13 ing advanced distributions under  
14 paragraph (3)(C).

15 “(ii) NONRETROFIT APPLICATION.—  
16 In the case of a project that is not a ret-  
17 rofit application, the assessment of costs  
18 described in clause (i)(VI) shall include an  
19 assessment of the costs of constructing the  
20 electric generating unit or industrial source  
21 that will produce the flue gas or fuel gas  
22 to be treated by the carbon capture and  
23 permanent sequestration technology.

24 “(C) COMMITMENT.—

1                   “(i) IN GENERAL.—Subject to clause  
2                   (ii), the completion of any 1 of the quali-  
3                   fying actions specified under clause (iii)  
4                   shall constitute a commitment to construct  
5                   and operate a planned carbon capture and  
6                   permanent sequestration project.

7                   “(ii) CONDITION.—In the case of a  
8                   qualifying action specified in subclause (I)  
9                   or (II) of clause (iii), the completion of  
10                  such an action may be subject to a condi-  
11                  tion that the Administrator will issue a  
12                  certification under this paragraph for the  
13                  distribution of emission allowances to the  
14                  project.

15                  “(iii) QUALIFYING ACTIONS.—Quali-  
16                  fying actions under this subparagraph  
17                  shall include—

18                         “(I) the execution of—

19                                 “(aa) a commitment by  
20                                 lenders or other appropriate enti-  
21                                 ties to finance the project, which  
22                                 may be subject to customary  
23                                 closing conditions that are associ-  
24                                 ated with the execution of the  
25                                 commitment;

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1                   “(bb) an authorization by a  
2                   State regulatory authority to  
3                   allow recovery, from the retail  
4                   customers of such electric utility,  
5                   of the costs of the project by a  
6                   State-regulated electric utility  
7                   that plans to construct the  
8                   project; or

9                   “(cc) an authorization by a  
10                  State legislature to allow recovery,  
11                  from the retail customers of  
12                  electric utilities that are required  
13                  to purchase some or all of the  
14                  electricity from the project pursuant  
15                  to State law, of the costs of  
16                  the project, on the conditions  
17                  that the project has been approved  
18                  by the legislature and,  
19                  under State law, retail electric  
20                  providers are required collectively  
21                  to purchase all of the net electric  
22                  output from the project; and

23                  “(II) a commitment by the owner  
24                  or operator of the project to execute a  
25                  surety bond in sufficient amounts by

1 not later than 2 years after the date  
2 on which the Administrator issues the  
3 certification for the project.

4 “(D) CONTENT OF CERTIFICATION.—The  
5 Administrator shall prescribe, by regulation, the  
6 required content of each certification issued  
7 under this paragraph, including—

8 “(i) the annual reductions in carbon  
9 dioxide emissions that the carbon capture  
10 and sequestration technology the owner or  
11 operator of the planned project commits to  
12 achieve during each of the first 10 years  
13 that the project is in commercial operation,  
14 as specified in section 812;

15 “(ii) the construction and operating  
16 milestones to which the owner or operator  
17 of the planned project commits;

18 “(iii) a certification that the docu-  
19 mentation submitted under subparagraph  
20 (B) is true and accurate;

21 “(iv) for those sources that have re-  
22 ceived advanced distribution of emission al-  
23 lowances under paragraph (3)(B), the re-  
24 payment periods that the Administrator  
25 has specified pursuant to paragraph

1                   (3)(D)(v) as of the effective date of the  
2                   certification; and

3                   “(v) such other requirements as may  
4                   be necessary to govern the advanced dis-  
5                   tribution of emission allowances between  
6                   the Administrator and the owner or oper-  
7                   ator of the planned project, subject to the  
8                   requirements of this subsection.

9                   “(E) FAILURE TO REQUEST CERTIFI-  
10                  CATION.—

11                  “(i) IN GENERAL.—An owner or oper-  
12                  ator may elect not to request a certifi-  
13                  cation on the eligibility of a planned  
14                  project under subparagraph (A) prior to  
15                  the commercial operation of the project.

16                  “(ii) DETERMINATION BY ADMINIS-  
17                  TRATOR.—If an owner or operator elects  
18                  not to request a certification under clause  
19                  (i), the Administrator shall make a deter-  
20                  mination regarding whether the project  
21                  satisfies the eligibility requirements of sub-  
22                  section (c) at the time that the Adminis-  
23                  trator makes a determination regarding  
24                  the annual distribution of emission allow-  
25                  ances under paragraph (3)(A).



1 captured and sequestered each cal-  
2 endar year under paragraph  
3 (1)(B)(i)(II); and

4 “(III) a discount rate to account  
5 for the increase in the monetary infla-  
6 tion that may be expected to occur  
7 during each of the relevant 10 cal-  
8 endar years, as determined by the Ad-  
9 ministrator.

10 “(B) TERMINATION OF RESERVATION.—

11 “(i) IN GENERAL.—A reservation of  
12 emission allowances for a particular project  
13 under subparagraph (A) shall terminate if  
14 the Administrator determines that the  
15 owner or operator has failed to achieve a  
16 reasonable number of milestones for com-  
17 mencing construction or commercial oper-  
18 ation of the project, as specified under  
19 paragraph (1)(B)(i)(III).

20 “(ii) REDUCED QUANTITY OF CARBON  
21 DIOXIDE CAPTURED AND SEQUESTERED.—

22 If the quantity of carbon dioxide captured  
23 and sequestered by a project on average  
24 over 3 consecutive calendar years is less  
25 than the quantity specified for those cal-

1           endar years under subparagraph (A), the  
2           reservation of emission allowances for the  
3           project under subparagraph (A) shall be  
4           reduced in future years by the difference  
5           between—

6                   “(I) the quantity of carbon diox-  
7                   ide captured and sequestered on aver-  
8                   age over the applicable 3 consecutive  
9                   years; and

10                   “(II) the quantity specified under  
11                   subparagraph (A) for the applicable  
12                   years.

13                   “(iii) AVAILABILITY.—The Adminis-  
14                   trator shall immediately make available to  
15                   other eligible projects emission allowances  
16                   for which the Administrator has termi-  
17                   nated an emission allowance reservation  
18                   for a particular project under this subpara-  
19                   graph.

20           “(3) DISTRIBUTION PROCESS.—

21                   “(A) ANNUAL DISTRIBUTION.—

22                   “(i) IN GENERAL.—The Administrator  
23                   shall distribute the emission allowances to  
24                   eligible projects on an annual basis.

1                   “(ii) BASIS.—The annual distribution  
2                   of emission allowances shall be based on  
3                   the total tons of carbon dioxide that the  
4                   project annually captures and sequesters  
5                   during each of the first 10 years of com-  
6                   mercial operation, in accordance with sub-  
7                   section (c)(2).

8                   “(iii)       TOTAL       DISTRIBUTION  
9                   AMOUNT.—The total amount of emission  
10                  allowances distributed to an eligible project  
11                  for each of the first 10 years of commer-  
12                  cial operation may be greater than, or less  
13                  than, the quantity of emissions allowances  
14                  that the Administrator has reserved for the  
15                  eligible project under paragraph (2).

16                  “(iv) REPORTS.—  
17                  “(I) IN GENERAL.—Except as  
18                  provided in subparagraph (B), the Ad-  
19                  ministrator shall make each annual  
20                  distribution of emission allowances by  
21                  not later than 90 days after the date  
22                  on which the owner or operator of a  
23                  project submits to the Administrator  
24                  a report regarding the tons of carbon

1                   dioxide emissions captured and se-  
2                   questered for that year by the project.

3                   “(II) REQUIREMENT.—A report  
4                   under subclause (I) shall be verified in  
5                   accordance with regulations to be pro-  
6                   mulgated by the Administrator.

7                   “(B) ADVANCED DISTRIBUTION.—

8                   “(i) IN GENERAL.—The Administrator  
9                   may provide an advanced distribution of  
10                  emission allowances to the projects—

11                  “(I) that receive emission allow-  
12                  ances under the phase I distributions  
13                  authorized by subsection (d); and

14                  “(II) for which the Administrator  
15                  has issued a certification of eligibility  
16                  under paragraph (1).

17                  “(ii) REQUIREMENTS.—An advanced  
18                  distribution of emission allowances for a  
19                  particular project shall be provided—

20                  “(I) prior to the operational  
21                  phase of the project, at an appro-  
22                  priate milestone that best ensures the  
23                  expeditious deployment of the carbon  
24                  capture and permanent sequestration

1 technology, as determined by the Ad-  
2 ministrator;

3 “(II) in a quantity that equals a  
4 percentage, as specified in subpara-  
5 graph (C), of the total number of  
6 emission allowances that the Adminis-  
7 trator has reserved for that project  
8 during the 10-year period of commer-  
9 cial operation; and

10 “(III) using allowances that are  
11 drawn—

12 “(aa) from the current vin-  
13 tage year; or

14 “(bb) if the allowances are  
15 exhausted from the current vin-  
16 tage year, in order from succes-  
17 sive vintage years, beginning with  
18 the most proximate future vin-  
19 tage year.

20 “(iii) REPORTS.—

21 “(I) IN GENERAL.—The owner or  
22 operator of a planned project that re-  
23 ceives an advanced distribution of  
24 emission allowances shall submit to  
25 the Administrator, not later than 90

1 days after the end of each calendar  
2 year, a report describing the tons of  
3 carbon dioxide emissions captured and  
4 sequestered for that year by the  
5 project, compared to the total tons of  
6 carbon dioxide emissions generated by  
7 the unit on which the planned project  
8 is implemented.

9 “(II) REQUIREMENT.—A report  
10 under subclause (I) shall be verified in  
11 accordance with regulations promul-  
12 gated by the Administrator.

13 “(III) AVOIDANCE OF DUPLICA-  
14 TIVE REPORTING.—If the unit on  
15 which a planned project is imple-  
16 mented already submits the informa-  
17 tion required by subclause (I) to the  
18 Administrator pursuant to another re-  
19 porting requirement, the owner or op-  
20 erator of the planned project may  
21 refer the Administrator to the other  
22 submission in which the required in-  
23 formation is provided.

24 “(C) PERCENTAGES.—

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1 “(i) IN GENERAL.—Subject to clauses  
2 (ii) and (iii), the Administrator shall apply  
3 the following percentages for determining  
4 the advanced distribution of emission al-  
5 lowances:

6 “(I) 70 percent of the emission  
7 allowance reservation for the first  
8 tranche under subsection (d)(2)(A).

9 “(II) 50 percent of the emission  
10 allowance reservation for the second  
11 tranche under subsection (d)(2)(B).

12 “(ii) COSTS LESS THAN VALUE OF AL-  
13 LOWANCES.—If the costs described in  
14 clause (iii) are less than the monetary  
15 value of allowances represented by the per-  
16 centages described in clause (i) at the time  
17 of advanced distribution, the advanced dis-  
18 tribution shall be limited to an amount  
19 that is equivalent to the costs described in  
20 clause (iii).

21 “(iii) COSTS.—

22 “(I) IN GENERAL.—For retrofit  
23 projects, the advanced distribution  
24 shall equate to 100 percent of the  
25 costs of permitting, design or engi-

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1 neering, labor, materials, land, and  
2 equipment associated with the con-  
3 struction and installation of the sys-  
4 tem to capture, compress, transport,  
5 and store carbon dioxide (including  
6 design changes to the associated gen-  
7 erating unit needed to accommodate  
8 the carbon dioxide capture and com-  
9 pression system).

10 “(II) NEW ELECTRIC GENER-  
11 ATING UNITS.—For new projects—

12 “(aa) the advanced distribu-  
13 tion shall equate to 100 percent  
14 of the incremental permitting, de-  
15 sign or engineering, labor, mate-  
16 rials, land, and equipment cost  
17 differences between—

18 “(AA) a new coal power  
19 plant with carbon capture  
20 and storage; and

21 “(BB) a new coal  
22 power plant without carbon  
23 capture and storage in the  
24 location where the new coal  
25 power plant is being con-

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1                   structed, and for the same  
2                   intended service territory ab-  
3                   sent carbon capture and  
4                   storage; and

5                   “(bb) it shall be the respon-  
6                   sibility of the organization that is  
7                   requesting advanced distributions  
8                   to provide to the Administrator a  
9                   cost estimate for both the new  
10                  coal power plant with carbon cap-  
11                  ture and storage and a new coal  
12                  power plant without carbon cap-  
13                  ture and storage.

14                  “(III) REDUCTION.—For the  
15                  purposes of this subparagraph, the  
16                  costs under this clause shall be re-  
17                  duced by the amounts documented  
18                  under paragraph (1)(B)(i)(V).

19                  “(D) RECONCILIATION FOR ADVANCED  
20                  PAYMENTS.—

21                  “(i) IN GENERAL.—In the case of a  
22                  project that receives an advanced distribu-  
23                  tion of emission allowances under this  
24                  paragraph, the Administrator shall dis-  
25                  tribute annually the remainder of emission

1 allowances reserved under paragraph (2)  
2 once the carbon capture and permanent se-  
3 questration technology begins commercial  
4 operation.

5 “(ii) TIMING OF DISTRIBUTION.—The  
6 annual distribution of emission allowances  
7 under clause (i) shall take place not later  
8 than 60 days after the end of each cal-  
9 endar year.

10 “(iii) CALCULATION OF REMAINING  
11 DISTRIBUTION.—Subject to clauses (iv)  
12 and (v), the remaining distribution re-  
13 ferred to in clause (i) shall annually be cal-  
14 culated upward or downward as the dif-  
15 ference between—

16 “(I) the number of allowances  
17 that were reserved for the project in  
18 the relevant calendar year under para-  
19 graph (2)(A)(ii)(II); and

20 “(II) the number of allowances  
21 that the project would be eligible to  
22 receive under the bonus allowance for-  
23 mula described in subsection  
24 (c)(2)(B)(i) based on the tons of car-  
25 bon dioxide emissions that were actu-

1                   ally captured and sequestered by each  
2                   project during the relevant calendar  
3                   year.

4                   “(iv) NUMBER OF ALLOWANCES.—For  
5                   purposes of clauses (iii)(II) and (viii)(I),  
6                   for the purposes of calculating the number  
7                   of allowances under subsection  
8                   (c)(2)(B)(i), the Administrator shall enter  
9                   the average fair market value of emission  
10                  allowances in the year specified under sub-  
11                  section (c)(2)(B)(i)(II)(bb)).

12                  “(v) METHODS OF RECONCILI-  
13                  ATION.—

14                  “(I) IN GENERAL.—If, in any  
15                  calendar year, the number of tons of  
16                  carbon dioxide emissions projected to  
17                  be captured and sequestered for that  
18                  year under paragraph (1)(B)(i)(III) is  
19                  greater than the number of tons of  
20                  carbon dioxide emissions that were ac-  
21                  tually captured and sequestered by a  
22                  project during that year, based on the  
23                  report submitted to the Administrator  
24                  under paragraph (3)(B)(iii), the dif-  
25                  ference may be accounted for by—

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1                   “(aa) the owner or operator  
2                   of the project capturing and stor-  
3                   ing an additional quantity of  
4                   emissions that cumulatively ex-  
5                   ceeds the difference between—

6                   “(AA) the number of  
7                   tons of carbon dioxide emis-  
8                   sions that were projected to  
9                   be captured and sequestered  
10                  for the relevant calendar  
11                  year under paragraph  
12                  (1)(B)(i)(II); and

13                  “(BB) the number of  
14                  tons of carbon dioxide emis-  
15                  sions that were actually cap-  
16                  tured and sequestered by the  
17                  project during that year;

18                  “(bb) the Administrator ad-  
19                  justing the annual distributions  
20                  under clause (iii), on the condi-  
21                  tion that the reduction shall be  
22                  sufficient to account for the dif-  
23                  ference described in this sub-  
24                  clause within the period specified

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1 by the Administrator in sub-  
2 clause (II); or

3 “(cc) the owner or operator  
4 of the project making a repay-  
5 ment in accordance with clause  
6 (vi).

7 “(II) PERIOD.—Compliance with  
8 subclause (I)(aa) shall occur over a  
9 period to be specified by the Adminis-  
10 trator, but not to exceed 18 months.

11 “(III) INTEREST.—The Adminis-  
12 trator may apply an appropriate rate  
13 of interest to the repayment require-  
14 ment under this clause.

15 “(vi) ALTERNATE REPAYMENT BY AL-  
16 LOWANCES OR CASH.—If the owner or op-  
17 erator of the project elects to comply by re-  
18 paying in accordance with clause  
19 (v)(I)(aa), during the period specified by  
20 the Administrator under clause (v)(II), the  
21 owner or operator shall repay the Adminis-  
22 trator an amount of allowances or cash (as  
23 calculated under clause (viii)) if—

24 “(I) the number of tons of car-  
25 bon dioxide emissions that were actu-

1 ally captured and sequestered by a  
2 project during that period is less than  
3 the number necessary to rectify the  
4 difference described in clause (v)(I);  
5 and

6 “(II) the number of allowances  
7 remaining reserved for a project is in-  
8 sufficient to adjust for the difference  
9 under clause (iii).

10 “(vii) MILESTONES.—If the Adminis-  
11 trator determines that the owner or oper-  
12 ator failed to achieve a milestone for com-  
13 mencing construction or commercial oper-  
14 ation of the project (as specified in para-  
15 graph (1)(B)), the owner or operator shall  
16 repay the Administrator an amount of al-  
17 lowances or cash calculated under clause  
18 (viii).

19 “(viii) CALCULATION.—The repay-  
20 ments required under clauses (vi)(I) and  
21 (vii) shall be equal to, at the option of the  
22 owner or operator of the project—

23 “(I) the difference between the  
24 numbers of allowances described in

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1 subclauses (I) and (II) of clause (iii);

2 or

3 “(II) a cash payment in an

4 amount equal to the product obtained

5 by multiplying—

6 “(aa) difference between the

7 numbers of allowances described

8 in subclauses (I) and (II) of

9 clause (iii); and

10 “(bb) the average fair mar-

11 ket value of an emission allow-

12 ance during the year in which the

13 repayment would be made under

14 clause (vi).

15 “(ix) USE OF REPAID AMOUNTS.—The

16 Administrator shall use amounts received

17 as repayments under this subparagraph to

18 support the deployment of carbon capture

19 and permanent sequestration.

20 “(i) LIMITATIONS.—

21 “(1) IN GENERAL.—Emission allowances shall

22 be distributed under this section only for tons of car-

23 bon dioxide emissions that are captured and seques-

24 tered in accordance with this section.

1           “(2) PERIOD.—A qualifying project may receive  
2           annual emission allowances under this section only  
3           for the first 10 years of operation.

4           “(3) CAPACITY.—

5                 “(A) IN GENERAL.—Approximately 72  
6           gigawatts of total cumulative treated generating  
7           capacity may receive emission allowances under  
8           this section.

9                 “(B) ALLOWANCE SURPLUS.—On reaching  
10          the cumulative capacity described in subpara-  
11          graph (A), any emission allowances that are al-  
12          located for carbon capture and permanent se-  
13          questration deployment under section 771(a)(6)  
14          and are not yet obligated under this section  
15          shall be treated as emission allowances not des-  
16          ignated for distribution for purposes of section  
17          771(b)(2).

18          “(j) EXHAUSTION OF ACCOUNT AND ANNUAL ROLL-  
19          OVER OF SURPLUS EMISSION ALLOWANCES.—

20                 “(1) IN GENERAL.—In distributing emission al-  
21          lowances under this section, the Administrator shall  
22          ensure that eligible projects receive distributions of  
23          emission allowances for the first 10 years of com-  
24          mercial operation.

25                 “(2) DIFFERENT VINTAGE YEARS.—

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1           “(A) DETERMINATION.—If the Adminis-  
2           trator determines that the emission allowances  
3           allocated under section 771(a)(6) with a vintage  
4           year that matches the year of distribution will  
5           be exhausted once the estimated full 10-year  
6           distributions will be provided to current eligible  
7           participants, the Administrator shall provide to  
8           new eligible projects emission allowances from  
9           vintage years after the year of the distribution.

10           “(B) DIVERSITY FACTORS.—If the Admin-  
11           istrator provides allowances to new eligible  
12           projects under subparagraph (A), the Adminis-  
13           trator shall promulgate regulations to prioritize  
14           new eligible projects that are distinguished from  
15           prior recipients of allowances by 1 or more of  
16           the following diversity factors (without regard  
17           to order):

18                   “(i) Location in a coal-producing re-  
19                   gion that provides a majority of coal to the  
20                   project.

21                   “(ii) Coal type, including waste coal.

22                   “(iii) Capture and transportation  
23                   technologies.

24                   “(iv) Geological formations.

1 “(v) New units and retrofit applica-  
2 tions.

3 “(k) DAVIS-BACON COMPLIANCE.—

4 “(1) IN GENERAL.—All laborers and mechanics  
5 employed on projects funded directly by or assisted  
6 in whole or in part by this section through the use  
7 of emission allowances shall be paid wages at rates  
8 not less than those prevailing on projects of a char-  
9 acter similar in the locality as determined by the  
10 Secretary of Labor in accordance with subchapter  
11 IV of chapter 31 of title 40, United States Code.

12 “(2) AUTHORITY.—With respect to the labor  
13 standards specified in this subsection, the Secretary  
14 of Labor shall have the authority and functions set  
15 forth in Reorganization Plan Numbered 14 of 1950  
16 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of  
17 title 40, United States Code.

18 **“SEC. 781. OVERSIGHT OF ALLOCATIONS.**

19 “(a) IN GENERAL.—Not later than January 1, 2014,  
20 and every 2 years thereafter, the Comptroller General of  
21 the United States shall carry out a review of programs  
22 administered by the Federal Government that distribute  
23 emission allowances or funds from any Federal auction of  
24 allowances.

1       “(b) CONTENTS.—Each such report shall include a  
2 comprehensive evaluation of the administration and effec-  
3 tiveness of each program, including—

4               “(1) the efficiency, transparency, and sound-  
5 ness of the administration of each program;

6               “(2) the performance of activities receiving as-  
7 sistance under each program;

8               “(3) the cost-effectiveness of each program in  
9 achieving the stated purposes of the program; and

10              “(4) recommendations, if any, for regulatory or  
11 administrative changes to each program to improve  
12 its effectiveness.

13       “(c) FOCUS.—In evaluating program performance,  
14 each review under this section review shall address the ef-  
15 fectiveness of such programs in—

16              “(1) creating and preserving jobs;

17              “(2) ensuring a manageable transition for  
18 working families and workers;

19              “(3) reducing the emissions, or enhancing se-  
20 questration, of greenhouse gases;

21              “(4) developing clean technologies; and

22              “(5) building resilience to the impacts of cli-  
23 mate change.

1   **“SEC. 782. EARLY ACTION RECOGNITION.**

2           “(a) IN GENERAL.—Emission allowances allocated  
3 pursuant to section 771(a)(7) shall be distributed by the  
4 Administrator in accordance with this section. Not later  
5 than 1 year after the date of enactment of this title, the  
6 Administrator shall issue regulations allowing—

7           “(1) any person in the United States to ex-  
8 change instruments in the nature of offset credits  
9 issued before January 1, 2009, by a State, local, or  
10 voluntary offset program with respect to which the  
11 Administrator has made an affirmative determina-  
12 tion under section 740(a)(2), for emission allowances  
13 established by the Administrator under section  
14 721(a); and

15           “(2) the Administrator to provide compensation  
16 in the form of emission allowances to entities, in-  
17 cluding units of local government, that do not meet  
18 the criteria of paragraph (1) and meet the criteria  
19 of this paragraph for documented early reductions or  
20 avoidance of greenhouse gas emissions or greenhouse  
21 gases sequestered before January 1, 2009, from  
22 projects or process improvements begun before Jan-  
23 uary 1, 2009, where—

24           “(A) the entity publicly stated greenhouse  
25 gas reduction goals and publicly reported  
26 against those goals;

1           “(B) the entity demonstrated entity-wide  
2           net greenhouse gas reductions; and

3           “(C) the entity demonstrates the actual  
4           projects or process improvements undertaken to  
5           make reductions and documents the reductions  
6           (such as through documentation of engineering  
7           projects).

8           “(b) REGULATIONS.—Regulations issued under sub-  
9           section (a) shall—

10           “(1) provide that a person exchanging credits  
11           under subsection (a)(1) receive emission allowances  
12           established under section 721(a) in an amount for  
13           which the monetary value is equivalent to the aver-  
14           age monetary value of the credits during the period  
15           from January 1, 2006, to January 1, 2009, as ad-  
16           justed for inflation to reflect current dollar values at  
17           the time of the exchange;

18           “(2) provide that a person receiving compensa-  
19           tion for documented early action under subsection  
20           (a)(2) shall receive emission allowances established  
21           under section 721(a) in an amount that is approxi-  
22           mately equivalent in value to the carbon dioxide  
23           equivalent per ton value received by entities in ex-  
24           change for credits under paragraph (1) (as adjusted  
25           for inflation to reflect current dollar values at the

1 time of the exchange), as determined by the Admin-  
2 istrator;

3 “(3) provide that only reductions or avoidance  
4 of greenhouse gas emissions, or sequestration of  
5 greenhouse gases, achieved by activities in the  
6 United States between January 1, 2001, and Janu-  
7 ary 1, 2009, may be compensated under this section,  
8 and only credits issued for such activities may be ex-  
9 changed under this section;

10 “(4) provide that only credits that have not  
11 been retired or otherwise used to meet a voluntary  
12 or mandatory commitment, and have not expired,  
13 may be exchanged under subsection (a)(1);

14 “(5) require that, once exchanged, the credit be  
15 retired for purposes of use under the program by or  
16 for which it was originally issued; and

17 “(6) establish a deadline by which persons must  
18 exchange the credits or request compensation for  
19 early action under this section.

20 “(c) PARTICIPATION.—Participation in an exchange  
21 of credits for allowances or compensation for early action  
22 authorized by this section shall not preclude any person  
23 from participation in an offset credit program established  
24 under part D.

1 “(d) DISTRIBUTION.—Of the emission allowances  
2 distributed under this section, a quantity equal to 0.75  
3 percent of vintage year 2012 emission allowances estab-  
4 lished under section 721(a) shall be distributed pursuant  
5 to subsection (a)(1), and a quantity equal to 0.25 percent  
6 of vintage year 2012 emission allowances established  
7 under section 721(a) shall be distributed pursuant to sub-  
8 section (a)(2).

9 **“SEC. 783. ESTABLISHMENT OF DEFICIT REDUCTION FUND.**

10 “(a) DEFICIT REDUCTION FUND.—There is estab-  
11 lished in the Treasury of the United States a fund, to be  
12 known as the ‘Deficit Reduction Fund’.

13 “(b) DISBURSEMENTS.—No disbursement shall be  
14 made from the Deficit Reduction Fund except pursuant  
15 to an appropriation Act.”.

16 **Subtitle C—Additional Greenhouse**  
17 **Gas Standards**

18 **SEC. 121. GREENHOUSE GAS STANDARDS.**

19 The Clean Air Act (42 U.S.C. 7401 et seq.), as  
20 amended by subtitles A and B of this title, is further  
21 amended by adding the following new title after title VII:

1           **“TITLE VIII—ADDITIONAL**  
2           **GREENHOUSE GAS STANDARDS**

3           **“SEC. 801. DEFINITIONS.**

4           “For purposes of this title, terms that are defined  
5 in title VII, except for the term ‘stationary source’, shall  
6 have the meanings given those terms in title VII.

7           **“PART A—STATIONARY SOURCE STANDARDS**

8           **“SEC. 811. STANDARDS OF PERFORMANCE.**

9           “(a) DEFINITION OF UNCAPPED GREENHOUSE GAS  
10 EMISSIONS.—In this section, the term ‘uncapped green-  
11 house gas emissions’ means those greenhouse gas emis-  
12 sions to which section 722 does not apply.

13           “(b) STANDARDS.—Before January 1, 2020, the Ad-  
14 ministrator shall not promulgate new source performance  
15 standards for greenhouse gases under section 111 that are  
16 applicable to any stationary source that—

17                   “(1) emits uncapped greenhouse gas emissions;  
18           and

19                   “(2) qualifies as an eligible offset project pursu-  
20 ant to section 733 that is eligible to receive an offset  
21 credit pursuant to section 737.”.

22           **SEC. 122. HFC REGULATION.**

23           (a) IN GENERAL.—Title VI of the Clean Air Act (42  
24 U.S.C. 7671 et seq.) (relating to stratospheric ozone pro-  
25 tection) is amended by adding at the end the following:

1   **“SEC. 619. HYDROFLUOROCARBONS (HFCs).**

2           “(a) TREATMENT AS CLASS II, GROUP II SUB-  
3 STANCES.—Except as otherwise provided in this section,  
4 hydrofluorocarbons shall be treated as class II substances  
5 for purposes of applying the provisions of this title. The  
6 Administrator shall establish two groups of class II sub-  
7 stances. Class II, group I substances shall include all  
8 hydrochlorofluorocarbons (HCFCs) listed pursuant to sec-  
9 tion 602(b). Class II, group II substances shall include  
10 each of the following:

- 11           “(1) Hydrofluorocarbon-23 (HFC-23).
- 12           “(2) Hydrofluorocarbon-32 (HFC-32).
- 13           “(3) Hydrofluorocarbon-41 (HFC-41).
- 14           “(4) Hydrofluorocarbon-125 (HFC-125).
- 15           “(5) Hydrofluorocarbon-134 (HFC-134).
- 16           “(6) Hydrofluorocarbon-134a (HFC-134a).
- 17           “(7) Hydrofluorocarbon-143 (HFC-143).
- 18           “(8) Hydrofluorocarbon-143a (HFC-143a).
- 19           “(9) Hydrofluorocarbon-152 (HFC-152).
- 20           “(10) Hydrofluorocarbon-152a (HFC-152a).
- 21           “(11) Hydrofluorocarbon-227ea (HFC-227ea).
- 22           “(12) Hydrofluorocarbon-236cb (HFC-236cb).
- 23           “(13) Hydrofluorocarbon-236ea (HFC-236ea).
- 24           “(14) Hydrofluorocarbon-236fa (HFC-236fa).
- 25           “(15) Hydrofluorocarbon-245ca (HFC-245ca).
- 26           “(16) Hydrofluorocarbon-245fa (HFC-245fa).

1           “(17)     Hydrofluorocarbon-365mfc     (HFC–  
2     365mfc).

3           “(18) Hydrofluorocarbon-43-10mee (HFC–43–  
4     10mee).

5           “(19) Hydrofluoroolefin-1234yf (HFO–1234yf).

6           “(20) Hydrofluoroolefin-1234ze (HFO–1234ze).

7 Not later than 6 months after the date of enactment of  
8 this title, the Administrator shall publish an initial list of  
9 class II, group II substances, which shall include the sub-  
10 stances listed in this subsection. The Administrator may  
11 add to the list of class II, group II substances any other  
12 substance used as a substitute for a class I or II substance  
13 if the Administrator determines that 1 metric ton of the  
14 substance makes the same or greater contribution to glob-  
15 al warming over 100 years as 1 metric ton of carbon diox-  
16 ide. Within 24 months after the date of enactment of this  
17 section, the Administrator shall amend the regulations  
18 under this title (including the regulations referred to in  
19 sections 603, 608, 609, 610, 611, 612, and 613) to apply  
20 to class II, group II substances.

21       “(b) CONSUMPTION AND PRODUCTION OF CLASS II,  
22 GROUP II SUBSTANCES.—

23       “(1) IN GENERAL.—

24           “(A) CONSUMPTION PHASE DOWN.—In the  
25     case of class II, group II substances, in lieu of

1 applying section 605 and the regulations there-  
2 under, the Administrator shall promulgate reg-  
3 ulations phasing down the consumption of class  
4 II, group II substances in the United States,  
5 and the importation of products containing any  
6 class II, group II substance, in accordance with  
7 this subsection within 18 months after the date  
8 of enactment of this section. Effective January  
9 1, 2012, it shall be unlawful for any person to  
10 produce any class II, group II substance, im-  
11 port any class II, group II substance, or import  
12 any product containing any class II, group II  
13 substance without holding one consumption al-  
14 lowance or one destruction offset credit for each  
15 carbon dioxide equivalent ton of the class II,  
16 group II substance. Any person who exports a  
17 class II, group II substance for which a con-  
18 sumption allowance was retired may receive a  
19 refund of that allowance from the Adminis-  
20 trator following the export.

21 “(B) PRODUCTION.—If the United States  
22 becomes a party or otherwise adheres to a mul-  
23 tilateral agreement, including any amendment  
24 to the Montreal Protocol on Substances That  
25 Deplete the Ozone Layer, that restricts the pro-

1           duction of class II, group II substances, the Ad-  
2           ministrators shall promulgate regulations estab-  
3           lishing a baseline for the production of class II,  
4           group II substances in the United States and  
5           phasing down the production of class II, group  
6           II substances in the United States, in accord-  
7           ance with such multilateral agreement and sub-  
8           ject to the same exceptions and other provisions  
9           as are applicable to the phase down of con-  
10          sumption of class II, group II substances under  
11          this section (except that the Administrator shall  
12          not require a person who obtains production al-  
13          lowances from the Administrator to make pay-  
14          ment for such allowances if the person is mak-  
15          ing payment for a corresponding quantity of  
16          consumption allowances of the same vintage  
17          year). Upon the effective date of such regula-  
18          tions, it shall be unlawful for any person to  
19          produce any class II, group II substance with-  
20          out holding one consumption allowance and one  
21          production allowance, or one destruction offset  
22          credit, for each carbon dioxide equivalent ton of  
23          the class II, group II substance.

24               “(C) INTEGRITY OF LIMITS.—To maintain  
25          the integrity of the class II, group II limits, the

1 Administrator may, through rulemaking, limit  
 2 the percentage of each person's compliance obli-  
 3 gation that may be met through the use of de-  
 4 struction offset credits or banked allowances.

5 “(D) COUNTING OF VIOLATIONS.—Each  
 6 consumption allowance, production allowance,  
 7 or destruction offset credit not held as required  
 8 by this section shall be a separate violation of  
 9 this section.

10 “(2) SCHEDULE.—Pursuant to the regulations  
 11 promulgated pursuant to paragraph (1)(A), the  
 12 number of class II, group II consumption allowances  
 13 established by the Administrator for each calendar  
 14 year beginning in 2012 shall be the following per-  
 15 centage of the baseline, as established by the Admin-  
 16 istrator pursuant to paragraph (3):

“Calendar Year	Percent of Baseline
2012	90
2013	87.5
2014	85
2015	82.5
2016	80
2017	77.5
2018	75
2019	71
2020	67

“Calendar Year	Percent of Baseline
2021	63
2022	59
2023	54
2024	50
2025	46
2026	42
2027	38
2028	34
2029	30
2030	25
2031	21
2032	17
after 2032	15

1           “(3) BASELINE.—(A) Not later than 1 year  
2           after the date of enactment of this section, the Ad-  
3           ministrators shall promulgate regulations to establish  
4           the baseline for purposes of paragraph (2). The  
5           baseline shall be the sum, expressed in metric tons  
6           of carbon dioxide equivalents, of—

7                   “(i) the annual average consumption of all  
8                   class II substances in calendar years 2004,  
9                   2005, and 2006; plus

10                   “(ii) the annual average quantity of all  
11                   class II substances contained in imported prod-  
12                   ucts in calendar years 2004, 2005, and 2006.

1           “(B) Notwithstanding subparagraph (A), if the  
2 Administrator determines that the baseline is higher  
3 than 370 million metric tons of carbon dioxide  
4 equivalents, then the Administrator shall establish  
5 the baseline at 370 million metric tons of carbon di-  
6 oxide equivalents.

7           “(C) Notwithstanding subparagraph (A), if the  
8 Administrator determines that the baseline is lower  
9 than 280 million metric tons of carbon dioxide  
10 equivalents, then the Administrator shall establish  
11 the baseline at 280 million metric tons of carbon di-  
12 oxide equivalents.

13           “(4) DISTRIBUTION OF ALLOWANCES.—

14           “(A) IN GENERAL.—Pursuant to the regu-  
15 lations promulgated under paragraph (1)(A),  
16 for each calendar year beginning in 2012, the  
17 Administrator shall sell consumption allowances  
18 in accordance with this paragraph.

19           “(B) ESTABLISHMENT OF POOLS.—The  
20 Administrator shall establish two allowance  
21 pools. Eighty percent of the consumption allow-  
22 ances available for a calendar year shall be  
23 placed in the producer-importer pool, and 20  
24 percent of the consumption allowances available

1           for a calendar year shall be placed in the sec-  
2           ondary pool.

3           “(C) PRODUCER-IMPORTER POOL.—

4                   “(i) AUCTION.—(I) For each calendar  
5           year, the Administrator shall offer for sale  
6           at auction the following percentage of the  
7           consumption allowances in the producer-  
8           importer pool:

“Calendar Year	Percent Available for Auction
2012	10
2013	20
2014	30
2015	40
2016	50
2017	60
2018	70
2019	80
2020 and thereafter	90

9                   “(II) Any person who produced or im-  
10           ported any class II substance during cal-  
11           endar year 2004, 2005, or 2006 may par-  
12           ticipate in the auction. No other persons  
13           may participate in the auction unless per-  
14           mitted to do so pursuant to subclause  
15           (III).

1                   “(III) Not later than 3 years after the  
2                   date of the initial auction and from time to  
3                   time thereafter, the Administrator shall de-  
4                   termine through rulemaking whether any  
5                   persons who did not produce or import a  
6                   class II substance during calendar year  
7                   2004, 2005, or 2006 will be permitted to  
8                   participate in future auctions. The Admin-  
9                   istrator shall base this determination on  
10                  the duration, consistency, and scale of such  
11                  person’s purchases of consumption allow-  
12                  ances in the secondary pool under subpara-  
13                  graph (D)(ii)(III), as well as economic or  
14                  technical hardship and other factors  
15                  deemed relevant by the Administrator.

16                  “(IV) The Administrator shall set a  
17                  minimum bid per consumption allowance of  
18                  the following:

19                         “(aa) For vintage year 2012,  
20                         \$1.00.

21                         “(bb) For vintage year 2013,  
22                         \$1.20.

23                         “(cc) For vintage year 2014,  
24                         \$1.40.

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1 “(dd) For vintage year 2015,  
2 \$1.60.

3 “(ee) For vintage year 2016,  
4 \$1.80.

5 “(ff) For vintage year 2017,  
6 \$2.00.

7 “(gg) For vintage year 2018 and  
8 thereafter, \$2.00 adjusted for infla-  
9 tion after vintage year 2017 based  
10 upon the producer price index as pub-  
11 lished by the Department of Com-  
12 merce.

13 “(ii) NON-AUCTION SALE.—(I) For  
14 each calendar year, as soon as practicable  
15 after auction, the Administrator shall offer  
16 for sale the remaining consumption allow-  
17 ances in the producer-importer pool at the  
18 following prices:

19 “(aa) A fee of \$1.00 per vintage  
20 year 2012 allowance.

21 “(bb) A fee of \$1.20 per vintage  
22 year 2013 allowance.

23 “(cc) A fee of \$1.40 per vintage  
24 year 2014 allowance.

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1                   “(dd) For each vintage year  
2                   2015 allowance, a fee equal to the av-  
3                   erage of \$1.10 and the auction clear-  
4                   ing price for vintage year 2014 allow-  
5                   ances.

6                   “(ee) For each vintage year 2016  
7                   allowance, a fee equal to the average  
8                   of \$1.30 and the auction clearing  
9                   price for vintage year 2015 allow-  
10                  ances.

11                  “(ff) For each vintage year 2017  
12                  allowance, a fee equal to the average  
13                  of \$1.40 and the auction clearing  
14                  price for vintage year 2016 allow-  
15                  ances.

16                  “(gg) For each allowance of vin-  
17                  tage year 2018 and subsequent vin-  
18                  tage years, a fee equal to the auction  
19                  clearing price for that vintage year.

20                  “(II) The Administrator shall offer to  
21                  sell the remaining consumption allowances  
22                  in the producer-importer pool to producers  
23                  of class II, group II substances and im-  
24                  porters of class II, group II substances in

1 proportion to their relative allocation  
2 share.

3 “(III) Such allocation share for such  
4 sale shall be determined by the Adminis-  
5 trator using such producer’s or importer’s  
6 annual average data on class II substances  
7 from calendar years 2004, 2005, and  
8 2006, on a carbon dioxide equivalent basis,  
9 and—

10 “(aa) shall be based on a pro-  
11 ducer’s production, plus importation,  
12 plus acquisitions and purchases from  
13 persons who produced class II sub-  
14 stances in the United States during  
15 calendar year 2004, 2005, or 2006,  
16 less exportation, less transfers and  
17 sales to persons who produced class II  
18 substances in the United States dur-  
19 ing calendar year 2004, 2005, or  
20 2006; and

21 “(bb) for an importer of class II  
22 substances that did not produce in the  
23 United States any class II substance  
24 during calendar years 2004, 2005,

1                   and 2006, shall be based on the im-  
2                   porter's importation less exportation.

3                   For purposes of item (aa), the Adminis-  
4                   trator shall account for 100 percent of  
5                   class II, group II substances and 60 per-  
6                   cent of class II, group I substances. For  
7                   purposes of item (bb), the Administrator  
8                   shall account for 100 percent of class II,  
9                   group II substances and 100 percent of  
10                  class II, group I substances.

11                  “(IV) Any consumption allowances  
12                  made available for nonauction sale to a  
13                  specific producer or importer of class II,  
14                  group II substances but not purchased by  
15                  the specific producer or importer shall be  
16                  made available for sale to any producer or  
17                  importer of class II substances during cal-  
18                  endar year 2004, 2005, or 2006. If de-  
19                  mand for such consumption allowances ex-  
20                  ceeds supply of such consumption allow-  
21                  ances, the Administrator shall develop and  
22                  utilize criteria for the sale of such con-  
23                  sumption allowances that may include pro  
24                  rata shares, historic production and impor-  
25                  tation, economic or technical hardship, or

1 other factors deemed relevant by the Ad-  
2 ministrator. If the supply of such con-  
3 sumption allowances exceeds demand, the  
4 Administrator may offer such consumption  
5 allowances for sale in the secondary pool as  
6 set forth in subparagraph (D).

7 “(D) SECONDARY POOL.—(i) For each cal-  
8 endar year, as soon as practicable after the auc-  
9 tion required in subparagraph (C), the Adminis-  
10 trator shall offer for sale the consumption al-  
11 lowances in the secondary pool at the prices  
12 listed in subparagraph (C)(ii).

13 “(ii) The Administrator shall accept appli-  
14 cations for purchase of secondary pool con-  
15 sumption allowances from—

16 “(I) importers of products containing  
17 class II, group II substances;

18 “(II) persons who purchased any class  
19 II, group II substance directly from a pro-  
20 ducer or importer of class II, group II sub-  
21 stances for use in a product containing a  
22 class II, group II substance, a manufac-  
23 turing process, or a reclamation process;

24 “(III) persons who did not produce or  
25 import a class II substance during cal-

1           endar year 2004, 2005, or 2006, but who  
2           the Administrator determines have subse-  
3           quently taken significant steps to produce  
4           or import a substantial quantity of any  
5           class II, group II substance; and

6           “(IV) persons who produced or im-  
7           ported any class II substance during cal-  
8           endar year 2004, 2005, or 2006.

9           “(iii) If the supply of consumption allow-  
10          ances in the secondary pool equals or exceeds  
11          the demand for consumption allowances in the  
12          secondary pool as presented in the applications  
13          for purchase, the Administrator shall sell the  
14          consumption allowances in the secondary pool  
15          to the applicants in the amounts requested in  
16          the applications for purchase. Any consumption  
17          allowances in the secondary pool not purchased  
18          in a calendar year may be rolled over and added  
19          to the quantity available in the secondary pool  
20          in the following year.

21          “(iv) If the demand for consumption allow-  
22          ances in the secondary pool as presented in the  
23          applications for purchase exceeds the supply of  
24          consumption allowances in the secondary pool,

1           the Administrator shall sell the consumption al-  
2           lowances as follows:

3                   “(I) The Administrator shall first sell  
4                   the consumption allowances in the sec-  
5                   ondary pool to any importers of products  
6                   containing class II, group II substances in  
7                   the amounts requested in their applications  
8                   for purchase. If the demand for such con-  
9                   sumption allowances exceeds supply of  
10                  such consumption allowances, the Adminis-  
11                  trator shall develop and utilize criteria for  
12                  the sale of such consumption allowances  
13                  among importers of products containing  
14                  class II, group II substances that may in-  
15                  clude pro rata shares, historic importation,  
16                  economic or technical hardship, or other  
17                  factors deemed relevant by the Adminis-  
18                  trator.

19                   “(II) The Administrator shall next  
20                   sell any remaining consumption allowances  
21                   to persons identified in subclauses (II) and  
22                   (III) of clause (ii) in the amounts re-  
23                   quested in their applications for purchase.  
24                   If the demand for such consumption allow-  
25                   ances exceeds remaining supply of such

1 consumption allowances, the Administrator  
2 shall develop and utilize criteria for the  
3 sale of such consumption allowances  
4 among subclauses (II) and (III) applicants  
5 that may include pro rata shares, historic  
6 use, economic or technical hardship, or  
7 other factors deemed relevant by the Ad-  
8 ministrator.

9 “(III) The Administrator shall then  
10 sell any remaining consumption allowances  
11 to persons who produced or imported any  
12 class II substance during calendar year  
13 2004, 2005, or 2006 in the amounts re-  
14 quested in their applications for purchase.  
15 If demand for such consumption allow-  
16 ances exceeds remaining supply of such  
17 consumption allowances, the Administrator  
18 shall develop and utilize criteria for the  
19 sale of such consumption allowances that  
20 may include pro rata shares, historic pro-  
21 duction and importation, economic or tech-  
22 nical hardship, or other factors deemed rel-  
23 evant by the Administrator.

24 “(IV) Each person who purchases  
25 consumption allowances in a non-auction

1 sale under this subparagraph shall be re-  
2 quired to disclose the person or entity  
3 sponsoring or benefitting from the pur-  
4 chases if such person or entity is, in whole  
5 or in part, other than the purchaser or the  
6 purchaser's employer.

7 “(E) DISCRETION TO WITHHOLD ALLOW-  
8 ANCES.—Nothing in this paragraph prevents  
9 the Administrator from exercising discretion to  
10 withhold and retire consumption allowances  
11 that would otherwise be available for auction or  
12 nonauction sale, or to allocate such allowances  
13 for essential uses pursuant to subsection (d).  
14 Not later than 18 months after the date of en-  
15 actment of this section, the Administrator shall  
16 promulgate regulations establishing criteria for  
17 withholding and retiring consumption allow-  
18 ances and governing the allocation of withheld  
19 allowances for essential uses subject to the cri-  
20 teria under subsection (d).

21 “(5) BANKING.—A consumption allowance or  
22 destruction offset credit may be used to meet the  
23 compliance obligation requirements of paragraph (1)  
24 in—

1           “(A) the vintage year for the allowance or  
2           destruction offset credit; or

3           “(B) any calendar year subsequent to the  
4           vintage year for the allowance or destruction  
5           offset credit.

6           “(6) AUCTIONS.—

7           “(A) INITIAL REGULATIONS.—Not later  
8           than 18 months after the date of enactment of  
9           this section, the Administrator shall promulgate  
10          regulations governing the auction of allowances  
11          under this section. Such regulations shall in-  
12          clude the following requirements:

13           “(i) FREQUENCY; FIRST AUCTION.—  
14           Auctions shall be held one time per year at  
15           regular intervals, with the first auction to  
16           be held no later than October 31, 2011.

17           “(ii) AUCTION FORMAT.—Auctions  
18           shall follow a single-round, sealed-bid, uni-  
19           form price format.

20           “(iii) FINANCIAL ASSURANCE.—The  
21           Administrator may establish financial as-  
22           surance requirements to ensure that auc-  
23           tion participants can and will perform on  
24           their bids.

1                   “(iv) DISCLOSURE OF BENEFICIAL  
2 OWNERSHIP.—Each bidder in the auction  
3 shall be required to disclose the person or  
4 entity sponsoring or benefitting from the  
5 bidder’s participation in the auction if such  
6 person or entity is, in whole or in part,  
7 other than the bidder.

8                   “(v) PUBLICATION OF INFORMA-  
9 TION.—After the auction, the Adminis-  
10 trator shall, in a timely fashion, publish  
11 the number of bidders, number of winning  
12 bidders, the quantity of allowances sold,  
13 and the auction clearing price.

14                   “(vi) BIDDING LIMITS IN 2012.—In  
15 the vintage year 2012 auction, no auction  
16 participant may, directly or in concert with  
17 another participant, bid for or purchase  
18 more allowances offered for sale at the  
19 auction than the greater of—

20                   “(I) the number of allowances  
21 which, when added to the number of  
22 allowances available for purchase by  
23 the participant in the producer-im-  
24 porter pool non-auction sale, would  
25 equal the participant’s annual average

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1 consumption of class II, group II sub-  
2 stances in calendar years 2004, 2005,  
3 and 2006; or

4 “(II) the number of allowances  
5 equal to the product of—

6 “(aa) 1.20 multiplied by the  
7 participant’s allocation share of  
8 the producer-importer pool non-  
9 auction sale as determined under  
10 paragraph (4)(C)(ii); and

11 “(bb) the number of vintage  
12 year 2012 allowances offered at  
13 auction.

14 “(vii) BIDDING LIMITS IN 2013.—In  
15 the vintage year 2013 auction, no auction  
16 participant may, directly or in concert with  
17 another participant, bid for or purchase  
18 more allowances offered for sale at the  
19 auction than the product of—

20 “(I) 1.15 multiplied by the ratio  
21 of the total number of vintage year  
22 2012 allowances purchased by the  
23 participant from the auction and from  
24 the producer-importer pool non-auc-  
25 tion sale to the total number of vin-

799

1                   tage year 2012 allowances in the pro-  
2                   ducer-importer pool; and

3 “(II) the number of vintage year  
4 2013 allowances offered at auction.

“(viii) BIDDING LIMITS IN SUBSE-  
QUENT YEARS.—In the auctions for vin-  
tage year 2014 and subsequent vintage  
years, no auction participant may, directly  
or in concert with another participant, bid  
for or purchase more allowances offered  
for sale at the auction than the product  
of—

“(I) 1.15 multiplied by the ratio of the highest number of allowances required to be held by the participant in any of the three prior vintage years to meet its compliance obligation under paragraph (1) to the total number of allowances in the producer-importer pool for such vintage year; and

“(II) the number of allowances  
offered at auction for that vintage  
year.

24 “(ix) OTHER REQUIREMENTS.—The  
25 Administrator may include in the regula-

1           tions such other requirements or provisions  
2           as the Administrator considers necessary  
3           to promote effective, efficient, transparent,  
4           and fair administration of auctions under  
5           this section.

6           “(B) REVISION OF REGULATIONS.—The  
7           Administrator may, at any time, revise the ini-  
8           tial regulations promulgated under subpara-  
9           graph (A) based on the Administrator’s experi-  
10          ence in administering allowance auctions by  
11          promulgating new regulations. Such revised reg-  
12          ulations need not meet the requirements identi-  
13          fied in subparagraph (A) if the Administrator  
14          determines that an alternative auction design  
15          would be more effective, taking into account  
16          factors including costs of administration, trans-  
17          parency, fairness, and risks of collusion or ma-  
18          nipulation. In determining whether and how to  
19          revise the initial regulations under this para-  
20          graph, the Administrator shall not consider  
21          maximization of revenues to the Federal Gov-  
22          ernment.

23          “(C) DELEGATION OR CONTRACT.—Pursu-  
24          ant to regulations under this section, the Ad-  
25          ministrator may, by delegation or contract, pro-

1           vide for the conduct of auctions under the Ad-  
2           ministrator's supervision by other departments  
3           or agencies of the Federal Government or by  
4           nongovernmental agencies, groups, or organiza-  
5           tions.

6           “(7) PAYMENTS FOR ALLOWANCES.—

7                 “(A) INITIAL REGULATIONS.—Not later  
8           than 18 months after the date of enactment of  
9           this section, the Administrator shall promulgate  
10          regulations governing the payment for allow-  
11          ances purchased in auction and non-auction  
12          sales under this section. Such regulations shall  
13          include the requirement that, in the event that  
14          full payment for purchased allowances is not  
15          made on the date of purchase, equal payments  
16          shall be made one time per calendar quarter  
17          with all payments for allowances of a vintage  
18          year made by the end of that vintage year.

19                “(B) REVISION OF REGULATIONS.—The  
20          Administrator may, at any time, revise the ini-  
21          tial regulations promulgated under subpara-  
22          graph (A) based on the Administrator's experi-  
23          ence in administering collection of payments by  
24          promulgating new regulations. Such revised reg-  
25          ulations need not meet the requirements identi-

1           fied in subparagraph (A) if the Administrator  
2           determines that an alternative payment struc-  
3           ture or frequency would be more effective, tak-  
4           ing into account factors including cost of ad-  
5           ministration, transparency, and fairness. In de-  
6           termining whether and how to revise the initial  
7           regulations under this paragraph, the Adminis-  
8           trator shall not consider maximization of reve-  
9           nues to the Federal Government.

10           “(C) PENALTIES FOR NON-PAYMENT.—  
11           Failure to pay for purchased allowances in ac-  
12           cordance with the regulations promulgated pur-  
13           suant to this paragraph shall be a violation of  
14           the requirements of subsection (b). Section  
15           113(c)(3) shall apply in the case of any person  
16           who knowingly fails to pay for purchased allow-  
17           ances in accordance with the regulations pro-  
18           mulgated pursuant to this paragraph.

19           “(8) IMPORTED PRODUCTS.—If the United  
20           States becomes a party or otherwise adheres to a  
21           multilateral agreement, including any amendment to  
22           the Montreal Protocol on Substances That Deplete  
23           the Ozone Layer, which restricts the production or  
24           consumption of class II, group II substances—

1           “(A) as of the date on which such agree-  
2           ment or amendment enters into force, it shall  
3           no longer be unlawful for any person to import  
4           from a party to such agreement or amendment  
5           any product containing any class II, group II  
6           substance whose production or consumption is  
7           regulated by such agreement or amendment  
8           without holding one consumption allowance or  
9           one destruction offset credit for each carbon di-  
10          oxide equivalent ton of the class II, group II  
11          substance;

12          “(B) the Administrator shall promulgate  
13          regulations within 12 months of the date the  
14          United States becomes a party or otherwise ad-  
15          heres to such agreement or amendment, or the  
16          date on which such agreement or amendment  
17          enters into force, whichever is later, to establish  
18          a new baseline for purposes of paragraph (2),  
19          which new baseline shall be the original baseline  
20          less the carbon dioxide equivalent of the annual  
21          average quantity of any class II substances reg-  
22          ulated by such agreement or amendment con-  
23          tained in products imported from parties to  
24          such agreement or amendment in calendar  
25          years 2004, 2005, and 2006;

1           “(C) as of the date on which such agree-  
2           ment or amendment enters into force, no per-  
3           son importing any product containing any class  
4           II, group II substance may, directly or in con-  
5           cert with another person, purchase any con-  
6           sumption allowances for sale by the Adminis-  
7           trator for the importation of products from a  
8           party to such agreement or amendment that  
9           contain any class II, group II substance re-  
10          stricted by such agreement or amendment; and

11          “(D) the Administrator may adjust the  
12          two allowance pools established in paragraph  
13          (4) such that up to 90 percent of the consump-  
14          tion allowances available for a calendar year are  
15          placed in the producer-importer pool with the  
16          remaining consumption allowances placed in the  
17          secondary pool.

18          “(9) OFFSETS.—

19          “(A) CHLOROFLUOROCARBON DESTRUC-  
20          TION.—Within 18 months after the date of en-  
21          actment of this section, the Administrator shall  
22          promulgate regulations to provide for the  
23          issuance of offset credits for the destruction, in  
24          the calendar year 2012 or later, of  
25          chlorofluorocarbons in the United States. The

1 Administrator shall establish and distribute to  
2 the destroying entity a quantity of destruction  
3 offset credits equal to 0.8 times the number of  
4 metric tons of carbon dioxide equivalents of re-  
5 duction achieved through the destruction. No  
6 destruction offset credits shall be established  
7 for the destruction of a class II, group II sub-  
8 stance.

9 “(B) DEFINITION.—For purposes of this  
10 paragraph, the term ‘destruction’ means the  
11 conversion of a substance by thermal, chemical,  
12 or other means to another substance with little  
13 or no carbon dioxide equivalent value and no  
14 ozone depletion potential.

15 “(C) REGULATIONS.—The regulations pro-  
16 mulgated under this paragraph shall include  
17 standards and protocols for project eligibility,  
18 certification of destroyers, monitoring, tracking,  
19 destruction efficiency, quantification of project  
20 and baseline emissions and carbon dioxide  
21 equivalent value, and verification. The Adminis-  
22 trator shall ensure that destruction offset cred-  
23 its represent real and verifiable destruction of  
24 chlorofluorocarbons or other class I or class II,

1 group I, substances authorized under subpara-  
2 graph (D).

3 “(D) OTHER SUBSTANCES.—The Adminis-  
4 trator may promulgate regulations to add to the  
5 list of class I and class II, group I, substances  
6 that may be destroyed for destruction offset  
7 credits, taking into account a candidate sub-  
8 stance’s carbon dioxide equivalent value, ozone  
9 depletion potential, prevalence in banks in the  
10 United States, and emission rates, as well as  
11 the need for additional cost containment under  
12 the class II, group II limits and the integrity of  
13 the class II, group II limits. The Administrator  
14 shall not add a class I or class II, group I sub-  
15 stance to the list if the consumption of the sub-  
16 stance has not been completely phased-out  
17 internationally (except for essential use exemp-  
18 tions or other similar exemptions) pursuant to  
19 the Montreal Protocol.

20 “(E) EXTENSION OF OFFSETS.—(i) At any  
21 time after the Administrator promulgates regu-  
22 lations pursuant to subparagraph (A), the Ad-  
23 ministrator may, pursuant to the requirements  
24 of part D of title VII and based on the carbon  
25 dioxide equivalent value of the substance de-

1           stroyed, add the types of destruction projects  
2           authorized to receive destruction offset credits  
3           under this paragraph to the list of types of  
4           projects eligible for offset credits under section  
5           733. If such projects are added to the list under  
6           section 733, the issuance of offset credits for  
7           such projects under part D of title VII shall be  
8           governed by the requirements of such part D,  
9           while the issuance of offset credits for such  
10          projects under this paragraph shall be governed  
11          by the requirements of this paragraph. Nothing  
12          in this paragraph shall affect the issuance of  
13          offset credits under section 740.

14               “(ii) The Administrator shall not make the  
15               addition under clause (i) unless the Adminis-  
16               trator finds that insufficient destruction is oc-  
17               curring or is projected to occur under this para-  
18               graph and that the addition would increase de-  
19               struction.

20               “(iii) In no event shall more than one de-  
21               struction offset credit be issued under title VII  
22               and this section for the destruction of the same  
23               quantity of a substance.

1           “(10) LEGAL STATUS OF ALLOWANCES AND  
2           CREDITS.—None of the following constitutes a prop-  
3           erty right:

4                   “(A) A production or consumption allow-  
5                   ance.

6                   “(B) A destruction offset credit.

7           “(c) DEADLINES FOR COMPLIANCE.—Notwith-  
8           standing the deadlines specified for class II substances in  
9           sections 608, 609, 610, 612, and 613 that occur prior to  
10          January 1, 2009, the deadline for promulgating regula-  
11          tions under those sections for class II, group II substances  
12          shall be January 1, 2012.

13          “(d) EXCEPTIONS FOR ESSENTIAL USES.—Notwith-  
14          standing the provisions of this section regarding auction  
15          and nonauction sale of allowances, to the extent consistent  
16          with any applicable multilateral agreement to which the  
17          United States is a party or otherwise adheres, the Admin-  
18          istrator may allocate (and in the case of medical devices,  
19          shall determine whether to allocate) allowances withheld  
20          from auction or nonauction sale under subsection  
21          (b)(4)(E) for essential uses pursuant to the following re-  
22          quirements:

23                   “(1) MEDICAL DEVICES.—The Administrator,  
24                   after notice and opportunity for public comment,  
25                   and in consultation with the Commissioner of Food

1       and Drugs, shall determine whether to allocate with-  
2       held allowances for the production and consumption  
3       of class II, group II substances solely for use in  
4       medical devices approved and determined to be es-  
5       sential by the Commissioner. Not later than 20  
6       months after the date of enactment of this title, the  
7       Commissioner shall approve and determine essential  
8       medical devices. For purposes of this section, section  
9       601(8)(A) shall not apply to metered dose inhalers.

10       “(2) AVIATION AND SPACE VEHICLE SAFETY.—  
11       The Administrator, after notice and opportunity for  
12       public comment, and in consultation with the Ad-  
13       ministrator of the Federal Aviation Administration  
14       or the Administrator of the National Aeronautics  
15       and Space Administration, may allocate withheld al-  
16       lowances for the production and consumption of  
17       class II, group II substances solely for aviation and  
18       space flight safety purposes.

19       “(3) FIRE SUPPRESSION.—The Administrator,  
20       after notice and opportunity for public comment,  
21       may allocate withheld allowances for the production  
22       and consumption of class II, group II substances  
23       solely for fire suppression purposes. Paragraphs (1)  
24       and (2) of subsection (g) of section 604 shall apply  
25       to class II, group II substances in the same manner

1       and to the same extent as such provisions apply to  
2       the substances specified in such subsection.

3               “(4) NATIONAL SECURITY.—The Administrator,  
4       after notice and opportunity for public comment,  
5       and in consultation with the Secretary of Defense,  
6       may allocate withheld allowances for the production  
7       and consumption of class II, group II substances for  
8       use as may be necessary to protect the national se-  
9       curity interests of the United States if the Adminis-  
10      trator, in consultation with the Secretary of Defense,  
11      finds that adequate substitutes are not available and  
12      that the production or consumption of such sub-  
13      stance is necessary to protect such national security  
14      interest.

15           “(e) DEVELOPING COUNTRIES.—Notwithstanding  
16 any phase down of production required by this section, the  
17 Administrator, after notice and opportunity for public  
18 comment, may authorize the production of limited quan-  
19 tities of class II, group II substances in excess of the  
20 amounts otherwise allowable under this section solely for  
21 export to, and use in, developing countries. Any produc-  
22 tion authorized under this subsection shall be solely for  
23 purposes of satisfying the basic domestic needs of such  
24 countries as provided in applicable international agree-

1 ments, if any, to which the United States is a party or  
2 otherwise adheres.

3 “(f) NATIONAL SECURITY; FIRE SUPPRESSION,  
4 ETC.—The provisions of subsection (f) and paragraphs (1)  
5 and (2) of subsection (g) of section 604 shall apply to any  
6 consumption and production phase down of class II, group  
7 II substances in the same manner and to the same extent,  
8 consistent with any applicable international agreement to  
9 which the United States is a party or otherwise adheres,  
10 as such provisions apply to the substances specified in  
11 such subsection.

12 “(g) ACCELERATED SCHEDULE.—In lieu of section  
13 606, the provisions of paragraphs (1), (2), and (3) of this  
14 subsection shall apply in the case of class II, group II sub-  
15 stances.

16 “(1) IN GENERAL.—The Administrator shall  
17 promulgate initial regulations not later than 18  
18 months after the date of enactment of this section,  
19 and revised regulations any time thereafter, which  
20 establish a schedule for phasing down the consump-  
21 tion (and, if the condition in subsection (b)(1)(B) is  
22 met, the production) of class II, group II substances  
23 that is more stringent than the schedule set forth in  
24 this section if, based on the availability of sub-  
25 stitutes, the Administrator determines that such

1 more stringent schedule is practicable, taking into  
2 account technological achievability, safety, and other  
3 factors the Administrator deems relevant, or if the  
4 Montreal Protocol, or any applicable international  
5 agreement to which the United States is a party or  
6 otherwise adheres, is modified or established to in-  
7 clude a schedule or other requirements to control or  
8 reduce production, consumption, or use of any class  
9 II, group II substance more rapidly than the appli-  
10 cable schedule under this section.

11 “(2) PETITION.—Any person may submit a pe-  
12 tition to promulgate regulations under this sub-  
13 section in the same manner and subject to the same  
14 procedures as are provided in section 606(b).

15 “(3) INCONSISTENCY.—If the Administrator de-  
16 termines that the provisions of this section regarding  
17 banking, allowance rollover, or destruction offset  
18 credits create a significant potential for inconsis-  
19 tency with the requirements of any applicable inter-  
20 national agreement to which the United States is a  
21 party or otherwise adheres, the Administrator may  
22 promulgate regulations restricting the availability of  
23 banking, allowance rollover, or destruction offset  
24 credits to the extent necessary to avoid such incon-  
25 sistency.

1       “(h) EXCHANGE.—Section 607 shall not apply in the  
2 case of class II, group II substances. Production and con-  
3 sumption allowances for class II, group II substances may  
4 be freely exchanged or sold but may not be converted into  
5 allowances for class II, group I substances.

6       “(i) LABELING.—(1) In applying section 611 to prod-  
7 ucts containing or manufactured with class II, group II  
8 substances, in lieu of the words ‘destroying ozone in the  
9 upper atmosphere’ on labels required under section 611  
10 there shall be substituted the words ‘contributing to global  
11 warming’.

12       “(2) The Administrator may, through rulemaking,  
13 exempt from the requirements of section 611 products  
14 containing or manufactured with class II, group II sub-  
15 stances determined to have little or no carbon dioxide  
16 equivalent value compared to other substances used in  
17 similar products.

18       “(j) NONESSENTIAL PRODUCTS.—For the purposes  
19 of section 610, class II, group II substances shall be regu-  
20 lated under section 610(b), except that in applying section  
21 610(b) the word ‘hydrofluorocarbon’ shall be substituted  
22 for the word ‘chlorofluorocarbon’ and the term ‘class II,  
23 group II’ shall be substituted for the term ‘class I’. Class  
24 II, group II substances shall not be subject to the provi-  
25 sions of section 610(d).

1       “(k) INTERNATIONAL TRANSFERS.—In the case of  
2 class II, group II substances, in lieu of section 616, this  
3 subsection shall apply. To the extent consistent with any  
4 applicable international agreement to which the United  
5 States is a party or otherwise adheres, including any  
6 amendment to the Montreal Protocol, the United States  
7 may engage in transfers with other parties to such agree-  
8 ment or amendment under the following conditions:

9           “(1) The United States may transfer produc-  
10       tion allowances to another party to such agreement  
11       or amendment if, at the time of the transfer, the  
12       Administrator establishes revised production limits  
13       for the United States accounting for the transfer in  
14       accordance with regulations promulgated pursuant  
15       to this subsection.

16          “(2) The United States may acquire production  
17       allowances from another party to such agreement or  
18       amendment if, at the time of the transfer, the Ad-  
19       ministrator finds that the other party has revised its  
20       domestic production limits in the same manner as  
21       provided with respect to transfers by the United  
22       States in the regulations promulgated pursuant to  
23       this subsection.

24       “(l) RELATIONSHIP TO OTHER LAWS.—

1           “(1) STATE LAWS.—For purposes of section  
2           116, the requirements of this section for class II,  
3           group II substances shall be treated as requirements  
4           for the control and abatement of air pollution.

5           “(2) MULTILATERAL AGREEMENTS.—Section  
6           614 shall apply to the provisions of this section con-  
7           cerning class II, group II substances, except that for  
8           the words ‘Montreal Protocol’ there shall be sub-  
9           stituted the words ‘Montreal Protocol, or any appli-  
10          cable multilateral agreement to which the United  
11          States is a party or otherwise adheres that restricts  
12          the production or consumption of class II, group II  
13          substances,’ and for the words ‘Article 4 of the Mon-  
14          treal Protocol’ there shall be substituted ‘any provi-  
15          sion of such multilateral agreement regarding trade  
16          with non-parties’.

17          “(3) FEDERAL FACILITIES.—For purposes of  
18          section 118, the requirements of this section for  
19          class II, group II substances and corresponding  
20          State, interstate, and local requirements, administra-  
21          tive authority, and process and sanctions shall be  
22          treated as requirements for the control and abate-  
23          ment of air pollution within the meaning of section  
24          118.

1 “(m) CARBON DIOXIDE EQUIVALENT VALUE.—(1)

2 In lieu of section 602(e), the provisions of this subsection  
3 shall apply in the case of class II, group II substances.  
4 Simultaneously with establishing the list of class II, group  
5 II substances, and simultaneously with any addition to  
6 that list, the Administrator shall publish the carbon diox-  
7 ide equivalent value of each listed class II, group II sub-  
8 stance, based on a determination of the number of metric  
9 tons of carbon dioxide that makes the same contribution  
10 to global warming over 100 years as 1 metric ton of each  
11 class II, group II substance.

12 “(2) Not later than February 1, 2017, and not less  
13 than every 5 years thereafter, the Administrator shall—

14 “(A) review, and if appropriate, revise the car-  
15 bon dioxide equivalent values established for class II,  
16 group II substances based on a determination of the  
17 number of metric tons of carbon dioxide that makes  
18 the same contributions to global warming over 100  
19 years as 1 metric ton of each class II, group II sub-  
20 stance; and

21 “(B) publish in the Federal Register the results  
22 of that review and any revisions.

23 “(3) A revised determination published in the Federal  
24 Register under paragraph (2)(B) shall take effect for pro-  
25 duction of class II, group II substances, consumption of

1 class II, group II substances, and importation of products  
2 containing class II, group II substances starting on Janu-  
3 ary 1 of the first calendar year starting at least 9 months  
4 after the date on which the revised determination was pub-  
5 lished.

6 “(4) The Administrator may decrease the frequency  
7 of review and revision under paragraph (2) if the Adminis-  
8 trator determines that such decrease is appropriate in  
9 order to synchronize such review and revisions with any  
10 similar review process carried out pursuant to the United  
11 Nations Framework Convention on Climate Change, an  
12 agreement negotiated under that convention, The Vienna  
13 Convention for the Protection of the Ozone Layer, or an  
14 agreement negotiated under that convention, except that  
15 in no event shall the Administrator carry out such review  
16 and revision any less frequently than every 10 years.

17 “(n) REPORTING REQUIREMENTS.—In lieu of sub-  
18 sections (b) and (c) of section 603, paragraphs (1) and  
19 (2) of this subsection shall apply in the case of class II,  
20 group II substances:

21 “(1) IN GENERAL.—On a quarterly basis, or  
22 such other basis (not less than annually) as deter-  
23 mined by the Administrator, each person who pro-  
24 duced, imported, or exported a class II, group II  
25 substance, or who imported a product containing a

1 class II, group II substance, shall file a report with  
2 the Administrator setting forth the carbon dioxide  
3 equivalent amount of the substance that such person  
4 produced, imported, or exported, as well as the  
5 amount that was contained in products imported by  
6 that person, during the preceding reporting period.  
7 Each such report shall be signed and attested by a  
8 responsible officer. If all other reporting is complete,  
9 no such report shall be required from a person after  
10 April 1 of the calendar year after such person per-  
11 manently ceases production, importation, and expor-  
12 tation of the substance, as well as importation of  
13 products containing the substance, and so notifies  
14 the Administrator in writing. If the United States  
15 becomes a party or otherwise adheres to a multilat-  
16 eral agreement, including any amendment to the  
17 Montreal Protocol on Substances That Deplete the  
18 Ozone Layer, that restricts the production or con-  
19 sumption of class II, group II substances, then, if all  
20 other reporting is complete, no such report shall be  
21 required from a person with respect to importation  
22 from parties to such agreement or amendment of  
23 products containing any class II, group II substance  
24 restricted by such agreement or amendment, after  
25 April 1 of the calendar year following the year dur-

1       ing which such agreement or amendment enters into  
2       force.

3               “(2) BASELINE REPORTS FOR CLASS II, GROUP  
4       II SUBSTANCES.—

5               “(A) IN GENERAL.—Unless such informa-  
6       tion has been previously reported to the Admin-  
7       istrator, on the date on which the first report  
8       under paragraph (1) of this subsection is re-  
9       quired to be filed, each person who produced,  
10      imported, or exported a class II, group II sub-  
11      stance, or who imported a product containing a  
12      class II substance, (other than a substance  
13      added to the list of class II, group II substances  
14      after the publication of the initial list of such  
15      substances under this section), shall file a re-  
16      port with the Administrator setting forth the  
17      amount of such substance that such person pro-  
18      duced, imported, exported, or that was con-  
19      tained in products imported by that person,  
20      during each of calendar years 2004, 2005, and  
21      2006.

22              “(B) PRODUCERS.—In reporting under  
23      subparagraph (A), each person who produced in  
24      the United States a class II substance during  
25      calendar year 2004, 2005, or 2006 shall—

1 “(i) report all acquisitions or pur-  
2 chases of class II substances during each  
3 of calendar years 2004, 2005, and 2006  
4 from all other persons who produced in the  
5 United States a class II substance during  
6 calendar year 2004, 2005, or 2006, and  
7 supply evidence of such acquisitions and  
8 purchases as deemed necessary by the Ad-  
9 ministrator; and

10 “(ii) report all transfers or sales of  
11 class II substances during each of calendar  
12 years 2004, 2005, and 2006 to all other  
13 persons who produced in the United States  
14 a class II substance during calendar year  
15 2004, 2005, or 2006, and supply evidence  
16 of such transfers and sales as deemed nec-  
17 essary by the Administrator.

18 “(C) ADDED SUBSTANCES.—In the case of  
19 a substance added to the list of class II, group  
20 II substances after publication of the initial list  
21 of such substances under this section, each per-  
22 son who produced, imported, exported, or im-  
23 ported products containing such substance in  
24 calendar year 2004, 2005, or 2006 shall file a  
25 report with the Administrator within 180 days

1           after the date on which such substance is added  
2           to the list, setting forth the amount of the sub-  
3           stance that such person produced, imported,  
4           and exported, as well as the amount that was  
5           contained in products imported by that person,  
6           in calendar years 2004, 2005, and 2006.

7           “(o) STRATOSPHERIC OZONE AND CLIMATE PROTEC-  
8   TION FUND.—

9           “(1) IN GENERAL.—There is established in the  
10          Treasury of the United States a Stratospheric Ozone  
11          and Climate Protection Fund.

12          “(2) DEPOSITS.—The Administrator shall de-  
13          posit all proceeds from the auction and non-auction  
14          sale of allowances under this section into the Strato-  
15          spheric Ozone and Climate Protection Fund.

16          “(3) USE.—Amounts deposited into the Strato-  
17          spheric Ozone and Climate Protection Fund shall be  
18          available, subject to appropriations, exclusively for  
19          the following purposes:

20                 “(A) RECOVERY, RECYCLING, AND REC-  
21                 LAMATION.—The Administrator may use funds  
22                 to establish a program to incentivize the recov-  
23                 ery, recycling, and reclamation of any Class II  
24                 substances in order to reduce emissions of such  
25                 substances.

1                   “(B) MULTILATERAL FUND.—If the  
2                   United States becomes a party or otherwise ad-  
3                   heres to a multilateral agreement, including any  
4                   amendment to the Montreal Protocol on Sub-  
5                   stances That Deplete the Ozone Layer, which  
6                   restricts the production or consumption of class  
7                   II, group II substances, the Administrator may  
8                   use funds to meet any related contribution obli-  
9                   gation of the United States to the Multilateral  
10                  Fund for the Implementation of the Montreal  
11                  Protocol or similar multilateral fund established  
12                  under such multilateral agreement.

13                  “(C) BEST-IN-CLASS APPLIANCES DEPLOY-  
14                  MENT PROGRAM.—The Secretary of Energy  
15                  may use funds to establish and carry out a pro-  
16                  gram, to be known as the ‘Best-in-Class Appli-  
17                  ances Deployment Program’—

18                         “(i) to provide bonus payments to re-  
19                         tailers or distributors for sales of best-in-  
20                         class high-efficiency household appliance  
21                         models, high-efficiency installed building  
22                         equipment, and high-efficiency consumer  
23                         electronics, with the goals of—

24                                 “(I) accelerating the reduction in  
25                                 consumption                                 of

1 hydrochlorofluorocarbons (measured  
2 on a global warming potential-weight-  
3 ed basis);

4 “(II) reducing life-cycle costs for  
5 consumers;

6 “(III) encouraging innovation;  
7 and

8 “(IV) maximizing energy savings  
9 and public benefit;

10 “(ii) to provide bounties to retailers  
11 and manufacturers for the replacement, re-  
12 tirement, and recycling of old, inefficient,  
13 and environmentally harmful products; and

14 “(iii) to provide premium awards to  
15 manufacturers for developing and pro-  
16 ducing new super-efficient best-in-class  
17 products.

18 “(D) LOW GLOBAL WARMING PRODUCT  
19 TRANSITION ASSISTANCE PROGRAM.—

20 “(i) IN GENERAL.—The Adminis-  
21 trator, in consultation with the Secretary  
22 of Energy, may utilize funds in fiscal years  
23 2012 through 2022 to establish a program  
24 to provide financial assistance to manufac-  
25 turers of products containing class II,

1 group II substances to facilitate the transi-  
2 tion to products that contain or utilize al-  
3 ternative substances with no or low carbon  
4 dioxide equivalent value and no ozone de-  
5pletion potential.

6 “(ii) DEFINITION OF PRODUCTS.—In  
7 this subparagraph, the term ‘products’  
8 means refrigerators, freezers, dehumidi-  
9 fiers, air conditioners, foam insulation,  
10 technical aerosols, fire protection systems,  
11 and semiconductors.

12 “(iii) FINANCIAL ASSISTANCE.—The  
13 Administrator may provide financial assist-  
14 ance to manufacturers pursuant to clause  
15 (i) for—

16 “(I) the design and configuration  
17 of new products that use alternative  
18 substances with no or low carbon di-  
19 oxide equivalent value and no ozone  
20 depletion potential; and

21 “(II) the redesign and retooling  
22 of facilities for the manufacture of  
23 products in the United States that use  
24 alternative substances with no or low

1 carbon dioxide equivalent value and  
2 no ozone depletion potential.

3 “(iv) REPORTS.—For any fiscal year  
4 during which the Administrator provides  
5 financial assistance pursuant to this sub-  
6 paragraph, the Administrator shall submit  
7 a report to the Congress within 3 months  
8 of the end of such fiscal year detailing the  
9 amounts, recipients, specific purposes, and  
10 results of the financial assistance pro-  
11 vided.”.

12 (b) TABLE OF CONTENTS.—The table of contents of  
13 title VI of the Clean Air Act (42 U.S.C. 7671 et seq.)  
14 is amended by adding the following new item at the end  
15 thereof:

“Sec. 619. Hydrofluorocarbons (HFCs).”.

16 (c) FIRE SUPPRESSION AGENTS.—Section 605(a) of  
17 the Clean Air Act (42 U.S.C. 7671(a)) is amended—

18 (1) by striking “or” at the end of paragraph  
19 (2);

20 (2) by striking the period at the end of para-  
21 graph (3) and inserting “; or”; and

22 (3) by adding the following new paragraph after  
23 paragraph (3):

1           “(4) is listed as acceptable for use as a fire sup-  
2           pression agent for nonresidential applications in ac-  
3           cordance with section 612(c).”.

4           (d) MOTOR VEHICLE AIR CONDITIONERS.—

5           (1) Section 609(e) of the Clean Air Act (42  
6           U.S.C. 7671h(e)) is amended by inserting “, group  
7           I” after each reference to “class II” in the text and  
8           heading.

9           (2) Section 609 of the Clean Air Act (42 U.S.C.  
10          7671h) is amended by adding the following new sub-  
11          section after subsection (e):

12          “(f) CLASS II, GROUP II SUBSTANCES.—

13               “(1) REPAIR.—The Administrator may promul-  
14               gate regulations establishing requirements for repair  
15               of motor vehicle air conditioners prior to adding a  
16               class II, group II substance.

17               “(2) SMALL CONTAINERS.—(A) The Adminis-  
18               trator may promulgate regulations establishing serv-  
19               icing practices and procedures for recovery of class  
20               II, group II substances from containers which con-  
21               tain less than 20 pounds of such class II, group II  
22               substances.

23               “(B) Not later than 18 months after enactment  
24               of this subsection, the Administrator shall either  
25               promulgate regulations requiring that containers

1       which contain less than 20 pounds of a class II,  
2       group II substance be equipped with a device or  
3       technology that limits refrigerant emissions and  
4       leaks from the container and limits refrigerant emis-  
5       sions and leaks during the transfer of refrigerant  
6       from the container to the motor vehicle air condi-  
7       tioner or issue a determination that such require-  
8       ments are not necessary or appropriate.

9           “(C) Not later than 18 months after enactment  
10       of this subsection, the Administrator shall promul-  
11       gate regulations establishing requirements for con-  
12       sumer education materials on best practices associ-  
13       ated with the use of containers which contain less  
14       than 20 pounds of a class II, group II substance and  
15       prohibiting the sale or distribution, or offer for sale  
16       or distribution, of any class II, group II substance  
17       in any container which contains less than 20 pounds  
18       of such class II, group II substance, unless con-  
19       sumer education materials consistent with such re-  
20       quirements are displayed and available at point-of-  
21       sale locations, provided to the consumer, or included  
22       in or on the packaging of the container which con-  
23       tain less than 20 pounds of a class II, group II sub-  
24       stance.

1           “(D) The Administrator may, through rule-  
2           making, extend the requirements established under  
3           this paragraph to containers which contain 30  
4           pounds or less of a class II, group II substance if  
5           the Administrator determines that such action would  
6           produce significant environmental benefits.

7           “(3) RESTRICTION OF SALES.—Effective Janu-  
8           ary 1, 2014, no person may sell or distribute or offer  
9           to sell or distribute or otherwise introduce into inter-  
10          state commerce any motor vehicle air conditioner re-  
11          frigerant in any size container unless the substance  
12          has been found acceptable for use in a motor vehicle  
13          air conditioner under section 612.”.

14          (e) SAFE ALTERNATIVES POLICY.—Section 612(e) of  
15          the Clean Air Act (42 U.S.C. 7671k(e)) is amended by  
16          inserting “or class II” after each reference to “class I”.

17       **SEC. 123. BLACK CARBON.**

18          (a) STUDY OF BLACK CARBON EMISSIONS.—

19               (1) DEFINITION OF BLACK CARBON.—In this  
20               subsection, the term “black carbon” means any  
21               light-absorbing graphitic (or elemental) particle pro-  
22               duced by incomplete combustion.

23               (2) STUDY.—The Administrator, in consulta-  
24               tion with the Secretary of Energy, the Secretary of  
25               State, and the heads of the National Oceanic and

1       Atmospheric Administration, the National Aero-  
2       nautics and Space Administration, the United States  
3       Agency for International Development, the National  
4       Institutes of Health, the Centers for Disease Control  
5       and Prevention, National Institute of Standards and  
6       Technology, and other relevant Federal departments  
7       and agencies and representatives of appropriate in-  
8       dustry and environmental groups, shall conduct a 4-  
9       phase study of black carbon emissions, the phases of  
10      which shall be the following:

11               (A) PHASE I—UNIVERSAL DEFINITION.—

12               The Administrator shall conduct phase I of the  
13               study under this subsection to carry out meas-  
14               ures to establish for the scientific community  
15               standard definitions of the terms—

16                       (i) black carbon; and

17                       (ii) organic carbon.

18               (B) PHASE II—SOURCES AND TECH-

19               NOLOGIES.—The Administrator shall conduct  
20               phase II of the study under this subsection to  
21               summarize the available scientific and technical  
22               information concerning—

23                       (i) the identification of the major  
24               sources of black carbon emissions in the  
25               United States and throughout the world;

1 (ii) an estimate of—

2 (I) the quantity of current and  
3 projected future black carbon emis-  
4 sions from those sources; and

5 (II) the net climate effects of the  
6 emissions;

7 (iii) the most recent scientific data  
8 relevant to the public health- and climate-  
9 related impacts of black carbon emissions  
10 and associated emissions of organic car-  
11 bon, nitrogen oxides, and sulfur oxides  
12 from the sources identified under clause  
13 (i);

14 (iv) the most effective control strate-  
15 gies for additional domestic and inter-  
16 national reductions in black carbon emis-  
17 sions, taking into consideration lifecycle  
18 analysis, cost-effectiveness, and the net cli-  
19 mate impact of technologies, operations,  
20 and strategies, such as—

21 (I) diesel particulate filters on ex-  
22 isting diesel on- and off-road engines;  
23 and

24 (II) particulate emission reduc-  
25 tion measures for marine vessels;

1 (v) carbon dioxide equivalency factors,  
2 global/regional modeling, or other metrics  
3 to compare the global warming and other  
4 climate effects of black carbon emissions  
5 with carbon dioxide and other greenhouse  
6 gas emissions; and

7 (vi) the health benefits associated with  
8 additional black carbon emission reduc-  
9 tions.

10 (C) PHASE III—INTERNATIONAL FUND-  
11 ING.—The Administrator shall conduct phase  
12 III of the study under this subsection—

13 (i) to summarize the amount, type,  
14 and direction of all actual and potential fi-  
15 nancial, technical, and related assistance  
16 provided by the United States to foreign  
17 countries to reduce, mitigate, or otherwise  
18 abate—

19 (I) black carbon emissions; and

20 (II) any health, environmental,  
21 and economic impacts associated with  
22 those emissions; and

23 (ii) to identify opportunities, including  
24 action under existing authority, to achieve  
25 significant black carbon emission reduc-

1                   tions in foreign countries through the pro-  
2                   vision of technical assistance or other ap-  
3                   proaches.

4                   (D) PHASE IV—RESEARCH AND DEVELOP-  
5                   MENT OPPORTUNITIES.—The Administrator  
6                   shall conduct phase IV of the study under this  
7                   subsection for the purpose of providing to Con-  
8                   gress recommendations regarding—

9                   (i) areas of focus for additional re-  
10                  search for cost-effective technologies, oper-  
11                  ations, and strategies with the highest po-  
12                  tential to reduce black carbon emissions  
13                  and protect public health in the United  
14                  States and internationally; and

15                  (ii) actions that the Federal Govern-  
16                  ment could take to encourage or require  
17                  additional black carbon emission reduc-  
18                  tions.

19                  (3) REPORTS.—The Administrator shall submit  
20                  to Congress—

21                  (A) by not later than 180 days after the  
22                  date of enactment of this Act, a report describ-  
23                  ing the results of phases I and II of the study  
24                  under subparagraphs (A) and (B) of paragraph  
25                  (2);

1 (B) by not later than 270 days after the  
2 date of enactment of this Act, a report describ-  
3 ing the results of phase III of the study under  
4 paragraph (2)(C); and

5 (C) by not later than 1 year after the date  
6 of enactment of this Act, a report describing  
7 the recommendations developed for phase IV of  
8 the study under paragraph (2)(D).

9 (4) AUTHORIZATION OF APPROPRIATIONS.—  
10 There are authorized to be appropriated such sums  
11 as are necessary to carry out this subsection.

12 (b) BLACK CARBON MITIGATION.—Title VIII of the  
13 Clean Air Act (as amended by section 113 of division A)  
14 is amended by adding at the end the following:

15 **“PART E—BLACK CARBON**

16 **“SEC. 851. BLACK CARBON.**

17 “(a) DOMESTIC BLACK CARBON MITIGATION.—

18 “(1) IN GENERAL.—Taking into consideration  
19 the public health and environmental impacts of black  
20 carbon emissions, including the effects on global and  
21 regional warming, the Arctic, and other snow and  
22 ice-covered surfaces, the Administrator shall—

23 “(A) not later than 2 years after the date  
24 of enactment of this part, propose—

1 “(i) regulations applicable to emis-  
2 sions of black carbon under the existing  
3 authorities of this Act; or

4 “(ii) a finding that existing regula-  
5 tions promulgated pursuant to this Act  
6 adequately regulate black carbon emis-  
7 sions, which finding may be based on a  
8 finding that existing regulations, in the  
9 judgment of the Administrator—

10 “(I) address those sources that  
11 both contribute significantly to the  
12 total emissions of black carbon and  
13 provide the greatest potential for sig-  
14 nificant and cost-effective reductions  
15 in emissions of black carbon, under  
16 the existing authorities; and

17 “(II) reflect the greatest degree  
18 of emission reduction achievable  
19 through application of technology that  
20 will be available for such sources, giv-  
21 ing appropriate consideration to cost,  
22 energy, and safety factors associated  
23 with the application of such tech-  
24 nology; and

1                   “(B) not later than 3 years after the date  
2                   of enactment of this part, promulgate final reg-  
3                   ulations under the existing authorities of this  
4                   Act or finalize the proposed finding.

5                   “(2) APPLICABILITY OF REGULATIONS.—Regu-  
6                   lations promulgated under paragraph (1) shall not  
7                   apply to specific types, classes, categories, or other  
8                   suitable groupings of emission sources that the Ad-  
9                   ministrators find are subject to adequate regulation.

10                  “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
11                  are authorized to be appropriated such sums as are nec-  
12                  essary to carry out this section.”.

13   **SEC. 124. STATES.**

14                  Section 116 of the Clean Air Act (42 U.S.C. 7416)  
15                  is amended by adding the following at the end thereof:  
16                  “‘For the purposes of this section, the phrases ‘standard  
17                  or limitation respecting emissions of air pollutants’ and  
18                  ‘requirements respecting control or abatement of air pollu-  
19                  tion’ shall include any provision to: limit greenhouse gas  
20                  emissions, require surrender to the State or a political  
21                  subdivision thereof of emission allowances or offset credits  
22                  established or issued under this Act, and require the use  
23                  of such allowances or credits as a means of demonstrating  
24                  compliance with requirements established by a State or  
25                  political subdivision thereof.”.

1   **SEC. 125. STATE PROGRAMS.**

2           Title VIII of the Clean Air Act (as amended by sec-  
3   tion 123(b)) is amended by adding at the end the fol-  
4   lowing:

5                           **“PART F—MISCELLANEOUS**

6   **“SEC. 861. STATE PROGRAMS.**

7           “(a) IN GENERAL.—Notwithstanding section 116, if  
8   a Federal auction is conducted, by the deadline of March  
9   31, 2011, as established in section 778, no State or polit-  
10   ical subdivision thereof shall implement or enforce a com-  
11   prehensive greenhouse gas emission limitation program  
12   that covers any capped emissions emitted during the years  
13   2012 through 2017.

14          “(b) DEADLINE.—Notwithstanding section 116, in  
15   the event the March 31, 2011 auction is delayed, no State  
16   or political subdivision thereof shall enforce a comprehen-  
17   sive greenhouse gas emission limitation program that cov-  
18   ers any capped emissions emitted during the period that  
19   commences at least 9 months after the date of the first  
20   auction as set out in section 778, through 2017.

21          “(c) DEFINITION OF COMPREHENSIVE GREENHOUSE  
22   GAS EMISSION LIMITATION PROGRAM.—For purposes of  
23   this section, the term ‘comprehensive greenhouse gas  
24   emission limitation program’ means a system of green-  
25   house gas regulation under which a State or political sub-  
26   division issues a limited number of tradable instruments

1 in the nature of emission allowances and requires that  
2 sources within its jurisdiction surrender such tradable in-  
3 struments for each unit of greenhouse gases emitted dur-  
4 ing a compliance period. For purposes of this section, a  
5 ‘comprehensive greenhouse gas emission limitation pro-  
6 gram’ does not include a target or limit on greenhouse  
7 gas emissions adopted by a State or political subdivision  
8 that is implemented other than through the issuance and  
9 surrender of a limited number of tradable instruments in  
10 the nature of emission allowances, nor does it include any  
11 other standard, limit, regulation, or program to reduce  
12 greenhouse gas emissions that is not implemented through  
13 the issuance and surrender of a limited number of tradable  
14 instruments in the nature of emission allowances. For pur-  
15 poses of this section, the term ‘comprehensive greenhouse  
16 gas emission limitation program’ does not include, among  
17 other things, fleet-wide motor vehicle emission require-  
18 ments that allow greater emissions with increased vehicle  
19 production, or requirements that fuels, or other products,  
20 meet an average pollution emission rate or lifecycle green-  
21 house gas standard.

22 **“SEC. 862. GRANTS FOR SUPPORT OF AIR POLLUTION CON-**  
23 **TROL PROGRAMS.**

24 “The Administrator is authorized to make grants to  
25 air pollution control agencies pursuant to section 105 for

1 purposes of assisting in the implementation of programs  
2 to address global warming established under the Clean  
3 Energy Jobs and American Power Act.”.

4 **SEC. 126. ENFORCEMENT.**

5 (a) REMAND.—Section 307(b) of the Clean Air Act  
6 (42 U.S.C. 7607(b)) is amended by adding the following  
7 new paragraph at the end thereof:

8 “(3) If the court determines that any action of  
9 the Administrator is arbitrary, capricious, or other-  
10 wise unlawful, the court may remand such action,  
11 without vacatur, if vacatur would impair or delay  
12 protection of the environment or public health or  
13 otherwise undermine the timely achievement of the  
14 purposes of this Act.

15 “(4) If the court determines that any action of  
16 the Administrator is arbitrary, capricious, or other-  
17 wise unlawful, and remands the matter to the Ad-  
18 ministrator, the Administrator shall complete final  
19 action on remand within an expeditious time period  
20 not longer than the time originally allowed for the  
21 action or 1 year, whichever is less, unless the court  
22 on motion determines that a shorter or longer period  
23 is necessary, appropriate, and consistent with the  
24 purposes of this Act. The court of appeals shall have

1 jurisdiction to enforce a deadline for action on re-  
2 mand under this paragraph.”.

3 (b) PETITION FOR RECONSIDERATION.—Section  
4 307(d)(7)(B) of the Clean Air Act (42 U.S.C.  
5 7607(d)(7)(B)) is amended as follows:

6 (1) By inserting after the second sentence “If  
7 a petition for reconsideration is filed, the Adminis-  
8 trator shall take final action on such petition, in-  
9 cluding promulgation of final action either revising  
10 or determining not to revise the action for which re-  
11 consideration is sought, within 150 days after the  
12 petition is received by the Administrator or the peti-  
13 tion shall be deemed denied for the purpose of judi-  
14 cial review.”.

15 (2) By amending the third sentence to read as  
16 follows: “Such person may seek judicial review of  
17 such denial, or of any other final action, by the Ad-  
18 ministrator, in response to a petition for reconsider-  
19 ation, in the United States court of appeals for the  
20 appropriate circuit (as provided in subsection (b)).”.

21 (c) PETITION FOR REVIEW.—Section 307(b)(1) of  
22 the Clean Air Act (42 U.S.C. 7607(b)(1)) is amended by  
23 inserting after the second sentence the following: “Any  
24 person may file a petition for review of action by the Ad-  
25 ministrator as provided in this subsection.”.

1 **SEC. 127. FORESTRY SECTOR GREENHOUSE GAS ACCOUNT-**  
2 **ING.**

3 (a) IN GENERAL.—The Administrator, in consulta-  
4 tion with the Secretary of Agriculture and the Secretary  
5 of the Interior, shall provide an annual accounting of se-  
6 questration and emissions of greenhouse gases from for-  
7 ests and forest products, including—

8 (1) sequestration, including sequestration re-  
9 sulting from natural forest growth or other natural  
10 ecosystem processes, forest management practices,  
11 afforestation, or reforestation;

12 (2) emissions resulting from forest management  
13 practices, timber harvest, deforestation, or conver-  
14 sion between forest types or to cropland or other  
15 nonforested uses; and

16 (3) transfers of carbon through forest products  
17 from the forest sector to other sectors, including the  
18 waste, manufacturing and milling, and energy sec-  
19 tors.

20 (b) SCALE OF ACCOUNTING.—Accounting under sub-  
21 section (a) shall be provided, at a minimum, for—

22 (1) Federal, other public, tribal, and private  
23 land of ownerships larger than 5,000 acres on which  
24 forestry is regularly practiced; and

25 (2) any forest land on which conversion de-  
26 scribed in subsection (a)(2) occurs.

1 (c) BASIS OF ACCOUNTING.—Accounting under sub-  
2 section (a) shall be based on information available from  
3 existing sources, including information—

4 (1) collected for tax purposes;

5 (2) from the Forest Inventory Analysis of the  
6 Forest Service;

7 (3) collected for regulatory purposes; and

8 (4) collected as part of standard industry prac-  
9 tices, such as industry updates on inventories of tim-  
10 ber.

11 (d) AUTHORITY OF ADMINISTRATOR.—

12 (1) IN GENERAL.—Nothing in this section au-  
13 thorizes the Administrator to require new generation  
14 of data by forest land owners.

15 (2) NEED FOR ADDITIONAL INFORMATION.—If  
16 the Administrator determines that additional infor-  
17 mation not available from current sources is nec-  
18 essary to carry out the purposes of this section, the  
19 Administrator shall submit to Congress a report that  
20 describes the necessary information and new author-  
21 ity that would be required to collect that informa-  
22 tion.

23 **SEC. 128. CONFORMING AMENDMENTS.**

24 (a) FEDERAL ENFORCEMENT.—Section 113 of the  
25 Clean Air Act (42 U.S.C. 7413) is amended as follows:

1           (1) In subsection (a)(3), by striking “or title  
2     VI,” and inserting “title VI, title VII, or title VIII”.

3           (2) In subsection (b), by striking “or a major  
4     stationary source” and inserting “a major stationary  
5     source, or a covered EGU under title VIII” in the  
6     material preceding paragraph (1).

7           (3) In paragraph (2) of subsection (b), by strik-  
8     ing “or title VI” and inserting “title VI, title VII,  
9     or title VIII”.

10          (4) In subsection (c)—

11           (A) in the first sentence of paragraph (1),  
12           by striking “or title VI (relating to strato-  
13           spheric ozone control),” and inserting “title VI,  
14           title VII, or title VIII,”; and

15           (B) in the first sentence of paragraph (3),  
16           by striking “or VI” and inserting “VI, VII, or  
17           VIII”.

18          (5) In subsection (d)(1)(B), by striking “or VI”  
19     and inserting “VI, VII, or VIII”.

20          (6) In subsection (f), in the first sentence, by  
21     striking “or VI” and inserting “VI, VII, or VIII”.

22     (b) RETENTION OF STATE AUTHORITY.—Section  
23     116 of the Clean Air Act (42 U.S.C. 7416) is amended  
24     as follows:

25           (1) By striking “and 233” and inserting “233”.

1           (2) By striking “of moving sources)” and in-  
2       serting “of moving sources), and 861 (preempting  
3       certain State greenhouse gas programs for a limited  
4       time)”.

5       (c) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
6       tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is  
7       amended by striking “section 112,” and all that follows  
8       through “(ii)” and inserting the following: “section 112,  
9       or any regulation of greenhouse gas emissions under title  
10      VII or VIII, (ii)”.

11      (d) ENFORCEMENT.—Subsection (f) of section 304 of  
12      the Clean Air Act (42 U.S.C. 7604(f)) is amended as fol-  
13      lows:

14           (1) By striking “; or” at the end of paragraph  
15      (3) thereof and inserting a comma.

16           (2) By striking the period at the end of para-  
17      graph (4) thereof and inserting “, or”.

18           (3) By adding the following after paragraph (4)  
19      thereof:

20           “(5) any requirement of title VII or VIII.”.

21      (e) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL  
22      REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.  
23      7607) is amended as follows:

1           (1) In subsection (a), by striking “, or section  
2       306” and inserting “section 306, or title VII or  
3       VIII”.

4           (2) In subsection (b)(1)—

5               (A) by striking “,” and inserting “,” in  
6       each place such punctuation appears; and

7               (B) by striking “section 120,” in the first  
8       sentence and inserting “section 120, any final  
9       action under title VII or VIII,”.

10          (3) In subsection (d)(1) by amending subpara-  
11       graph (S) to read as follows:

12               “(S) the promulgation or revision of any  
13       regulation under title VII or VIII,”.

14          (f) TECHNICAL AMENDMENT.—Title IV of the Clean  
15       Air Act (relating to noise pollution) (42 U.S.C. 7641 et  
16       seq.)—

17               (1) is amended by redesignating sections 401  
18       through 403 as sections 901 through 903, respec-  
19       tively; and

20               (2) is redesignated as title IX and moved to ap-  
21       pear at the end of that Act.

22       **SEC. 129. DAVIS-BACON COMPLIANCE.**

23          (a) IN GENERAL.—Notwithstanding any other provi-  
24       sion of law and in a manner consistent with other provi-  
25       sions in this Act, to receive emission allowances or funding

1 under this Act, or the amendments made by this Act, the  
2 recipient shall provide reasonable assurances that all la-  
3 borers and mechanics employed by contractors and sub-  
4 contractors on projects funded directly by or assisted in  
5 whole or in part by and through the Federal Government  
6 pursuant to this Act, or the amendments made by this  
7 Act, or by any entity established in accordance with this  
8 Act, or the amendments made by this Act, including the  
9 Carbon Storage Research Corporation, will be paid wages  
10 at rates not less than those prevailing on projects of a  
11 character similar in the locality as determined by the Sec-  
12 retary of Labor in accordance with subchapter IV of chap-  
13 ter 31 of title 40, United States Code (commonly known  
14 as the “Davis-Bacon Act”). With respect to the labor  
15 standards specified in this section, the Secretary of Labor  
16 shall have the authority and functions set forth in Reorga-  
17 nization Plan Numbered 14 of 1950 (64 Stat. 1267; 5  
18 U.S.C. App.) and section 3145 of title 40, United States  
19 Code.

20 (b) EXEMPTION.—Neither subsection (a) nor the re-  
21 quirements of subchapter IV of chapter 31 of title 40,  
22 United States Code, shall apply to retrofitting of the fol-  
23 lowing:

24 (1) Single family homes (both attached and de-  
25 tached) under section 164 of division A.

1           (2) Owner-occupied residential units in larger  
2           buildings that have their own dedicated space-condi-  
3           tioning systems under section 164 of division A.

4           (3) Residential buildings (as defined in section  
5           164(a) of division A) if designed for residential use  
6           by less than 4 families.

7           (4) Nonresidential buildings (as defined in sec-  
8           tion 164(a) of division A) if the net interior space  
9           of such nonresidential building is less than 6,500  
10          square feet.

## 11           **Subtitle D—Carbon Market** 12           **Assurance**

### 13   **SEC. 131. CARBON MARKET ASSURANCE.**

14          It is the sense of the Senate that there shall be a  
15   single, integrated carbon market oversight program—

16           (1) to provide for effective and comprehensive  
17          market oversight and enforcement;

18           (2) to lower systemic risk and protect con-  
19          sumers;

20           (3) to ensure market liquidity and allowance  
21          availability;

22           (4) to enhance the price discovery function of  
23          such markets, ensuring that the price for emission  
24          allowances and offset credits reflects the marginal  
25          cost of abatement;

1           (5) to prevent excessive speculation that con-  
2       tributes to price volatility, including the establish-  
3       ment of robust aggregate position limits and margin  
4       requirements;

5           (6) to ensure that market mechanisms and as-  
6       sociated oversight support the environmental integ-  
7       rity of the program established under title VII of the  
8       Clean Air Act (as added by section 101 of this divi-  
9       sion);

10          (7) to establish provisions for market trans-  
11       parency that provide authority, resources, and infor-  
12       mation needed to prevent fraud and manipulation in  
13       such markets;

14          (8) to establish standards for trading as, and  
15       operation of, trading facilities;

16          (9) to ensure a well-functioning, well-regulated  
17       market, including a futures market, designed to  
18       manage risk and facilitate investment in emission re-  
19       ductions;

20          (10) to establish clear, professional standards  
21       for dealers, traders, and other market participants;

22          (11) to provide for appropriate criminal and  
23       civil penalties; and

24          (12) to prevent any excessive leverage by mar-  
25       ket participants that creates risk to the economy.

1           **Subtitle E—Ensuring Real**  
2   **Reductions in Industrial Emissions**

3   **SEC. 141. ENSURING REAL REDUCTIONS IN INDUSTRIAL**  
4                   **EMISSIONS.**

5           Title VII of the Clean Air Act (as amended by section  
6   322 of division A) is amended by adding at the end the  
7   following:

8           **“PART F—ENSURING REAL REDUCTIONS IN**  
9                   **INDUSTRIAL EMISSIONS**

10   **“SEC. 761. PURPOSES.**

11           “The purposes of this part are—

12                   “(1) to promote a strong global effort to signifi-  
13           cantly reduce greenhouse gas emissions, and,  
14           through this global effort, stabilize greenhouse gas  
15           concentrations in the atmosphere at a level that will  
16           prevent dangerous anthropogenic interference with  
17           the climate system;

18                   “(2) to prevent an increase in greenhouse gas  
19           emissions in countries other than the United States  
20           as a result of direct and indirect compliance costs in-  
21           curred under this title;

22                   “(3) to provide a rebate to the owners and op-  
23           erators of entities in domestic eligible industrial sec-  
24           tors for their greenhouse gas emission costs incurred

1 under this title, but not for costs associated with  
2 other related or unrelated market dynamics;

3 “(4) to design such rebates in a way that will  
4 prevent carbon leakage while also rewarding innova-  
5 tion and facility-level investments in energy effi-  
6 ciency performance improvements; and

7 “(5) to eliminate or reduce distribution of emis-  
8 sion allowances under this part when such distribu-  
9 tion is no longer necessary to prevent carbon leakage  
10 from eligible industrial sectors.

11 **“SEC. 762. DEFINITIONS.**

12 “In this part:

13 “(1) CARBON LEAKAGE.—The term ‘carbon  
14 leakage’ means any substantial increase (as deter-  
15 mined by the Administrator) in greenhouse gas  
16 emissions by industrial entities located in other  
17 countries if such increase is caused by an incre-  
18 mental cost of production increase in the United  
19 States resulting from the implementation of this  
20 title.

21 “(2) ELIGIBLE INDUSTRIAL SECTOR.—The  
22 term ‘eligible industrial sector’ means an industrial  
23 sector determined by the Administrator under sec-  
24 tion 763(b) to be eligible to receive emission allow-  
25 ance rebates under this part.

1 “(3) INDUSTRIAL SECTOR.—

2 “(A) IN GENERAL.—The term ‘industrial  
3 sector’ means any sector that—

4 “(i) is in the manufacturing sector (as  
5 defined in NAICS codes 31, 32, and 33);  
6 or

7 “(ii) is part of, or an entire, sector  
8 that beneficiates or otherwise processes  
9 (including agglomeration) metal ores, in-  
10 cluding iron and copper ores, soda ash, or  
11 phosphate.

12 “(B) EXCLUSION.—The term ‘industrial  
13 sector’ does not include any part of a sector  
14 that extracts metal ores, soda ash, or phos-  
15 phate.

16 “(4) NAICS.—The term ‘NAICS’ means the  
17 North American Industrial Classification System of  
18 2002.

19 “(5) OUTPUT.—The term ‘output’ means the  
20 total tonnage or other standard unit of production  
21 (as determined by the Administrator) produced by  
22 an entity in an industrial sector. The output of the  
23 cement sector is hydraulic cement, and not clinker.

24 **“SEC. 763. ELIGIBLE INDUSTRIAL SECTORS.**

25 “(a) LIST.—

1           “(1) INITIAL LIST.—Not later than June 30,  
2           2011, the Administrator shall publish in the Federal  
3           Register a list of eligible industrial sectors pursuant  
4           to subsection (b). Such list shall include the amount  
5           of the emission allowance rebate per unit of produc-  
6           tion that shall be provided to entities in each eligible  
7           industrial sector in the following two calendar years  
8           pursuant to section 764.

9           “(2) SUBSEQUENT LISTS.—Not later than Feb-  
10          ruary 1, 2013, and every 4 years thereafter, the Ad-  
11          ministrator shall publish in the Federal Register an  
12          updated version of the list published under para-  
13          graph (1).

14          “(b) ELIGIBLE INDUSTRIAL SECTORS.—

15               “(1) IN GENERAL.—Not later than June 30,  
16               2011, the Administrator shall promulgate a rule des-  
17               ignating, based on the criteria under paragraph (2),  
18               the industrial sectors eligible for emission allowance  
19               rebates under this part.

20               “(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL  
21               SECTORS.—

22                       “(A) ELIGIBILITY CRITERIA.—

23                               “(i) IN GENERAL.—An owner or oper-  
24                               ator of an entity shall be eligible to receive  
25                               emission allowance rebates under this part

1 if such entity is in an industrial sector that  
2 is included in a six-digit classification of  
3 the NAICS that meets the criteria in both  
4 clauses (ii) and (iii), or the criteria in  
5 clause (iv).

6 “(ii) ENERGY OR GREENHOUSE GAS  
7 INTENSITY.—As determined by the Admin-  
8 istrator, the industrial sector had—

9 “(I) an energy intensity of at  
10 least 5 percent, calculated by dividing  
11 the cost of purchased electricity and  
12 fuel costs of the sector by the value of  
13 the shipments of the sector, based on  
14 data described in subparagraph (D);  
15 or

16 “(II) a greenhouse gas intensity  
17 of at least 5 percent, calculated by di-  
18 viding—

19 “(aa) the number 20 multi-  
20 plied by the number of tons of  
21 carbon dioxide equivalent green-  
22 house gas emissions (including  
23 direct emissions from fuel com-  
24 bustion, process emissions, and  
25 indirect emissions from the gen-

1                   eration of electricity used to  
2                   produce the output of the sector)  
3                   of the sector based on data de-  
4                   scribed in subparagraph (D); by  
5                   “(bb) the value of the ship-  
6                   ments of the sector, based on  
7                   data described in subparagraph  
8                   (D).

9                   “(iii) TRADE INTENSITY.—As deter-  
10                  mined by the Administrator, the industrial  
11                  sector had a trade intensity of at least 15  
12                  percent, calculated by dividing the value of  
13                  the total imports and exports of such sec-  
14                  tor by the value of the shipments plus the  
15                  value of imports of such sector, based on  
16                  data described in subparagraph (D).

17                  “(iv) VERY HIGH ENERGY OR GREEN-  
18                  HOUSE GAS INTENSITY.—As determined by  
19                  the Administrator, the industrial sector  
20                  had an energy or greenhouse gas intensity,  
21                  as calculated under clause (ii)(I) or (II), of  
22                  at least 20 percent.

23                  “(B) METAL AND PHOSPHATE PRODUC-  
24                  TION CLASSIFIED UNDER MORE THAN ONE

1           NAICS CODE.—For purposes of this section, the  
2           Administrator shall—

3                   “(i)   aggregate   data   for   the  
4                   beneficiation or other processing (including  
5                   agglomeration) of metal ores, including  
6                   iron and copper ores, soda ash, or phos-  
7                   phate with subsequent steps in the process  
8                   of metal and phosphate manufacturing, re-  
9                   gardless of the NAICS code under which  
10                  such activity is classified; and

11                   “(ii) aggregate data for the manufac-  
12                   turing of steel with the manufacturing of  
13                   steel pipe and tube made from purchased  
14                   steel in a nonintegrated process.

15                  “(C) EXCLUSION.—The petroleum refining  
16                  sector shall not be an eligible industrial sector.

17                  “(D) DATA SOURCES.—

18                   “(i) ELECTRICITY AND FUEL COSTS,  
19                   VALUE OF SHIPMENTS.—The Adminis-  
20                   trator shall determine electricity and fuel  
21                   costs and the value of shipments under  
22                   this subsection from data from the United  
23                   States Census Annual Survey of Manufac-  
24                   turers. The Administrator shall take the  
25                   average of data from as many of the years

1 of 2004, 2005, and 2006 for which such  
2 data are available. If such data are un-  
3 available, the Administrator shall make a  
4 determination based upon 2002 or 2006  
5 data from the most detailed industrial clas-  
6 sification level of Energy Information  
7 Agency's Manufacturing Energy Consump-  
8 tion Survey (using 2006 data if it is avail-  
9 able) and the 2002 or 2007 Economic Cen-  
10 sus of the United States (using 2007 data  
11 if it is available). If data from the Manu-  
12 facturing Energy Consumption Survey or  
13 Economic Census are unavailable for any  
14 sector at the six-digit classification level in  
15 the NAICS, then the Administrator may  
16 extrapolate the information necessary to  
17 determine the eligibility of a sector under  
18 this paragraph from available Manufac-  
19 turing Energy Consumption Survey or  
20 Economic Census data pertaining to a  
21 broader industrial category classified in the  
22 NAICS. If data relating to the  
23 beneficiation or other processing (including  
24 agglomeration) of metal ores, including  
25 iron and copper ores, soda ash, or phos-

phate are not available from the specified data sources, the Administrator shall use the best available Federal or State government data and may use, to the extent necessary, representative data submitted by entities that perform such beneficiation or other processing (including agglomeration), in making a determination. Fuel cost data shall not include the cost of fuel used as feedstock by an industrial sector.

“(ii) IMPORTS AND EXPORTS.—The Administrator shall base the value of imports and exports under this subsection on United States International Trade Commission data. The Administrator shall take the average of data from as many of the years of 2004, 2005, and 2006 for which such data are available. If data from the United States International Trade Commission are unavailable for any sector at the six-digit classification level in the NAICS, then the Administrator may extrapolate the information necessary to determine the eligibility of a sector under this paragraph from available United

1 States International Trade Commission  
2 data pertaining to a broader industrial cat-  
3 egory classified in the NAICS.

4 “(iii) PERCENTAGES.—The Adminis-  
5 trator shall round the energy intensity,  
6 greenhouse gas intensity, and trade inten-  
7 sity percentages under subparagraph (A)  
8 to the nearest whole number.

9 “(iv) GREENHOUSE GAS EMISSION  
10 CALCULATIONS.—When calculating the  
11 tons of carbon dioxide equivalent green-  
12 house gas emissions for each sector under  
13 subparagraph (A)(ii)(II)(aa), the Adminis-  
14 trator—

15 “(I) shall use the best available  
16 data from as many of the years 2004,  
17 2005, and 2006 for which such data  
18 is available; and

19 “(II) may, to the extent nec-  
20 essary with respect to a sector, use  
21 economic and engineering models and  
22 the best available information on tech-  
23 nology performance levels for such  
24 sector.

1           “(3) ADMINISTRATIVE DETERMINATION OF AD-  
2           DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

3           “(A) UPDATED TRADE INTENSITY DATA.—

4           The Administrator shall designate as eligible to  
5           receive emission allowance rebates under this  
6           part an industrial sector that—

7                   “(i) met the energy or greenhouse gas  
8                   intensity criteria in paragraph (2)(A)(ii) as  
9                   of the date of promulgation of the rule  
10                  under paragraph (1); and

11                  “(ii) meets the trade intensity criteria  
12                  in paragraph (2)(A)(iii), using data from  
13                  any year after 2006.

14           “(B) INDIVIDUAL SHOWING PETITION.—

15                  “(i) PETITION.—In addition to des-  
16                  ignation under paragraph (2) or subpara-  
17                  graph (A) of this paragraph, the owner or  
18                  operator of an entity in an industrial sec-  
19                  tor may petition the Administrator to des-  
20                  ignate as eligible industrial sectors under  
21                  this part an entity or a group of entities  
22                  that—

23                          “(I) represent a subsector of a  
24                          six-digit section of the NAICS code;  
25                          and

1 “(II) meet the eligibility criteria  
2 in both clauses (ii) and (iii) of para-  
3 graph (2)(A), or the eligibility criteria  
4 in clause (iv) of paragraph (2)(A).

5 “(ii) DATA.—In making a determina-  
6 tion under this subparagraph, the Admin-  
7 istrator shall consider data submitted by  
8 the petitioner that is specific to the entity,  
9 data solicited by the Administrator from  
10 other entities in the subsector, if such  
11 other entities exist, and data specified in  
12 paragraph (2)(D).

13 “(iii) BASIS OF SUBSECTOR DETER-  
14 MINATION.—The Administrator shall de-  
15 termine an entity or group of entities to be  
16 a subsector of a six-digit section of the  
17 NAICS code based only upon the products  
18 manufactured and not the industrial proc-  
19 ess by which the products are manufac-  
20 tured, except that the Administrator may  
21 determine an entity or group of entities  
22 that manufacture a product from primarily  
23 virgin material to be a separate subsector  
24 from another entity or group of entities

1           that manufacture the same product pri-  
2           marily from recycled material.

3           “(iv) USE OF MOST RECENT DATA.—

4           In determining whether to designate a sec-  
5           tor or subsector as an eligible industrial  
6           sector under this subparagraph, the Ad-  
7           ministrator shall use the most recent data  
8           available from the sources described in  
9           paragraph (2)(D), rather than the data  
10          from the years specified in paragraph  
11          (2)(D), to determine the trade intensity of  
12          such sector or subsector, but only for de-  
13          termining such trade intensity.

14          “(v) FINAL ACTION.—The Adminis-  
15          trator shall take final action on such peti-  
16          tion no later than 6 months after the peti-  
17          tion is received by the Administrator.

18   **“SEC. 764. DISTRIBUTION OF EMISSION ALLOWANCE RE-**  
19           **BATES.**

20          “(a) DISTRIBUTION SCHEDULE.—

21           “(1) IN GENERAL.—For each vintage year, the  
22          Administrator shall distribute pursuant to this sec-  
23          tion emission allowances made available under sec-  
24          tion 771(a)(5), not later than October 31 of the pre-  
25          ceding calendar year. The Administrator shall make

1       such annual distributions to the owners and opera-  
2       tors of each entity in an eligible industrial sector in  
3       the amount of emission allowances calculated under  
4       subsection (b), except that—

5               “(A) for vintage years 2012 and 2013, the  
6       distribution for a covered entity shall be pursu-  
7       ant to the entity’s indirect carbon factor as cal-  
8       culated under subsection (b)(3);

9               “(B) for vintage year 2026 and thereafter,  
10      the distribution shall be pursuant to the  
11      amount calculated under subsection (b) multi-  
12      plied by, for a sector—

13               “(i) 90 percent for vintage year 2026;

14               “(ii) 80 percent for vintage year  
15      2027;

16               “(iii) 70 percent for vintage year  
17      2028;

18               “(iv) 60 percent for vintage year  
19      2029;

20               “(v) 50 percent for vintage year 2030;

21               “(vi) 40 percent for vintage year  
22      2031;

23               “(vii) 30 percent for vintage year  
24      2032;

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1 “(viii) 20 percent for vintage year  
2 2033;  
3 “(ix) 10 percent for vintage year  
4 2034; and  
5 “(x) 0 percent for vintage year 2035  
6 and thereafter.

“(2) NEWLY ELIGIBLE SECTORS.—In addition to receiving a distribution of emission allowances under this section in the first distribution occurring after an industrial sector is designated as eligible under section 763(b)(3), the owner or operator of an entity in that eligible industrial sector may receive a prorated share of any emission allowances made available for distribution under this section that were not distributed for the year in which the petition for eligibility was granted under section 763(b)(3)(A).

18                   “(3) CESSATION OF QUALIFYING ACTIVITIES.—  
19           If, as determined by the Administrator, a facility is  
20           no longer in an eligible industrial sector designated  
21           under section 763—

22 “(A) the Administrator shall not distribute  
23 emission allowances to the owner or operator of  
24 such facility under this section; and

1           “(B) the owner or operator of such facility  
2           shall return to the Administrator all allowances  
3           that have been distributed to it for future vin-  
4           tage years and a pro-rated amount of allow-  
5           ances distributed to the facility under this sec-  
6           tion for the vintage year in which the facility  
7           ceases to be in an eligible industrial sector des-  
8           ignated under section 763.

9           “(b) CALCULATION OF DIRECT AND INDIRECT CAR-  
10          BON FACTORS.—

11           “(1) IN GENERAL.—

12           “(A) COVERED ENTITIES.—Except as pro-  
13           vided in subsection (a), for covered entities that  
14           are in eligible industrial sectors, the amount of  
15           emission allowance rebates shall be based on  
16           the sum of the covered entity’s direct and indi-  
17           rect carbon factors.

18           “(B) OTHER ELIGIBLE ENTITIES.—For  
19           entities that are in eligible industrial sectors  
20           but are not covered entities, the amount of  
21           emission allowance rebates shall be based on  
22           the entity’s indirect carbon factor.

23           “(C) NEW ENTITIES.—Not later than 2  
24           years after the date of enactment of this title,  
25           the Administrator shall issue regulations gov-

1           erning the distribution of emission allowance re-  
2           bates for the first and second years of operation  
3           of a new entity in an eligible industrial sector.  
4           These regulations shall provide for—

5                   “(i) the distribution of emission allow-  
6                   ance rebates to such entities based on com-  
7                   parable entities in the same sector; and

8                   “(ii) an adjustment in the third and  
9                   fourth years of operation to reconcile the  
10                  total amount of emission allowance rebates  
11                  received during the first and second years  
12                  of operation to the amount the entity  
13                  would have received during the first and  
14                  second years of operation had the appro-  
15                  priate data been available.

16                  “(2) DIRECT CARBON FACTOR.—The direct car-  
17                  bon factor for a covered entity for a vintage year is  
18                  the product of—

19                          “(A) the average annual output of the cov-  
20                          ered entity for the 2 years preceding the year  
21                          of the distribution; and

22                          “(B) the most recent calculation of the av-  
23                          erage direct greenhouse gas emissions (ex-  
24                          pressed in tons of carbon dioxide equivalent)  
25                          per unit of output for all covered entities in the

1 sector, as determined by the Administrator  
2 under paragraph (4).

3 “(3) INDIRECT CARBON FACTOR.—

4 “(A) IN GENERAL.—The indirect carbon  
5 factor for an entity for a vintage year is the  
6 product obtained by multiplying the average an-  
7 nual output of the entity for the 2 years pre-  
8 ceding the year of the distribution by both the  
9 electricity emissions intensity factor determined  
10 pursuant to subparagraph (B) and the elec-  
11 tricity efficiency factor determined pursuant to  
12 subparagraph (C) for the year concerned.

13 “(B) ELECTRICITY EMISSIONS INTENSITY  
14 FACTOR.—

15 “(i) IN GENERAL.—Each person sell-  
16 ing electricity to the owner or operator of  
17 an entity in any sector designated as an el-  
18 igible industrial sector under section  
19 763(b) shall provide the owner or operator  
20 of the entity and the Administrator, on an  
21 annual basis, the electricity emissions in-  
22 tensity factor for the entity. The electricity  
23 emissions intensity factor for the entity,  
24 expressed in tons of carbon dioxide equiva-

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- 1                   lents per kilowatt hour, is determined by
- 2                   dividing—

3 “(I) the annual sum of the hour-  
4 ly product of—

5 “(aa) the electricity pur-  
6 chased by the entity from that  
7 person in each hour (expressed in  
8 kilowatt hours); multiplied by

9 “(bb) the marginal or  
10 weighted average tons of carbon  
11 dioxide equivalent per kilowatt  
12 hour that are reflected in the  
13 electricity charges to the entity,  
14 as determined by the entity’s re-  
15 tail rate arrangements; by

16 “(II) the total kilowatt hours of  
17 electricity purchased by the entity  
18 from that person during that year.

“(ii) USE OF OTHER DATA TO DETER-  
MINE FACTOR.—Where it is not possible to  
determine the precise electricity emissions  
intensity factor for an entity using the  
methodology in clause (i), the person sell-  
ing electricity shall use the monthly aver-  
age data reported by the Energy Informa-

1                   tion Administration or collected and re-  
2                   ported by the Administrator for the utility  
3                   serving the entity to determine the elec-  
4                   tricity emissions intensity factor.

5                   “(C) ELECTRICITY EFFICIENCY FACTOR.—

6                   The electricity efficiency factor is the average  
7                   amount of electricity (in kilowatt hours) used  
8                   per unit of output for all entities in the relevant  
9                   sector, as determined by the Administrator  
10                  based on the best available data, including data  
11                  provided under paragraph (6).

12                  “(D) INDIRECT CARBON FACTOR REDUC-

13                  TION.—If an electricity provider received a free  
14                  allocation of emission allowances pursuant to  
15                  section 771(a)(1), the Administrator shall ad-  
16                  just the indirect carbon factor to avoid rebates  
17                  to the eligible entity for costs that the Adminis-  
18                  trator determines were not incurred by the eli-  
19                  gible entity because the allowances were freely  
20                  allocated to the eligible entity’s electricity pro-  
21                  vider and used for the benefit of industrial con-  
22                  sumers.

23                  “(4) GREENHOUSE GAS INTENSITY CALCULA-

24                  TIONS.—The Administrator shall calculate the aver-  
25                  age direct greenhouse gas emissions (expressed in

1        tons of carbon dioxide equivalent) per unit of output  
2        and the electricity efficiency factor for all covered  
3        entities in each eligible industrial sector every 4  
4        years, using an average of the four most recent  
5        years of the best available data. For purposes of the  
6        lists required to be published no later than February  
7        1, 2013, the Administrator shall use the best avail-  
8        able data for the maximum number of years, up to  
9        4 years, for which data are available.

10            “(5) DETERMINATION OF SECTORS FOR PUR-  
11        POSES OF SECTORAL AVERAGES.—

12            “(A) IN GENERAL.—Notwithstanding the  
13        criteria used to determine eligible sectors under  
14        paragraphs (2) and (3)(C), not later than June  
15        30, 2011, the Administrator shall, by rule, iden-  
16        tify sectors or subsectors for purposes of calcu-  
17        lating sector averages under paragraphs (2)(B),  
18        (3)(C), and (4), based upon, to the extent prac-  
19        ticable in achieving the purposes of this part—

20            “(i) product produced;

21            “(ii) process employed, including dis-  
22        tinctions based upon the extent of integra-  
23        tion or exclusion of process steps; and

24            “(iii) the extent of use of combined  
25        heat and power technologies.

1           “(B) CONSIDERATION OF CRITERIA.—In  
2           determining what entities are comparable to a  
3           new entity under paragraph (1)(C)(i), the Ad-  
4           ministrators shall consider, to the extent prac-  
5           ticable, the criteria set forth in subparagraph  
6           (A).

7           “(6) ENSURING EFFICIENCY IMPROVEMENTS.—  
8           When making greenhouse gas calculations, the Ad-  
9           ministrators shall—

10           “(A) limit the average direct greenhouse  
11           gas emissions per unit of output, calculated  
12           under paragraph (4), for any eligible industrial  
13           sector to an amount that is not greater than it  
14           was in any previous calculation under this sub-  
15           section;

16           “(B) limit the electricity emissions inten-  
17           sity factor, calculated under paragraph (3)(B)  
18           and resulting from a change in electricity sup-  
19           ply, for any entity to an amount that is not  
20           greater than it was during any previous year;  
21           and

22           “(C) limit the electricity efficiency factor,  
23           calculated under paragraph (3)(C), for any eli-  
24           gible industrial sector to an amount that is not

1 greater than it was in any previous calculation  
2 under this subsection.

3 “(7) DATA SOURCES.—For the purposes of this  
4 subsection—

5 “(A) the Administrator shall use data from  
6 the greenhouse gas registry established under  
7 section 713, where that data is available; and

8 “(B) each owner or operator of an entity  
9 in an eligible industrial sector and each depart-  
10 ment, agency, and instrumentality of the  
11 United States shall provide the Administrator  
12 with such information as the Administrator  
13 finds necessary to determine the direct carbon  
14 factor and the indirect carbon factor for each  
15 entity subject to this section.

16 “(c) TOTAL MAXIMUM DISTRIBUTION.—Notwith-  
17 standing subsections (a) and (b), the Administrator shall  
18 not distribute more allowances for any vintage year pursu-  
19 ant to this section than are allocated for use under this  
20 part pursuant to section 765 for that vintage year. For  
21 any vintage year for which the total emission allowance  
22 rebates calculated pursuant to this section exceed the  
23 number of allowances allocated pursuant to section 765,  
24 the Administrator shall reduce each entity’s distribution  
25 on a pro rata basis so that the total distribution under

1 this section equals the number of allowances allocated  
2 under section 765.

3 “(d) IRON AND STEEL SECTOR.—For purposes of  
4 this section, the Administrator shall consider as in dif-  
5 ferent industrial sectors—

6 “(1) entities using integrated iron and  
7 steelmaking technologies (including coke ovens, blast  
8 furnaces, and other iron-making technologies); and

9 “(2) entities using electric arc furnace tech-  
10 nologies.

11 “(e) METAL, SODA ASH, OR PHOSPHATE PRODUC-  
12 TION CLASSIFIED UNDER MORE THAN ONE NAICS  
13 CODE.—For purposes of this section, the Administrator  
14 shall not aggregate data for the beneficiation or other  
15 processing (including agglomeration) of metal ores, soda  
16 ash, or phosphate with subsequent steps in the process  
17 of metal, soda ash, or phosphate manufacturing. The Ad-  
18 ministrator shall consider the beneficiation or other proc-  
19 essing (including agglomeration) of metal ores, soda ash,  
20 or phosphate to be in separate industrial sectors from the  
21 metal, soda ash, or phosphate manufacturing sectors. In-  
22 dustrial sectors that beneficiate or otherwise process (in-  
23 cluding agglomeration) metal ores, soda ash, or phosphate  
24 shall not receive emission allowance rebates under this sec-

1 tion related to the activity of extracting metal ores, soda  
2 ash, or phosphate.

3 “(f) COMBINED HEAT AND POWER.—For purposes  
4 of this section, and to achieve the purpose set forth in  
5 section 761(4), (the Administrator may consider entities to  
6 be in different industrial sectors or otherwise take into ac-  
7 count the differences among entities in the same industrial  
8 sector, based upon the extent to which such entities use  
9 combined heat and power technologies.

10 **“SEC. 765. INTERNATIONAL TRADE.**

11 “It is the sense of the Senate that this Act will con-  
12 tain a trade title that will include a border measure that  
13 is consistent with our international obligations and de-  
14 signed to work in conjunction with provisions that allocate  
15 allowances to energy-intensive and trade-exposed indus-  
16 tries.”.

17 **TITLE II—PROGRAM**  
18 **ALLOCATIONS**

19 **SEC. 201. DISTRIBUTION OF ALLOWANCES FOR INVEST-**  
20 **MENT IN CLEAN VEHICLES.**

21 (a) DEFINITIONS.—In this section:

22 (1) ADVANCED TECHNOLOGY VEHICLE.—The  
23 term “advanced technology vehicle” means any light-  
24 duty vehicle assembled in the United States that  
25 meets—

1 (A) the Tier II Bin 5 emission standard  
2 established by regulations promulgated by the  
3 Administrator pursuant to section 202(i) of the  
4 Clean Air Act (42 U.S. C. 7521(i)), or a lower-  
5 numbered Bin emission standard;

6 (B) any new emission standard for fine  
7 particulate matter established by the Adminis-  
8 trator under that Act (42 U.S.C. 7401 et seq.);  
9 and

10 (C) a target fuel economy equal to or  
11 greater than 115 percent of the base model  
12 year target fuel economy for a vehicle of the  
13 same type and footprint, calculated on an en-  
14 ergy-equivalent basis for vehicles other than ad-  
15 vanced diesel light-duty motor vehicles.

16 (2) BASE MODEL YEAR.—The term “base  
17 model year” means the model year 4 model years  
18 prior to the model year during which an advanced  
19 technology vehicle is initially certified for sale in the  
20 United States under part 86 of title 40, Code of  
21 Federal Regulations (as in effect on the date of en-  
22 actment of this Act).

23 (3) ENGINEERING INTEGRATION COST.—The  
24 term “engineering integration cost” includes the cost

1 of engineering tasks performed in the United States  
2 relating to—

3 (A) incorporating qualifying components  
4 into the design of advanced technology vehicles;  
5 and

6 (B) designing new tooling and equipment  
7 for production facilities that produce, in the  
8 United States, qualifying components or ad-  
9 vanced technology vehicles.

10 (4) QUALIFYING COMPONENT.—The term  
11 “qualifying component” means a component that the  
12 Secretary of Energy determines to be—

13 (A) specially designed for advanced tech-  
14 nology vehicles;

15 (B) installed for the purpose of meeting  
16 the performance requirements of advanced tech-  
17 nology vehicles as specified in subparagraphs  
18 (A), (B), and (C) of paragraph (1); and

19 (C) manufactured in the United States.

20 (5) TARGET FUEL ECONOMY.—The term “tar-  
21 get fuel economy” means—

22 (A) for a vehicle classified as a passenger  
23 automobile pursuant to section 523.4 of title  
24 49, Code of Federal Regulations (as in effect on  
25 the date of enactment of this Act), the value of

1            $T_i$ , representing the fuel economy target in the  
2           formula displayed as Figure 1, calculated for  
3           that vehicle in a given model year pursuant to  
4           section 531.5(c) of title 49, Code of Federal  
5           Regulations (as in effect on the date of enact-  
6           ment of this Act); and

7                   (B) for a vehicle classified as a light truck  
8           pursuant to section 523.5 of title 49, Code of  
9           Federal Regulations (as in effect on the date of  
10          enactment of this Act), the value of  $T_i$ , rep-  
11          resenting the fuel economy target in the for-  
12          mula displayed as Figure 1, calculated for that  
13          vehicle in a given model year pursuant to sec-  
14          tion 533.5(a) of title 49, Code of Federal Regu-  
15          lations (as in effect on the date of enactment of  
16          this Act).

17          (b) ESTABLISHMENT OF FUND.—There is estab-  
18          lished in the Treasury a separate account, to be known  
19          as the “Clean Vehicle Technology Fund”.

20          (c) AUCTION.—The Administrator shall—

21                  (1) auction the quantity of emission allowances  
22          allocated pursuant to section 771(b)(3) of the Clean  
23          Air Act pursuant to section 778 of that Act; and

24                  (2) deposit funds received from the auction in  
25          the Clean Vehicle Technology Fund.

1 (d) GRANTS.—The Administrator shall distribute  
2 amounts allocated pursuant to section 782(a)(8) of the  
3 Clean Air Act, at the direction of the Secretary of Energy,  
4 to provide facility conversion funding grants to vehicle  
5 manufacturers and component suppliers to pay the costs  
6 of—

7 (1) reequipping or expanding an existing manu-  
8 facturing facility in the United States to produce—

9 (A) qualifying advanced technology vehi-  
10 cles;

11 (B) plug-in electric drive or hybrid-electric,  
12 hybrid hydraulic, plug-in hybrid, electric, and  
13 fuel cell drive medium- and heavy-duty motor  
14 vehicles (including transit vehicles); or

15 (C) qualifying components; and

16 (2) engineering integration, performed in the  
17 United States, of qualifying vehicles and qualifying  
18 components that are produced in the United States.

19 (e) PERIOD OF AVAILABILITY.—A grant provided  
20 under subsection (d) may be used for—

21 (1) facilities and equipment placed in service  
22 after the date of enactment of this Act; and

23 (2) engineering integration costs incurred after  
24 the date of enactment of this Act.

25 (f) LIMITATIONS.—

1           (1) PLUG-IN ELECTRIC DRIVE VEHICLES.—Not  
2       less than 25 percent of the funds provided under  
3       subsection (d) shall be used for—

4           (A) reequipping or expanding facilities in  
5       the United States to produce plug-in electric  
6       drive vehicles or qualifying components for  
7       those vehicles; or

8           (B) engineering integration, performed in  
9       the United States, relating to those vehicles and  
10      components that are produced in the United  
11      States.

12          (2) CAFE REQUIREMENTS.—No grant shall be  
13      provided under subsection (d) to an automobile man-  
14      ufacturer that, directly or through a parent, sub-  
15      sidiary, or affiliated entity, is not in compliance with  
16      each applicable corporate average fuel standard  
17      under section 32902 of title 49, United States Code,  
18      as in effect on the date on which the grant is pro-  
19      vided.

20          (g) AVAILABILITY OF AUCTION PROCEEDS.—

21           (1) DIESEL EMISSIONS REDUCTION GRANTS.—  
22      Not less than 75 percent of the proceeds of the auc-  
23      tion conducted pursuant to subsection (c) shall be  
24      available to the Administrator for use in providing

1 grants under subtitle G of title VII of the Energy  
2 Policy Act of 2005 (42 U.S.C. 16131 et seq.).

3 (2) OTHER ASSISTANCE.—Not less than 20 per-  
4 cent of the proceeds of the auction conducted pursu-  
5 ant to subsection (c) shall be available to the Admin-  
6 istrator to provide assistance for the deployment, in-  
7 tegration, and use of advanced technology vehicles  
8 and plug-in electric drive or hybrid-electric, hybrid  
9 hydraulic, plug-in hybrid, electric, and fuel cell drive  
10 medium- and heavy-duty motor vehicles (including  
11 transit vehicles).

12 (3) NATIONAL TRANSPORTATION LOW-EMISSION  
13 ENERGY PLAN; PILOT PROGRAM.—Not less than 5  
14 percent of the proceeds of the auction conducted  
15 pursuant to subsection (c) shall be available to the  
16 Secretary of Energy to carry out subsection (h).

17 (h) NATIONAL TRANSPORTATION LOW-EMISSION EN-  
18 ERGY PLAN; PILOT PROGRAM.—

19 (1) NATIONAL TRANSPORTATION LOW-EMISSION  
20 ENERGY PLAN.—Using the amounts described in  
21 subsection (g)(3), the Secretary of Energy shall de-  
22 velop a national transportation low-emission energy  
23 plan that—

24 (A) projects the near- and long-term need  
25 for and location of electric drive vehicle refuel-

1 ing infrastructure at strategic locations across  
2 all major national highways, roads, and cor-  
3 ridors;

4 (B) identifies infrastructure and standard-  
5 ization needs for electricity providers, infra-  
6 structure providers, vehicle manufacturers, and  
7 electricity purchasers;

8 (C) establishes an aspirational goal of  
9 achieving strategic deployment of electric vehi-  
10 cle infrastructure by January 1, 2020;

11 (D) prioritizes the development of—

12 (i) standardized public charge access  
13 ports with wireless or smart card billing  
14 capability; and

15 (ii) level I and level II charge port  
16 systems (that charge an electric vehicle  
17 over a period of 8 to 14 hours and 4 to 8  
18 hours, respectively) that will meet the en-  
19 ergy requirements of the majority of plug-  
20 in hybrid and battery electric vehicles;

21 (E) examines the feasibility of level III  
22 charge port systems that can charge an electric  
23 vehicle over a period of 10 to 20 minutes;

1 (F) focuses on infrastructure that provides  
2 consumers with the lowest cost while providing  
3 convenient charge system access; and

4 (G) is developed by the Secretary, with the  
5 involvement of all relevant stakeholders.

6 (2) ELECTRIC DRIVE DEMONSTRATION  
7 PROJECTS.—

8 (A) IN GENERAL.—The Secretary shall es-  
9 tablish pilot projects to demonstrate electric  
10 drive vehicles and infrastructure.

11 (B) REQUIREMENTS.—The Secretary  
12 shall—

13 (i) establish the pilot projects de-  
14 scribed in subparagraph (A) after publica-  
15 tion of the plan developed under paragraph  
16 (1);

17 (ii) use that plan to determine which  
18 regions of the United States are most  
19 ready to demonstrate electric vehicle infra-  
20 structure;

21 (iii) carry out the pilot projects in dif-  
22 ferent regions of the United States; and

23 (iv) ensure that—

1 (I) at least 1 pilot project is car-  
2 ried out in a rural region of the  
3 United States; and

4 (II) at least 1 pilot project is fo-  
5 cused on freight issues.

6 (3) FINANCIAL RESOURCES.—In carrying out  
7 the pilot projects under paragraph (2), the Secretary  
8 shall coordinate the use of appropriate financial in-  
9 centives, grant programs, and other Federal finan-  
10 cial resources to ensure that electric infrastructure  
11 delivery entities are able to participate in the pilot  
12 projects.

13 (4) LEEP COORDINATOR.—The Secretary may  
14 designate 1 full-time position within the Department  
15 of Transportation, to be known as the “LEEP coor-  
16 dinator”, with responsibility to oversee—

17 (A) the development of the plan under  
18 paragraph (1); and

19 (B) the implementation of the pilot  
20 projects under paragraph (2).

21 **SEC. 202. STATE AND LOCAL INVESTMENT IN ENERGY EFFI-**  
22 **CIENCY AND RENEWABLE ENERGY.**

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

1           (1) ALLOWANCE.—The term “allowance”  
2       means an emission allowance established under sec-  
3       tion 721 of the Clean Air Act.

4           (2) INDIAN TRIBE.—The term “Indian tribe”  
5       has the meaning given the term in section 4 of the  
6       Indian Self-Determination and Education Assistance  
7       Act (25 U.S.C. 450b).

8           (3) VINTAGE YEAR.—The term “vintage year”  
9       has the meaning given the term in section 700 of the  
10      Clean Air Act.

11      (b) DISTRIBUTION AMONG INDIAN TRIBES, STATES,  
12      LOCAL GOVERNMENTS, AND RENEWABLE ELECTRICITY  
13      PROGRAMS.—The Administrator shall, in accordance with  
14      this section, distribute allowances allocated pursuant to  
15      section 771(a)(9) of the Clean Air Act for the following  
16      vintage year. The Administrator, after consultation with  
17      the Secretary of the Interior, shall distribute not less than  
18      1 percent and not more than 3 percent of such allowances  
19      to Indian tribes. The Administrator, after consultation  
20      with the Secretary of Energy, shall distribute the remain-  
21      ing allowances among the States, local governments, and  
22      renewable electricity programs under this section each  
23      year in accordance with the following formula:

24           (1) 60 percent of the allowances shall be pro-  
25      vided to the States, of which—

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1                   (A) 30 percent shall be divided equally  
2                   among the States;

(B) 30 percent shall be distributed on a pro rata basis among the States based on the population of each State, as contained in the most recent reliable census data available from the Bureau of the Census for all States at the time at which the Administrator calculates the formula for distribution;

(C) 30 percent shall be distributed on a pro rata basis among the States on the basis of the energy consumption of each State, as contained in the most recent State Energy Data Report available from the Energy Information Administration (or such alternative reliable source as the Administrator may designate); and

(D) 10 percentage shall be provided to the States based on an energy-efficiency formula developed by the Administrator, which formula shall be—

22 (i) based on—

23 (I) weather-adjusted criteria; and

24 (II) performance-based metrics

25 that measure each State's success at

1 decreasing energy consumption or in-  
2 creasing energy efficiency—

3 (aa) on a per capita basis in  
4 the residential sector;

5 (bb) on an energy consump-  
6 tion per square-foot basis in the  
7 commercial sector; and

8 (cc) on the basis of installed  
9 energy efficiency measures that  
10 save energy, measured on a per  
11 capita basis for the residential  
12 sector and a per square foot  
13 basis for the commercial sector;  
14 and

15 (ii) updated every 3 years.

16 (2) 25 percent of the allowances shall be pro-  
17 vided to local governments for energy conservation  
18 and efficiency grants.

19 (3) 15 percent of the allowances shall be pro-  
20 vided to renewable energy generating companies with  
21 a capacity of 20 megawatts or greater exclusively for  
22 the generation of renewable energy. The Adminis-  
23 trator, in consultation with the Secretary of Energy,  
24 shall award allocations to renewable energy gener-  
25 ating companies based on the number of megawatt-

1        hours the company generates and the technology  
2        used. The Administrator shall promulgate such regu-  
3        lations as are appropriate to carry out this para-  
4        graph.

5        (c) USES.—The allowances distributed to each State  
6        and local government pursuant to this section shall be  
7        used exclusively in accordance with the following require-  
8        ments:

9                (1) ALLOCATION TO STATES.—Allowances allo-  
10        cated to the States under subsection (b)(1) shall be  
11        for the following purposes and be used in accordance  
12        with the following conditions:

13                (A) PURPOSES.—

14                        (i)    ENERGY    EFFICIENCY    PRO-  
15                        GRAMS.—

16                        (I)    IN    GENERAL.—Subject to  
17                        subclauses (II), (III), and (IV), not  
18                        less than 40 percent of the amount  
19                        made available under subsection  
20                        (b)(1) shall be used exclusively for—

21                                (aa) implementation and en-  
22                                forcement of building codes;

23                                (bb) implementation of the  
24                                energy-efficient    manufactured  
25                                homes program;

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- 1 (cc) implementation of build-  
2 ing energy performance labeling;  
3 (dd) low-income community  
4 energy efficiency programs;  
5 (ee) thermal energy effi-  
6 ciency; and  
7 (ff) retrofit for energy and  
8 environmental performance.

9 (II) THERMAL ENERGY EFFI-  
10 CIENCY.—

- 11 (aa) IN GENERAL.—Not less  
12 than 10 percent of the amount  
13 made available under subclause  
14 (I) shall be used for thermal en-  
15 ergy efficiency projects that pro-  
16 vide district thermal energy  
17 through a network of pipes from  
18 1 or more central plants to at  
19 least 2 or more buildings, com-  
20 bined heat and power that pro-  
21 duces electricity and thermal en-  
22 ergy with a minimum 60 percent  
23 overall efficiency on a lower-heat-  
24 ing value basis, or recoverable  
25 waste energy (including mechan-

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1 ical, thermal, or electrical energy)  
2 that, if not for recovery, would be  
3 wasted and may be recovered or  
4 generated through modification  
5 of an existing facility or addition  
6 of a new facility.

7 (bb) STUDIES, CONSTRU-  
8 TION, AND DEVELOPMENT.—Allo-  
9 cations under this subclause may  
10 be used for planning, engineer-  
11 ing, and feasibility studies as well  
12 as project construction and devel-  
13 opment.

14 (III) REQUIREMENTS FOR THER-  
15 MAL ENERGY EFFICIENCY  
16 PROJECTS.—Projects carried out  
17 under subclause (II) shall—

18 (aa) reduce or avoid green-  
19 house gas emissions; and

20 (bb)(AA) produce thermal  
21 energy from renewable energy re-  
22 sources or natural cooling  
23 sources;

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1 (BB) capture and produc-  
2 tively use thermal energy from an  
3 electric generation facility;

4 (CC) integrate new elec-  
5 tricity generation into an existing  
6 district energy system;

7 (DD) capture and produc-  
8 tively uses surplus thermal en-  
9 ergy from an industrial or munic-  
10 ipal process (such as wastewater  
11 treatment); or

12 (EE) distribute and transfer  
13 to buildings the thermal energy  
14 from the energy sources de-  
15 scribed in subitems (AA) through  
16 (DD).

17 (IV) RETROFIT FOR ENERGY  
18 AND ENVIRONMENTAL PERFORM-  
19 ANCE.—Not less than 5 percent of the  
20 amount made available under sub-  
21 clause (I) shall be used for the pro-  
22 gram for retrofit for energy and envi-  
23 ronmental performance under section  
24 164.

1 (V) PRIORITY.—In carrying out  
2 this section, each State shall give pri-  
3 ority to persons of low and moderate  
4 income (as defined in section 102(a)  
5 of the Housing and Community De-  
6 velopment Act of 1974 (42 U.S.C.  
7 5302(a))).

8 (VI) PERSONS OF LOW IN-  
9 COME.—Each State shall use at least  
10 35 percent of the allocations provided  
11 pursuant to this clause to benefit per-  
12 sons of low income (as defined in sec-  
13 tion 102(a) of the Housing and Com-  
14 munity Development Act of 1974 (42  
15 U.S.C. 5302(a))), using not less than  
16 20 percent of such amount made  
17 available under this clause for energy  
18 retrofits and green investments in  
19 subsidized housing based on standards  
20 to ensure that investments are cost-ef-  
21 fective—

22 (aa) taking into account re-  
23 ductions in future use of energy  
24 and other utilities, and the extent  
25 to which such retrofits and in-

1 vestments address repair and re-  
2 placement needs that may other-  
3 wise need to be addressed with  
4 other forms of assistance; and

5 (bb) on the condition that,  
6 to receive such funding, the re-  
7 cipient shall commit to an addi-  
8 tional period of affordability of  
9 not fewer than 15 years, covering  
10 all units for which the grants and  
11 loans are used.

12 (ii) RENEWABLE ENERGY PRO-  
13 GRAMS.—Renewable energy programs for  
14 capital grants, production incentives, loans,  
15 loan guarantees, forgivable loans, direct  
16 provision of allowances, and interest rate  
17 buy-downs for—

18 (I) re-equipping, expanding, or  
19 establishing a manufacturing facility  
20 that receives certification from the  
21 Secretary of Energy pursuant to sec-  
22 tion 48C of the Internal Revenue  
23 Code of 1986 for the production of—

1 (aa) property designed to be  
2 used to produce energy from re-  
3 newable energy sources; and

4 (bb) electricity storage sys-  
5 tems;

6 (II) deployment of technologies to  
7 generate electricity from renewable  
8 energy sources; and

9 (III) deployment of facilities or  
10 equipment, such as solar panels, to  
11 generate electricity or thermal energy  
12 from renewable energy resources in  
13 and on buildings in an urban environ-  
14 ment.

15 (iii) OTHER STATE USES.—

16 (I) ELECTRICITY TRANS-  
17 MISSION.—Improvement in electricity  
18 transmission for—

19 (aa) State or regional imple-  
20 mentation of electricity trans-  
21 mission planning and siting ac-  
22 tivities that facilitate renewable  
23 energy development, including fa-  
24 cilitation of landowner negotia-  
25 tions for transmission of right-of-

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1 way leasing or other contractual  
2 arrangements;

3 (bb) grants to nonprofit or-  
4 ganizations that facilitate nego-  
5 tiations for transmission right-of-  
6 way leasing or other contractual  
7 agreements between affected  
8 landowners and developers;

9 (cc) State or regional studies  
10 of renewable energy zones and  
11 resources with insufficient trans-  
12 mission capacity, including geo-  
13 graphical identification of poten-  
14 tial renewable energy sites, envi-  
15 ronmental reviews, and land use  
16 or coastal zone constraints;

17 (dd) grants to support land-  
18 owner associations' and other  
19 nonprofit organizations' partici-  
20 pation in State and Federal  
21 siting processes, including such  
22 associations' studies of renewable  
23 energy feasibility and benefits  
24 and associated data collection;

1 (ee) grants to affected land-  
2 owners or landowner associations  
3 or nonprofit organizations for  
4 mitigation of impacts on property  
5 or ecosystems due to trans-  
6 mission projects that are part of  
7 an interconnection-wide plan fo-  
8 cused on facilitating renewable  
9 energy development;

10 (ff) training for State regu-  
11 latory authority staff and local  
12 workforces relating to renewable  
13 energy generation resources and  
14 storage, smart grid, or new  
15 transmission technologies;

16 (gg) grants to transmission  
17 providers for transmission im-  
18 provements (including smart grid  
19 investments) that facilitate re-  
20 newable energy development and  
21 benefit consumers;

22 (hh) grants to transmission  
23 providers for security upgrades to  
24 the transmission system and au-  
25 thorized uses under title XIII of

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1 the Energy Independence and Se-  
2 curity Act of 2007 (42 U.S.C.  
3 17381 et seq.); or

4 (ii) grants to develop energy  
5 storage, reliability, or distributed  
6 renewable generation projects.

7 (II) END-USE CONSUMER PRO-  
8 GRAMS.—Cost-effective energy effi-  
9 ciency programs for end-use con-  
10 sumers of electricity, natural gas,  
11 home heating oil, or propane, includ-  
12 ing, where appropriate, programs or  
13 mechanisms administered by local  
14 governments and entities other than  
15 the State.

16 (III) SMART GRID.—Enabling the  
17 development of a Smart Grid (as de-  
18 scribed in section 1301 of the Energy  
19 Independence and Security Act of  
20 2007 (42 U.S.C. 17381)) for State,  
21 local government, and other public  
22 buildings and facilities, including inte-  
23 gration of renewable energy resources  
24 and distributed generation, demand

1 response, demand-side management,  
2 and systems analysis.

3 (B) CONDITIONS.—

4 (i) IN GENERAL.—The States shall  
5 prioritize expansion of existing energy effi-  
6 ciency programs approved and overseen by  
7 the State or the appropriate State regu-  
8 latory authority.

9 (ii) SUPPLEMENTATION.—The States  
10 shall demonstrate that allowances allocated  
11 pursuant to subparagraph (A) have been  
12 used to supplement, and not to supplant,  
13 existing and otherwise available State,  
14 local, and ratepayer funding for such pur-  
15 pose.

16 (2) ENERGY CONSERVATION AND EFFI-  
17 CIENCY.—Allowances allocated to local governments  
18 under subsection (b)(2) shall be used exclusively for  
19 energy conservation and efficiency purposes specified  
20 in subtitle E of the Energy Independence and Secu-  
21 rity Act of 2007 (42 U.S.C. 17151 et seq.), on the  
22 condition that the allocation for the Secretary of En-  
23 ergy under section 543 of that Act (42 U.S.C.  
24 17153) is distributed on a pro-rata basis among the  
25 other eligible recipients under that section.

1 (d) REPORTING.—Each Indian tribe, State, local gov-  
2 ernment, and renewable electricity generating company di-  
3 rectly receiving allowances or allowance value under this  
4 section shall submit to the Administrator a report that  
5 contains a list of entities receiving allowances or allowance  
6 value under this section.

7 (e) ENFORCEMENT.—If the Administrator deter-  
8 mines that an Indian tribe, State, local government, or  
9 renewable electricity generating company is not in compli-  
10 ance with this section, the Administrator may withhold up  
11 to twice the number of allowances or allowance value that  
12 the Indian tribe, State, local government, or renewable  
13 electricity generating company failed to use in accordance  
14 with the requirements of this section, that such Indian  
15 tribe, State, local government, or renewable electricity  
16 generating companies would otherwise be eligible to re-  
17 ceive under this section in later years. Allowances withheld  
18 pursuant to this subsection shall be distributed among the  
19 remaining Indian tribes, States, local governments, and  
20 renewable electricity generating companies in accordance  
21 with subsection (b).

22 **SEC. 203. ENERGY EFFICIENCY IN BUILDING CODES.**

23 The Administrator shall distribute emission allow-  
24 ances allocated for the following vintage year pursuant to  
25 section 771(a)(10) of the Clean Air Act among the States

1 in accordance with the formula described in section 202  
2 of this division exclusively for the purpose of section 163  
3 of division A.

4 **SEC. 204. ENERGY INNOVATION HUBS.**

5 (a) PURPOSE.—The Secretary shall carry out a pro-  
6 gram in accordance with this section to establish Energy  
7 Innovation Hubs to enhance the economic, environmental,  
8 and energy security of the United States by promoting  
9 commercial application of clean, indigenous energy alter-  
10 natives to oil and other fossil fuels, reducing greenhouse  
11 gas emissions, and ensuring that the United States main-  
12 tains a technological lead in the development and commer-  
13 cial application of state-of-the-art energy technologies.

14 (b) DISTRIBUTION OF ALLOWANCES TO ENERGY IN-  
15 NOVATION HUBS.—The Secretary shall, in accordance  
16 with the requirements of this section, distribute to eligible  
17 consortia allowances allocated for the following vintage  
18 year under section 772(a)(11) of the Clean Air Act.

19 **SEC. 205. ARPA-E RESEARCH.**

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

21 (1) ALLOWANCE.—The term “allowance”  
22 means an emission allowance established under sec-  
23 tion 721 of the Clean Air Act.

1           (2) DIRECTOR.—The term “Director” means  
2       Director of the Advanced Research Projects Agency–  
3       Energy.

4       (b) DISTRIBUTION OF ALLOWANCES.—The Director,  
5   in accordance with this section, shall distribute allowances  
6   allocated for the following vintage year under section  
7   771(a)(12) of the Clean Air Act. Such allowances shall  
8   be distributed on a competitive basis to institutions of  
9   higher education, companies, research foundations, trade  
10   and industry research collaborations, or consortia of such  
11   entities, or other appropriate research and development  
12   entities to achieve the goals of the Advanced Research  
13   Projects Agency-Energy (as described in section 5012(c)  
14   of the America COMPETES Act (42 U.S.C. 16538(c)))  
15   through targeted acceleration of—

16           (1) novel early-stage energy research with pos-  
17       sible technology applications;

18           (2) development of techniques, processes, and  
19       technologies, and related testing and evaluation;

20           (3) development of manufacturing processes for  
21       technologies; and

22           (4) demonstration and coordination with non-  
23       governmental entities for commercial applications of  
24       technologies and research applications.

1       (c) SUPPLEMENT NOT SUPPLANT.—Assistance pro-  
2       vided under this section shall be used to supplement, and  
3       not to supplant, any other Federal resources available to  
4       carry out activities described in this section.

5       **SEC. 206. INTERNATIONAL CLEAN ENERGY DEPLOYMENT**  
6                               **PROGRAM.**

7       The Secretary of State shall distribute emission al-  
8       lowances allocated for the following vintage year pursuant  
9       to section 771(a)(13) of the Clean Air Act exclusively for  
10      the purpose of section 323 of division A.

11      **SEC. 207. INTERNATIONAL CLIMATE CHANGE ADAPTATION**  
12                              **AND GLOBAL SECURITY.**

13      The Secretary of State shall distribute emission al-  
14      lowances allocated for the following vintage year pursuant  
15      to section 771(a)(14) of the Clean Air Act exclusively for  
16      the purpose of section 324 of division A.

17      **SEC. 208. ENERGY EFFICIENCY AND RENEWABLE ENERGY**  
18                              **WORKER TRAINING.**

19      (a) ESTABLISHMENT OF FUND.—There is estab-  
20      lished in the Treasury a separate account, to be known  
21      as the “Energy Efficiency and Renewable Energy Worker  
22      Training Fund”.

23      (b) AUCTION PROCEEDS.—The Administrator shall  
24      deposit the proceeds of the auction conducted pursuant

1 to section 771(b)(5) of the Clean Air Act in the Energy  
2 Efficiency and Renewable Energy Worker Training Fund.

3 (c) AVAILABILITY OF AMOUNTS.—The Secretary of  
4 Labor shall use the amounts deposited in the Energy Effi-  
5 ciency and Renewable Energy Worker Training Fund  
6 under subsection (b) to carry out section 171(e)(8) of the  
7 Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(8))  
8 without further appropriation or fiscal year limitation.

9 **SEC. 209. WORKER TRANSITION.**

10 (a) ESTABLISHMENT OF FUND.—There is estab-  
11 lished in the Treasury a separate account, to be known  
12 as the “Worker Transition Fund”.

13 (b) AUCTION PROCEEDS.—The Administrator shall  
14 deposit the proceeds of the auction conducted pursuant  
15 to section 771(b)(5) of the Clean Air Act in the Worker  
16 Transition Fund.

17 (c) AVAILABILITY OF AMOUNTS.—The amounts de-  
18 posited in the Worker Transition Fund shall be used to  
19 carry out part 2 of subtitle A of title III of division A.

20 **SEC. 210. STATE PROGRAMS FOR GREENHOUSE GAS RE-**  
21 **DUCTION AND CLIMATE ADAPTATION.**

22 (a) DEFINITIONS.—In this section:

23 (1) ALASKA NATIVE VILLAGE.—The term  
24 “Alaska Native village” means a federally recognized  
25 Indian tribe located in the State of Alaska and listed

1 in the Bureau of Indian Affairs publication entitled  
2 “Indian Entities Recognized and Eligible to Receive  
3 Services from the United States Bureau of Indian  
4 Affairs” (74 Fed. Reg. 40218 (Aug. 11, 2009)).

5 (2) ALLOWANCE.—The term “allowance”  
6 means an emission allowance established under sec-  
7 tion 721 of the Clean Air Act.

8 (3) INDIAN TRIBE.—The term “Indian tribe”  
9 has the meaning given the term in section 4 of the  
10 Indian Self-Determination and Education Assistance  
11 Act (25 U.S.C. 450b).

12 (4) SCCR ACCOUNT.—The term “SCCR Ac-  
13 count” means a State Climate Change Response Ac-  
14 count established under subsection (d)(5).

15 (5) VINTAGE YEAR.—The term “vintage year”  
16 has the meaning given that term in section 700 of  
17 the Clean Air Act.

18 (b) REGULATIONS; COORDINATION.—

19 (1) REGULATIONS.—Not later than 2 years  
20 after the date of enactment of this Act, the Adminis-  
21 trator, or the heads of such Federal agencies as the  
22 President may designate, shall promulgate regula-  
23 tions to implement this section.

24 (2) COORDINATION.—If the President des-  
25 ignates more than 1 Federal agency to implement

1       this section, the President shall require such agen-  
2       cies to establish a memorandum of understanding  
3       providing for coordination of rulemaking and other  
4       implementing activities, in accordance with this sec-  
5       tion.

6       (c) STATE CLIMATE CHANGE TRANSPORTATION  
7 FUND.—

8           (1) ESTABLISHMENT OF FUND.—There is es-  
9       tablished in the Treasury a separate account, to be  
10      known as the “State Climate Change Transportation  
11      Fund”.

12          (2) AUCTION PROCEEDS DEPOSITED TO  
13 FUND.—The Administrator shall deposit the pro-  
14      ceeds of auctions conducted pursuant to section  
15      771(b)(10) of the Clean Air Act for the vintage  
16      years specified in the State Climate Change Trans-  
17      portation Fund.

18          (3) AVAILABILITY OF AMOUNTS.—All amounts  
19      deposited in the State Climate Change Transpor-  
20      tation Fund shall be available, without further ap-  
21      propriation or fiscal year limitation, to carry out this  
22      section.

23          (4) DISTRIBUTION.—The Administrator shall  
24      distribute the proceeds of the auction of allowances

1 deposited in the State Climate Change Transpor-  
2 tation Fund in accordance with subsection (g).

3 (d) DISTRIBUTION OF ALLOWANCES.—

4 (1) IN GENERAL.—Not later than September  
5 30 of each calendar year, the Administrator shall  
6 distribute, in accordance with this section, allow-  
7 ances allocated for the following vintage year pursu-  
8 ant to section 771(a)(15) of the Clean Air Act.

9 (2) RESERVATION AND ALLOCATION.—The Ad-  
10 ministrator shall—

11 (A) reserve 10 percent of the allowances  
12 described in paragraph (1) for distribution  
13 among coastal and Great Lakes States in ac-  
14 cordance with subsection (f);

15 (B) reserve 10 percent of the allowances  
16 described in paragraph (1) for distribution  
17 among the States for wildfire programs in ac-  
18 cordance the formula under paragraph (3) and  
19 for the purposes described in subsection (g);

20 (C) after consultation with the Secretary of  
21 the Interior, reserve at least 1 percent of the al-  
22 lowances for distribution to Indian tribes in ac-  
23 cordance with subsection (e); and

24 (D) distribute the remaining allowances to  
25 fund State government programs for green-

1           house gas reduction and climate adaptation  
2           pursuant to paragraphs (3) and (5), with the  
3           allowances to be deposited in and administered  
4           through the SCCR accounts.

5           (3) FORMULA FOR DISTRIBUTION.—The Ad-  
6           ministrators shall distribute the allowances pursuant  
7           to paragraph (2)(D) ratably among the States based  
8           on the product obtained by multiplying—

9                   (A) the population of a State; and

10                   (B) the allocation factor for the State de-  
11           termined under paragraph (4).

12           (4) STATE ALLOCATION FACTORS.—

13                   (A) IN GENERAL.—Except as provided in  
14           subparagraph (B), the allocation factor for a  
15           State shall be the quotient obtained by divid-  
16           ing—

17                           (i) the per capita income of all indi-  
18           viduals in the United States; by

19                           (ii) the per capita income of all indi-  
20           viduals in the State.

21           (B) LIMITATION.—

22                   (i) MAXIMUM.—If the allocation fac-  
23           tor for a State as calculated under sub-  
24           paragraph (A) would exceed 1.2, the allo-  
25           cation factor for such State shall be 1.2.

1 (ii) MINIMUM.—If the allocation fac-  
2 tor for a State as calculated under sub-  
3 paragraph (A) would be less than 0.8, the  
4 allocation factor for such State shall be  
5 0.8.

6 (C) PER CAPITA INCOME.—For purposes  
7 of this paragraph, per capita income shall be—

8 (i) determined at 2-year intervals; and

9 (ii) subject to subparagraph (D),  
10 equal to the average of the annual per cap-  
11 ita incomes for the most recent period of  
12 3 consecutive years for which satisfactory  
13 data are available from the Department of  
14 Commerce at the time such determination  
15 is made.

16 (D) REVENUE DIRECTLY RESULTING FROM  
17 A PRESIDENTIALLY DECLARED MAJOR DIS-  
18 ASTER.—

19 (i) IN GENERAL.—For purposes of  
20 this paragraph, per capita income from 1  
21 or more of the sources described in clause  
22 (ii) shall be reduced or excluded if the Sec-  
23 retary of Commerce—

24 (I) (in consultation with the Ad-  
25 ministrator and the heads of the de-

1                   partments or agencies involved) deter-  
2                   mines that the income accrues to per-  
3                   sons as the result of a major disaster  
4                   designated by the President under the  
5                   Robert T. Stafford Disaster Relief  
6                   and Emergency Assistance Act (42  
7                   U.S.C. 5121 et seq.); and

8                   (II) finds that the inclusion of 1  
9                   or more of the income sources, in  
10                  whole or in part, results in a transi-  
11                  tory, rather than a sustainable, in-  
12                  crease in a State's per capita income  
13                  level relative to the national average.

14                  (ii) SOURCES OF INCOME.—The  
15                  sources of income referred to in clause (i)  
16                  are the following:

17                         (I) Property and casualty insur-  
18                         ance (including homeowners and rent-  
19                         ers insurance).

20                         (II) The National Flood Insur-  
21                         ance Program of the Federal Emer-  
22                         gency Management Agency.

23                         (III) The Individual and Family  
24                         Grants Program of the Federal Emer-  
25                         gency Management Agency.

1 (IV) The Disaster Housing Pro-  
2 gram of the Federal Emergency Man-  
3 agement Agency.

4 (V) The Community Develop-  
5 ment Block Grant Program of the De-  
6 partment of Housing and Urban De-  
7 velopment.

8 (VI) The Disaster Unemployment  
9 Assistance Program of the Depart-  
10 ment of Labor.

11 (VII) Any other source deter-  
12 mined appropriate by the Adminis-  
13 trator.

14 (5) STATE CLIMATE CHANGE RESPONSE AC-  
15 COUNTS.—

16 (A) ESTABLISHMENT.—Each State shall  
17 establish a State Climate Change Response Ac-  
18 count, to be administered pursuant to State  
19 law, to receive and distribute—

20 (i) the allocation of allowances pro-  
21 vided under paragraph (2); or

22 (ii) at the election of the State, the  
23 proceeds of the auction of those allow-  
24 ances.

1 (B) COMPLIANCE.—State regulations and  
2 implementing procedures relating to SCCR ac-  
3 counts shall require compliance with the provi-  
4 sions of this section and all other applicable  
5 provisions of Federal law.

6 (e) DISTRIBUTION TO INDIAN TRIBES.—

7 (1) IN GENERAL.—The Administrator, or the  
8 heads of such Federal agencies as the President may  
9 designate, shall promulgate regulations establishing  
10 a program to distribute allowances to Indian tribes,  
11 in accordance with the requirements of this section,  
12 of which not less than 18 percent shall be allocated  
13 to Alaska Native Villages for each year.

14 (2) USE OF ALLOWANCES.—Allowances distrib-  
15 uted to Indian tribes shall be used exclusively—

16 (A) in accordance with subsection (h); and

17 (B) in compliance with any approved tribal  
18 climate change response plan.

19 (f) DISTRIBUTION TO COASTAL AND GREAT LAKES  
20 STATES.—The Administrator, or the heads of such other  
21 Federal agencies as the President may designate, shall dis-  
22 tribute allowances for coastal State economic protection  
23 reserved under subsection (d)(2)(A) each fiscal year, in  
24 accordance with section 384 of division A.

1       (g) DISTRIBUTION TO STATES FOR FIRE PRO-  
2 GRAMS.—The Administrator, or the heads of such other  
3 Federal agencies as the President may designate, shall dis-  
4 tribute allowances to States for each fiscal year in accord-  
5 ance with section 383 of division A.

6       (h) USES OF ALLOWANCES DEPOSITED TO SCCR  
7 ACCOUNTS.—

8           (1) IN GENERAL.—States shall use allowances  
9 deposited to SCCR Accounts under subsection  
10 (d)(2)(D) exclusively for the development and imple-  
11 mentation of projects, programs, or measures as de-  
12 scribed in this section to address climate change by  
13 reducing emissions of greenhouse gases or by build-  
14 ing resilience to the impacts of climate change, in-  
15 cluding impacts such as—

16           (A) extreme weather events, such as flood-  
17 ing and tropical cyclones;

18           (B) more frequent heavy precipitation  
19 events;

20           (C) water scarcity and adverse impacts on  
21 water quality;

22           (D) stronger and longer heat waves;

23           (E) more frequent and severe droughts;

24           (F) rises in sea level;

25           (G) ecosystem disruption;

- 1 (H) increased wildfire risk;
- 2 (I) increased air pollution;
- 3 (J) effects on public health;
- 4 (K) impaired transportation systems and
- 5 infrastructure; and
- 6 (L) reduced productivity of agricultural or
- 7 ranching operations.

8 (2) REQUIREMENTS.—The allowances received  
9 by each SCCR Account for each fiscal year shall be  
10 used by the State exclusively to fund the following  
11 categories of activities, in compliance with the provi-  
12 sions of approved State climate change response  
13 plans:

14 (A) Grants to fund water system mitiga-  
15 tion and adaptation partnerships in accordance  
16 with section 381 of division A.

17 (B) Flood control, protection, prevention  
18 and response programs and projects in accord-  
19 ance with section 382 of division A.

20 (C) Programs or projects implemented by  
21 State agencies as owners or operators of water  
22 systems to address any ongoing or forecasted  
23 climate-related impact on water quality, water  
24 supply or reliability, for 1 or more of the pur-  
25 poses listed in section 381(d) of division A.

1 (D) Programs or projects to reduce green-  
2 house gas emissions through recycling or for in-  
3 creasing recycling rates in accordance with sec-  
4 tion 154 of division A.

5 (E) Programs and projects addressing ad-  
6 verse impacts of climate change affecting agri-  
7 culture or ranching activities.

8 (F) Programs or projects addressing air  
9 pollution or air quality impacts caused or exac-  
10 erbated by climate change.

11 (G) Programs or projects to reduce green-  
12 house gas emissions that result in a decrease in  
13 emissions of other air pollutants.

14 (H) Programs or projects to restore aban-  
15 doned mine lands that increase carbon seques-  
16 tration or reduce greenhouse gas emissions  
17 while providing other benefits, including im-  
18 provements in water and air quality.

19 (I) Programs addressing the risk of  
20 wildfires for 1 or more of the purposes listed in  
21 section 383(e)(2) of division A.

22 (3) DISTRIBUTION FOR LOCAL GOVERN-  
23 MENTS.—Not less than 12.5 percent of the allow-  
24 ances deposited to SCCR Accounts shall be distrib-  
25 uted by each State to units of local government

1       within such State, to be used exclusively to support  
2       the categories of climate change response efforts list-  
3       ed in paragraph (2).

4           (4) VULNERABLE POPULATIONS.—In deploying  
5       allowances under this section, States and units of  
6       local government shall ensure that programs and  
7       projects are funded responding to impacts affecting  
8       socially and economically vulnerable populations, in-  
9       cluding—

10           (A) persons of low-income (as defined in  
11       title I of the Housing and Community Develop-  
12       ment Act of 1974, (42 U.S.C. 5301 et seq.));

13           (B) members of socially disadvantaged  
14       groups (as defined in section 2501(e)(2) of the  
15       Food, Agriculture, Conservation, and Trade Act  
16       of 1990 (7 U.S.C. 2279(e)(2)));

17           (C) individuals over 65 years of age and  
18       under 5 years of age; and

19           (D) individuals with disabilities.

20           (5) INTENT OF CONGRESS.—It is the intent of  
21       the Congress that allowances distributed to carry  
22       out this section should be used to supplement, and  
23       not replace, existing sources of funding used to ad-  
24       dress and build resilience to the impacts of climate  
25       change.

1 (i) STATE AND TRIBAL CLIMATE CHANGE RESPONSE  
2 PLANS.—

3 (1) IN GENERAL.—The regulations promulgated  
4 pursuant to subsection (b) shall include require-  
5 ments for submission and approval of State and  
6 tribal climate change response plans under this sec-  
7 tion. Beginning with vintage year 2012, distribution  
8 of allowances to a State pursuant to this section  
9 shall be contingent on approval of a State climate  
10 change response plan for such State that meets the  
11 requirements of such regulations.

12 (2) REQUIREMENTS.—Regulations promulgated  
13 under this section shall require, at minimum, that  
14 State climate change response plans—

15 (A) assess and prioritize the vulnerability  
16 of a State to a broad range of impacts of cli-  
17 mate change, based on the best available  
18 science;

19 (B) identify and prioritize specific cost-ef-  
20 fective projects, programs, and measures to  
21 mitigate and build resilience to current and pre-  
22 dicted impacts of climate change, including  
23 projects, programs, and measures within each  
24 of the categories of activities listed in sub-  
25 section (h)(2);

1 (C) include an assessment of potential for  
2 carbon reduction through changes to land man-  
3 agement policies (including enhancement or  
4 protection of forest carbon sinks);

5 (D) ensure that the State fully considers  
6 and undertakes, to the maximum extent prac-  
7 ticable, initiatives that—

8 (i) protect or enhance natural eco-  
9 system functions, including protection,  
10 maintenance, or restoration of natural in-  
11 frastructure such as wetlands, reefs, and  
12 barrier islands to buffer communities from  
13 floodwaters or storms, watershed protec-  
14 tion to maintain water quality and ground-  
15 water recharge, or floodplain restoration to  
16 improve natural flood control capacity;

17 (ii) where appropriate, use non-  
18 structural approaches, including practices  
19 that use, enhance, or mimic the natural  
20 hydrologic cycle processes of infiltration,  
21 evapotranspiration, and use; or

22 (iii) where appropriate, protect for-  
23 ested land via scientifically based ecological  
24 restoration practices, including by reducing

1 fuel loads, restoring forest diversity, and  
2 conducting research on pest mitigation;

3 (E) give consideration to impacts affecting  
4 socially and economically vulnerable popu-  
5 lations, including—

6 (i) persons of low-income (as defined  
7 in title I of the Housing and Community  
8 Development Act of 1974 (42 U.S.C. sec.  
9 5301 et seq.));

10 (ii) members of socially disadvantaged  
11 groups (as defined in section 2501(e)(2) of  
12 the Food, Agriculture, Conservation, and  
13 Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

14 (iii) persons over 65 years of age and  
15 under 5 years of age; and

16 (iv) persons with disabilities;

17 (F) use pre-disaster mitigation, emergency  
18 response, and public insurance programs to  
19 mitigate the impacts of climate change;

20 (G) be consistent with Federal conserva-  
21 tion and environmental laws and, to the max-  
22 imum extent practicable, avoid environmental  
23 degradation; and

24 (H) be revised and resubmitted for ap-  
25 proval not less frequently than every 5 years.

1           (3) TRIBAL CLIMATE CHANGE RESPONSE  
2 PLANS.—Requirements for tribal climate change re-  
3 sponse plans should include the requirements listed  
4 in subparagraphs (A) through (H) of paragraph (2),  
5 as appropriate, but may vary from those of State cli-  
6 mate change response plans to the extent necessary  
7 to account for the special circumstances of Indian  
8 tribes.

9           (4) COORDINATION WITH PRIOR PLANNING EF-  
10 FORTS.—In implementing this subsection, the Ad-  
11 ministrator, or the heads of such Federal agencies  
12 as the President may designate, shall—

13               (A) draw upon lessons learned and best  
14 practices from preexisting State and tribal cli-  
15 mate change response planning efforts;

16               (B) seek to avoid duplication of such ef-  
17 forts; and

18               (C) ensure that the plans developed under  
19 this section are developed in coordination with  
20 State natural resources adaptation plans devel-  
21 oped under section 369 of division A.

22       (j) REPORTING.—Not later than 1 year after each  
23 date of receipt of allowances under this section, and bien-  
24 nially thereafter until the allowances received under this  
25 section have been fully expended, each State or Indian

1 tribe receiving allowances under this section shall submit  
2 to the Administrator, or the heads of such Federal agen-  
3 cies as the President may designate, a report that—

4 (1) provides a full accounting for the use by the  
5 State or Indian tribe of allowances distributed under  
6 this section, including a description of the projects,  
7 programs, or measures supported using such allow-  
8 ances;

9 (2) includes a report prepared by an inde-  
10 pendent third party, in accordance with such regula-  
11 tions as are promulgated by the Administrator or  
12 the heads of such other Federal agencies as the  
13 President may designate, evaluating the performance  
14 of the projects, programs, or measures supported  
15 under this section; and

16 (3) identifies any use by the State or Indian  
17 tribe of allowances distributed under this section for  
18 the reduction of flood and storm damage and the ef-  
19 fects of climate change on water and flood protection  
20 infrastructure.

21 (k) AUDITING.—The Administrator, or the heads of  
22 such Federal agencies as the President may designate,  
23 shall have authority to conduct such audits or other review  
24 of States implementation of and compliance with this sec-

tion as such Federal officials may in their discretion determine to be necessary or appropriate.

(l) ENFORCEMENT.—If the Administrator, or the heads of such Federal agencies as the President may designate, determine that a State or Indian tribe is not in compliance with this section, the Administrator or such other agency head may withhold a quantity of the allowances equal to up to twice the quantity of allowances that the State or Indian tribe failed to use in accordance with the requirements of this section, that such State or Indian tribe would otherwise be eligible to receive under this section in 1 or more later years. Allowances withheld pursuant to this subsection shall be distributed among the remaining States or Indian tribes ratably in accordance with—

(1) the formula under subsection (d), in the case of allowances withheld from a State; or

(2) in accordance with subsection (e), in the case of allowances withheld from an Indian tribe.

**SEC. 211. CLIMATE CHANGE HEALTH PROTECTION AND PROMOTION FUND.**

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a separate account, to be known as the “Climate Change Health Protection and Promotion Fund”.

1       (b) AUCTION PROCEEDS.—The Administrator shall  
2 deposit the proceeds of the auction pursuant to section  
3 771(b)(6) of the Clean Air Act in the Climate Change  
4 Health Protection and Promotion Fund.

5       (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
6 ited in the Climate Change Health Protection and Pro-  
7 motion Fund shall be available to the Secretary of Health  
8 and Human Services to carry out subpart B of subtitle  
9 C of title III of division A, without further appropriation  
10 or fiscal year limitation.

11       (d) DISTRIBUTION OF FUNDS BY HHS.—In carrying  
12 out subpart B of subtitle C of title III of division A, the  
13 Secretary of Health and Human Services may make funds  
14 deposited in the Climate Change Health Protection and  
15 Promotion Fund available to—

16           (1) other departments, agencies, and offices of  
17 the Federal Government;

18           (2) foreign, State, tribal, and local govern-  
19 ments; and

20           (3) such other entities as the Secretary deter-  
21 mines to be appropriate.

22       (e) SUPPLEMENT, NOT REPLACE.—It is the intent  
23 of Congress that funds made available to carry out sub-  
24 part B of subtitle C of title III of division A should be

1 used to supplement, and not replace, existing sources of  
2 funding for public health.

3 **SEC. 212. CLIMATE CHANGE SAFEGUARDS FOR NATURAL**  
4 **RESOURCES CONSERVATION.**

5 (a) ESTABLISHMENT OF FUND.—There is estab-  
6 lished in the Treasury a separate account, to be known  
7 as the “Natural Resources Climate Change Adaptation  
8 Account”.

9 (b) AUCTION PROCEEDS.—The Administrator shall  
10 deposit the proceeds of the auction conducted pursuant  
11 to section 771(b)(7) of the Clean Air Act in the Natural  
12 Resources Climate Change Adaptation Account.

13 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
14 ited in the Natural Resources Climate Change Adaptation  
15 Account shall be available without further appropriation  
16 or fiscal year limitation solely for the purposes of section  
17 370(b) of division A.

18 **SEC. 213. NUCLEAR WORKER TRAINING.**

19 (a) ESTABLISHMENT OF FUND.—There is estab-  
20 lished in the Treasury a separate account, to be known  
21 as the “Nuclear Worker Training Fund”.

22 (b) AUCTION PROCEEDS.—The Administrator shall  
23 deposit the proceeds of the auction conducted pursuant  
24 to section 771(b)(8) of the Clean Air Act in the Nuclear  
25 Worker Training Fund.

1 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
2 ited in the Nuclear Worker Training Fund shall be avail-  
3 able without further appropriation or fiscal year limitation  
4 solely for the purpose of carrying out section 132 of divi-  
5 sion A.

6 **SEC. 214. SUPPLEMENTAL AGRICULTURE, RENEWABLE EN-**  
7 **ERGY, AND FORESTRY.**

8 (a) ESTABLISHMENT OF FUND.—There is estab-  
9 lished in the Treasury a separate account, to be known  
10 as the “Supplemental Agriculture, Renewable Energy, and  
11 Forestry Fund”.

12 (b) AUCTION PROCEEDS.—The Administrator shall  
13 deposit the proceeds of the auction conducted pursuant  
14 to section 771(b)(9) of the Clean Air Act in the Supple-  
15 mental Agriculture, Renewable Energy, and Forestry  
16 Fund.

17 (c) AVAILABILITY OF AMOUNTS.—All amounts depos-  
18 ited in the Supplemental Agriculture, Renewable Energy,  
19 and Forestry Fund shall be available without further ap-  
20 propriation or fiscal year limitation solely for the purpose  
21 of carrying out section 155 of division A.

22 **SEC. 215. INVESTMENT IN GREENHOUSE GAS REDUCTIONS**  
23 **FROM THE TRANSPORTATION SECTOR.**

24 (a) DEFINITIONS.—In this section:

1           (1) ALLOWANCE.—The term “allowance”  
2 means an emission allowance established under sec-  
3 tion 721 of the Clean Air Act.

4           (2) SECRETARY.—The term “Secretary” means  
5 the Secretary of Transportation.

6           (3) VINTAGE YEAR.—The term “vintage year”  
7 has the meaning given the term in section 700 of the  
8 Clean Air Act.

9           (b) DISTRIBUTION OF ALLOWANCES.—For each  
10 year—

11           (1) the Administrator, in accordance with this  
12 section, shall distribute allowances allocated pursu-  
13 ant to section 771(b)(10) of the Clean Air Act for  
14 the following vintage year to the Secretary; and

15           (2) the Secretary shall use the allowances so  
16 distributed to reduce emissions from the transpor-  
17 tation sector in accordance with the following for-  
18 mula:

19           (A) 50 percent of the allowances shall be  
20 used exclusively for the Transportation Green-  
21 house Gas Reduction program in accordance  
22 with section 832 of the Clean Air Act.

23           (B) 50 percent of the allowances shall be  
24 used exclusively for public transportation grants  
25 in accordance with subsection (c).

1           (c) DISTRIBUTION OF PUBLIC TRANSPORTATION  
2 GRANTS.—

3           (1) IN GENERAL.—The Secretary shall dis-  
4 tribute the amounts allocated for public transpor-  
5 tation grants for each fiscal year in accordance with  
6 subsection (b)(2) as grants to public transportation  
7 agencies (including designated recipients (as defined  
8 in section 5307(a) and section 5340 of title 49,  
9 United States Code)) and recipients and sub-recipi-  
10 ents (as defined in section 5311(a) of title 49,  
11 United States Code).

12           (2) FORMULA.—In providing grants under this  
13 subsection, the Secretary shall distribute—

14           (A) 80 percent of the funds in accordance  
15 with the formula and conditions governing  
16 grants under section 5307 of title 49, United  
17 States Code;

18           (B) 10 percent of the funds in accordance  
19 with the formula and conditions governing  
20 grants under section 5311 of title 49, United  
21 States Code; and

22           (C) 10 percent of the funds in accordance  
23 with the formula and conditions governing  
24 grants under section 5340 of title 49, United  
25 States Code.

1 (d) AGREEMENTS.—No grant may be provided to a  
2 public transportation agency under this section for any fis-  
3 cal year unless—

4 (1) the grant is limited to a project approved in  
5 accordance with the greenhouse gas emission reduc-  
6 tion provisions under section 112 of division A; and

7 (2) the public transportation agency enters into  
8 such agreements with the Secretary as the Secretary  
9 may require to ensure that the public transportation  
10 agency will maintain the aggregate expenditures of  
11 the public transportation agency from all other  
12 sources for programs described in paragraph (1) at  
13 or above the average level of those expenditures dur-  
14 ing the 2 fiscal years preceding the date of enact-  
15 ment of this Act.

16 (e) LIMITATION ON USE OF FUNDS.—Public trans-  
17 portation grants funded under this section may be used  
18 only to fund strategies that demonstrate a reduction in  
19 greenhouse gas emissions.

20 **SEC. 216. STATE PROGRAMS FOR NATURAL RESOURCE AD-**  
21 **APTATION ACTIVITIES.**

22 The Administrator shall distribute emission allow-  
23 ances allocated for the following vintage year pursuant to  
24 section 771(a)(15) of the Clean Air Act among the States  
25 in accordance with the formula described in section

1 370(a)(1) of division A, exclusively to carry out natural  
2 resources adaptation activities in accordance with adapta-  
3 tion plans approved under section 369 of division A.