

## DISCUSSION DRAFT

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S.** \_\_\_\_\_

To secure the energy future of the United States, to provide incentives for the domestic production of clean energy technology, to achieve meaningful pollution reductions, to create jobs, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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\_\_\_\_\_ introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To secure the energy future of the United States, to provide incentives for the domestic production of clean energy technology, to achieve meaningful pollution reductions, to create jobs, and for other purposes.

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

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

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

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

## 2

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

## TITLE I—DOMESTIC CLEAN ENERGY DEVELOPMENT

## Subtitle A—Nuclear Power

- Sec. 1001. Statement of policy.

## PART I—ENCOURAGING DOMESTIC NUCLEAR POWER GENERATION

- Sec. 1101. Improvements regarding efficiency of regulatory process.
- Sec. 1102. Title 17 innovative technology loan guarantee program.
- Sec. 1103. Standby support for certain nuclear plant delays.
- Sec. 1104. Spent fuel recycling research and development center of excellence.
- Sec. 1105. Permits and licenses; hearings and judicial review; adjudicatory hearing.
- Sec. 1106. Continuation of service.
- Sec. 1107. Nuclear energy research initiative.
- Sec. 1108. Inspections, tests, analyses and acceptance criteria.
- Sec. 1109. Environmental reviews for nuclear energy projects.

## PART II—EXTENSION OF DUTY SUSPENSION FOR CERTAIN NUCLEAR PARTS

- Sec. 1111. Suspension of duty on certain components used in nuclear facilities.

## PART III—TAX PROVISIONS

- Sec. 1121. 5-year accelerated depreciation period for new nuclear power plants.
- Sec. 1122. Investment tax credit for nuclear power facilities.  
“Sec. 48E. Nuclear power facility construction credit.
- Sec. 1123. Inclusion of nuclear power facilities in qualifying advanced energy project credit.
- Sec. 1124. Modification of credit for production from advanced nuclear power facilities.
- Sec. 1125. Treatment of qualified public entities with respect to private activity bonds.
- Sec. 1126. Grants for qualified nuclear power facility expenditures in lieu of tax credits.

## Subtitle B—Offshore Oil and Gas

- Sec. 1201. Findings and purposes.
- Sec. 1202. Revenue sharing from outer Continental Shelf areas in certain coastal States.
- Sec. 1203. Revenue sharing from areas in Alaska Adjacent zone.
- Sec. 1204. Reservation of lands and rights.
- Sec. 1205. Impact studies.

## Subtitle C—Coal

## PART I—NATIONAL STRATEGY FOR CARBON CAPTURE AND SEQUESTRATION

- Sec. 1401. National strategy.
- Sec. 1402. Studies and reports.

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## PART II—CARBON CAPTURE AND SEQUESTRATION DEPLOYMENT

- Sec. 1411. Definitions.
- Sec. 1412. Special funding program for development and deployment of carbon capture, sequestration, and conversion technologies.
- Sec. 1413. Carbon Capture and Sequestration Program Partnership Council.
- Sec. 1414. Functions and administration of the special funding program.
- Sec. 1415. Assessments and funding.
- Sec. 1416. ERCOT.
- Sec. 1417. Determination of fossil fuel-based electricity deliveries.
- Sec. 1418. Compliance with assessments.
- Sec. 1419. Midcourse review.
- Sec. 1420. Recovery of costs.

## PART III—COMMERCIAL DEPLOYMENT OF CARBON CAPTURE AND SEQUESTRATION TECHNOLOGIES

- Sec. 1431. Commercial deployment of carbon capture and permanent sequestration technologies.
  - “Sec. 794. Commercial deployment of carbon capture and permanent sequestration technologies.
- Sec. 1432. Carbon capture and sequestration deployment studies.
  - “Sec. 789. Carbon capture and sequestration deployment studies.

## PART IV—PERFORMANCE STANDARDS

- Sec. 1441. Performance standards for coal-fired power plants.

## “TITLE VIII—GREENHOUSE GAS STANDARDS

- “Sec. 800. Definitions.
- “Sec. 801. Performance standards for new coal-fired power plants.
- “Sec. 802. Coal-fueled fleet transition program.

## Subtitle D—Renewable Energy and Energy Efficiency

- Sec. 1601. Renewable energy and energy efficiency.
- Sec. 1602. Rural energy savings program.
  - “Sec. 366. Rural energy savings program.
- Sec. 1603. Support of State renewable energy and energy efficiency programs.
- Sec. 1604. Voluntary renewable energy markets.

## Subtitle E—Clean Transportation

## PART I—ELECTRIC VEHICLE INFRASTRUCTURE

- Sec. 1701. National transportation low-emission energy plan; pilot program.

## PART II—TRANSPORTATION EFFICIENCY

- Sec. 1711. Greenhouse gas emission reductions through transportation efficiency.
  - “Sec. 803. Greenhouse gas emission reductions through transportation efficiency.
- Sec. 1712. Investing in transportation greenhouse gas emission reduction programs.

## PART III—HIGHWAY TRUST FUND

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Sec. 1721. Augmenting the Highway Trust Fund.

“Sec. 785. Highway Trust Fund.

Subtitle F—Clean Energy Research and Development

Sec. 1801. Clean energy technology research and development.

TITLE II—GREENHOUSE GAS POLLUTION REDUCTION

Subtitle A—Reducing Greenhouse Gas Pollution

Sec. 2001. Reducing greenhouse gas pollution.

“TITLE VII—GREENHOUSE GAS POLLUTION REDUCTION AND  
INVESTMENT PROGRAM

“PART A—GREENHOUSE GAS POLLUTION REDUCTION TARGETS

“Sec. 701. Findings.

“Sec. 702. Economy-wide reduction goals.

“Sec. 703. Reduction targets for specified sources.

“Sec. 704. Supplemental pollution reductions.

“Sec. 705. Review and program recommendations.

“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. Cost Containment Reserve.

“Sec. 727. Permits.

“Sec. 728. International emission allowances.

“Sec. 729. Compliance for transportation fuels and refined petroleum  
products.

“Sec. 730. Regulations.

“PART D—OFFSET CREDIT PROGRAM FOR DOMESTIC EMISSION  
REDUCTIONS

“Sec. 731. Definitions.

“Sec. 732. Advisory committee.

“Sec. 733. Establishment of domestic offsets program.

“Sec. 734. Eligible projects.

“Sec. 735. Requirements for offset projects.

“Sec. 736. Approval of offset projects.

“Sec. 737. Verification of offset projects.

“Sec. 738. Issuance of offset credits.

“Sec. 739. Audits and reviews.

- “Sec. 740. Early offset supply.
- “Sec. 741. Productivity study; program review and revision.
- “Sec. 742. Additional regulatory standards for emission reductions.

“PART E—OFFSET CREDIT PROGRAM FOR INTERNATIONAL EMISSION  
REDUCTIONS

- “Sec. 751. Definitions.
- “Sec. 752. International Offsets Integrity Advisory Committee.
- “Sec. 753. Establishment of international offsets program.
- “Sec. 754. Eligible project types.
- “Sec. 755. Requirements for international offset projects.
- “Sec. 756. Categories of international offset credits.
- “Sec. 757. Approval of offset projects.
- “Sec. 758. Verification of offset projects.
- “Sec. 759. Issuance of offset credits.
- “Sec. 760. Audits.
- “Sec. 761. Program review and revision.
- “Sec. 762. Environmental considerations.
- “Sec. 763. Incorporation by reference.
- Sec. 2002. Definitions.
- “Sec. 700. Definitions.

Subtitle B—Disposition of Allowances

- Sec. 2101. Disposition of allowances for global warming pollution reduction program.

“PART G—DISPOSITION OF ALLOWANCES

- “Sec. 781. Allocation of emission allowances.
- “Sec. 786. Exchange for State allowances.
- “Sec. 787. Deficit Reduction Fund.
- “Sec. 788. Early action recognition.
- “Sec. 790. Auction procedures.
- “Sec. 791. Auctioning allowances for other entities.
- “Sec. 792. Oversight of allocations and auction proceeds.
- “Sec. 793. Protection of affected parties.
- “Sec. 797. Presidential determination.
- “Sec. 798. Merchant generator efficiency incentive.

Subtitle C—Achieving Fast Mitigation

PART I—HYDROFLUOROCARBONS

- Sec. 2201. Hydrofluorocarbons.
- “Sec. 619. Hydrofluorocarbons.

PART II—BLACK CARBON

- Sec. 2211. Report on black carbon sources, impacts, and reduction opportunities.
- Sec. 2212. Black carbon mitigation.
  - “Sec. 805. Black carbon.
- Sec. 2213. Black carbon reduction retrofit grant program.
  - “Sec. 795. Black carbon reduction retrofit grant program.
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## PART III—INTERNATIONAL METHANE

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## PART IV—STUDY ON FAST MITIGATION STRATEGIES

Sec. 2231. Interagency study on fast mitigation strategies.

## Subtitle D—Ensuring Regulatory Predictability for Greenhouse Gases

- Sec. 2301. Criteria pollutants.
- Sec. 2302. Standards of performance for greenhouse gases.
- Sec. 2303. Hazardous air pollutants.
- Sec. 2304. International air pollution.
- Sec. 2305. Retention of State authority.
- Sec. 2306. New source review.
- Sec. 2307. Permit programs.

## Subtitle E—Regulation of Greenhouse Gas Markets

- Sec. 2401. Definitions.
- Sec. 2402. Jurisdiction of Commission; restriction of futures trading.
- Sec. 2403. Swap transactions.
- Sec. 2404. Excessive speculation.
  - “Sec. 4a. Excessive speculation.
- Sec. 2405. Fraud prohibition.
- Sec. 2406. Prohibited transactions.
- Sec. 2407. Manipulation prohibition.
- Sec. 2408. Trading of greenhouse gas instruments.
- Sec. 2409. Registration for regulated greenhouse gas market participants and compliance entities.
  - “Sec. 4r. Registration for regulated greenhouse gas market participants and compliance entities.
- Sec. 2410. Greenhouse gas instrument trading organizations.
  - “Sec. 5h. Greenhouse gas instrument trading organizations.
- Sec. 2411. Greenhouse gas clearing organizations.
  - “Sec. 5b–1. Greenhouse gas clearing organizations.
- Sec. 2412. Greenhouse gas allowance short sales.
  - “Sec. 5i. Short sale transactions.
- Sec. 2413. Greenhouse gas market emergency and suspension authority.
  - “Sec. 8e. Greenhouse gas market emergency and suspension authority.
- Sec. 2414. Territorial application.
- Sec. 2415. Memorandum and information sharing.
- Sec. 2416. Conforming amendments.

## Subtitle F—Miscellaneous

- Sec. 2501. Miscellaneous.
  - “Sec. 806. State programs.
  - “Sec. 807. Forestry sector greenhouse gas accounting.
  - “Sec. 808. Studies on impacts of renewable biomass use.
  - “Sec. 809. Review of definition of renewable biomass.
- Sec. 2502. Enforcement.
- Sec. 2503. Conforming amendments.

## TITLE III—CONSUMER PROTECTION

Subtitle A—Investing in Low-carbon Electricity and Energy Efficiency for  
Consumer Protection

- Sec. 3001. Electricity consumers.  
“Sec. 782. Electricity consumers.

Subtitle B—Investing in Low-carbon Heating and Energy Efficiency for  
Consumer Protection

- Sec. 3101. Natural gas consumers.  
“Sec. 783. Natural gas consumers.  
Sec. 3102. Home heating oil and propane consumers.  
“Sec. 784. Home heating oil and propane consumers.

Subtitle C—Consumer Relief

- Sec. 3201. Funding for working families refundable relief program.  
Sec. 3202. Refundable credit for working families relief.  
“Sec. 36D. Working families relief.  
Sec. 3203. Funding for energy refund program.  
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“TITLE XXII—ENERGY REFUND PROGRAM

- “Sec. 2201. Energy refund program.  
Sec. 3205. Study on mechanisms for delivering universal refund.  
Sec. 3206. Establishment of Universal Trust Fund.  
Sec. 3207. Universal refund.  
“Sec. 36E. Universal refund.

Subtitle D—Advocating for Consumers

- Sec. 3301. Office of Consumer Advocacy.

TITLE IV—JOB PROTECTION AND GROWTH

Subtitle A—Protecting American Manufacturing Jobs and Preventing Carbon  
Leakage

- Sec. 4001. Ensuring real reductions in industrial emissions.

“PART F—ENSURING REAL REDUCTIONS IN INDUSTRIAL EMISSIONS

- “Sec. 771. Purposes.  
“Sec. 772. Definitions.

“SUBPART 1—EMISSION ALLOWANCE REBATE PROGRAM

- “Sec. 773. Eligible industrial sectors.  
“Sec. 774. Distribution of emission allowance rebates.

“SUBPART 2—PROMOTING INTERNATIONAL REDUCTIONS IN INDUSTRIAL  
EMISSIONS

- “Sec. 775. International negotiations.  
“Sec. 776. Presidential reports and determinations.  
“Sec. 777. International reserve allowance program.  
“Sec. 778. Iron and steel sector.  
Sec. 4002. Domestic fuel production.

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- “Sec. 796. Allocations to refineries.
- Sec. 4003. Advanced energy project credit.
- Sec. 4004. Report on the utilization of tax incentives.

Subtitle B—Clean Energy Technology and Jobs

PART I—CLEAN ENERGY CAREER DEVELOPMENT

- Sec. 4101. Clean energy curriculum development grants.
- Sec. 4102. Development of information and resources clearinghouse for vocational education and job training in renewable energy sectors.
- Sec. 4103. Clean energy construction careers demonstration project.

PART II—TRANSPORTATION

SUBPART A—INVESTING IN CLEAN VEHICLES

- Sec. 4111. Investing in clean vehicles.

SUBPART B—POWERING VEHICLES WITH NATURAL GAS

- Sec. 4121. Credit for qualified natural gas motor vehicles.
- Sec. 4122. Natural gas vehicle bonds.
  - “Sec. 54G. Natural gas vehicle bonds.
- Sec. 4123. Incentives for manufacturing facilities producing vehicles fueled by compressed or liquified natural gas.
  - “Sec. 179F. Expensing for manufacturing facilities producing vehicles fueled by compressed natural gas or liquified natural gas.
- Sec. 4124. Study of increasing natural gas and liquefied petroleum gas vehicles in Federal fleet.

SUBPART C—COMMUNITY INFORMATION

- Sec. 4131. Notice of hydraulic fracturing operations.

SUBPART D—ADDITIONAL GREENHOUSE GAS STANDARDS

- Sec. 4141. Emission standards for mobile sources.
  - “Sec. 804. Greenhouse gas emission standards for mobile sources.

PART III—AGRICULTURE

- Sec. 4151. Definitions.
- Sec. 4152. Carbon conservation program.
- Sec. 4153. Carbon Conservation Fund.

PART IV—MANUFACTURING AND TECHNOLOGY

- Sec. 4161. Low-carbon industrial technologies research and development.
- Sec. 4162. Technical amendments.

TITLE V—INTERNATIONAL CLIMATE CHANGE ACTIVITIES

- Sec. 5001. Statement of policy.
- Sec. 5002. Definitions.
- Sec. 5003. Strategic Interagency Board on International Climate Investment.
- Sec. 5004. Emissions reductions through reduced deforestation.
- Sec. 5005. International Climate Change Adaptation and Global Security Program.



- Sec. 5006. Evaluation and reports.  
Sec. 5007. Report on major economies climate actions.

TITLE VI—COMMUNITY PROTECTION FROM CLIMATE CHANGE  
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- Sec. 6001. Definitions.  
Sec. 6002. Council on Environmental Quality.  
Sec. 6003. Natural Resources Climate Change Adaptation Panel.  
Sec. 6004. Natural Resources Climate Change Adaptation Strategy.  
Sec. 6005. Natural resources adaptation science and information.  
Sec. 6006. Federal natural resource agency adaptation plans.  
Sec. 6007. State natural resources adaptation plans.  
Sec. 6008. Natural Resources Climate Change Adaptation Account.  
Sec. 6009. National Fish and Wildlife Habitat and Corridors Information Program.  
Sec. 6010. Additional provisions regarding Indian tribes.  
Sec. 6011. Additional climate change adaptation programs.

TITLE VII—BUDGETARY EFFECTS

- Sec. 7001. Budgetary effects.

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 en-  
8 ergy 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 greenhouse gas, 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           (A) provide economic opportunities to mil-  
7       lions of people in the United States; and

8           (B) drive future economic growth in the  
9       United States;

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

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

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

24       (8) those jobs are distributed throughout the  
25       United States, and the highest clean energy economy

1 employment growth rates in the last 10 years were  
2 in the States of Idaho, Nebraska, Oregon, New Mex-  
3 ico, and South Dakota;

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

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

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

15 (A) increased outbreaks from waterborne  
16 diseases;

17 (B) more droughts;

18 (C) diminished agricultural production;

19 (D) severe storms and floods;

20 (E) heat waves;

21 (F) wildfires; and

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

24 (i) melting mountain glaciers;

25 (ii) shrinking sea ice; and

1 (iii) thawing permafrost;

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

5 (13) military officials, including retired admi-  
6 rals and generals, concur with the intelligence com-  
7 munity that climate change—

8 (A) acts as a threat multiplier for insta-  
9 bility; and

10 (B) presents significant national security  
11 challenges for the United States;

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

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

19 (16) the Copenhagen Accord, which builds on  
20 the agreements reached in the Bali Action Plan de-  
21 veloped under the United Nations Framework Con-  
22 vention on Climate Change done at New York on  
23 May 19, 1992, recognizes the need to limit the in-  
24 crease in global average temperatures to within 2 de-

1 grees Centigrade as a necessary step to prevent the  
2 catastrophic consequences of climate change; and

3 (17) the United States should lead the global  
4 community in—

5 (A) combating the threat of global climate  
6 change; and

7 (B) reaching a robust international agree-  
8 ment to address climate change under the  
9 United Nations Framework Convention on Cli-  
10 mate Change, done at New York on May 9,  
11 1992 (or a successor agreement).

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) ADMINISTRATOR.—The term “Adminis-  
15 trator” means the Administrator of the Environ-  
16 mental Protection Agency.

17 (2) DEPARTMENT.—The term “Department”  
18 means the Department of Energy.

19 (3) INDIAN TRIBE.—The term “Indian tribe”  
20 has the meaning given the term in section 302 of the  
21 Clean Air Act (42 U.S.C. 7602).

22 (4) SECRETARY.—The term “Secretary” means  
23 the Secretary of Energy.

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

4           **TITLE I—DOMESTIC CLEAN**  
5           **ENERGY DEVELOPMENT**  
6           **Subtitle A—Nuclear Power**

7           **SEC. 1001. STATEMENT OF POLICY.**

8           It is the policy of the United States, given the impor-  
9           tance of transitioning to a clean energy, low-carbon econ-  
10          omy, to facilitate the continued development and growth  
11          of a safe and clean nuclear energy industry, through—

12           (1) reductions in financial and technical bar-  
13          riers to construction and operation; and

14           (2) incentives for the growth of safe domestic  
15          nuclear and nuclear-related industries.

16          **PART I—ENCOURAGING DOMESTIC NUCLEAR**  
17          **POWER GENERATION**

18          **SEC. 1101. IMPROVEMENTS REGARDING EFFICIENCY OF**  
19          **REGULATORY PROCESS.**

20          (a) DEFINITIONS.—In this section:

21           (1) COMMISSION.—The term “Commission”  
22          means the Nuclear Regulatory Commission.

23           (2) EXPEDITED PROCEDURE.—The term “expe-  
24          dited procedure” means an expedited procedure—

1 (A) for issuing combined construction and  
2 operating licenses for qualified new nuclear re-  
3 actors; and

4 (B) established by the Commission under  
5 subsection (b)(1).

6 (b) EXPEDITED PROCEDURE.—

7 (1) IN GENERAL.—As soon as practicable after  
8 the date of enactment of this Act, the Commission  
9 shall establish and implement an expedited proce-  
10 dure for issuing combined construction and oper-  
11 ating licenses for qualified new nuclear reactors.

12 (2) QUALIFICATIONS.—To qualify for the expe-  
13 dited procedure, an applicant shall—

14 (A) apply for the construction of a nuclear  
15 reactor based on a design approved by the Com-  
16 mission;

17 (B) construct the nuclear reactor on a site  
18 at which an operating nuclear power plant ex-  
19 ists;

20 (C) construct the reactor on a site that has  
21 been granted an early site permit;

22 (D) submit to the Commission a complete  
23 combined construction and operating license ap-  
24 plication; and

1 (E) demonstrate sufficient financial com-  
2 mitment to the project, and a preparedness to  
3 proceed in earnest once the combined construc-  
4 tion and operating license is issued, as dem-  
5 onstrated by—

6 (i) the purchase of, or contract to pur-  
7 chase, long-lead materials; or

8 (ii) the securing of assured financing.

9 (3) REPORT TO CONGRESS.—

10 (A) IN GENERAL.—Not later than 90 days  
11 after the date of enactment of this Act, in ac-  
12 cordance with subparagraph (B), the Commis-  
13 sion shall submit to the appropriate committees  
14 of Congress a report that contains rec-  
15 ommendations of the Commission regarding the  
16 development and implementation of procedures  
17 that would enable the Commission to pursue a  
18 transparent, fact-based process in which the  
19 Commission would be capable of making, as ex-  
20 peditiously as practicable, decisions based on  
21 sound science and engineering.

22 (B) REQUIREMENTS.—The recommenda-  
23 tions to be included in the report under sub-  
24 paragraph (A) shall propose an efficient process  
25 that will allow interested parties that have



1 standing to participate in the proceedings to  
2 raise legitimate concerns to be heard and re-  
3 solved without undue delay.

4 (c) REPORT REGARDING TECHNOLOGY-NEUTRAL  
5 PLANT DESIGN SPECIFICATIONS.—Not later than 1 year  
6 after the date of enactment of this Act, the Commission  
7 shall submit to the appropriate committees of Congress  
8 a report that contains an outline of an approach that will  
9 enable the Commission to develop technology-neutral  
10 guidelines for nuclear plant licensing in the future, which  
11 will allow for a more seamless entry of new technologies  
12 into the marketplace.

13 (d) ADDITIONAL FUNDING AND PERSONNEL RE-  
14 SOURCES.—Not later than 90 days after the date of enact-  
15 ment of this Act, the Commission shall submit to Congress  
16 a request for such additional funding and personnel re-  
17 sources as are necessary to carry out subsections (b) and  
18 (c).

19 (e) NATIONAL LABORATORY SUPPORT.—Each Na-  
20 tional Laboratory with expertise in the field of nuclear en-  
21 ergy, in coordination with the Commission, shall dedicate  
22 personnel for the support of the expedited licensing proce-  
23 dures under subsection (b).

24 (f) PUBLIC HEALTH AND SAFETY.—

1           (1) EFFECT OF SECTION.—Nothing in this sec-  
2           tion supersedes, mitigates, detracts from, or in any-  
3           way decreases the ability of the Commission to  
4           maintain the highest possible levels of public health  
5           and safety standards for nuclear facilities in the  
6           United States.

7           (2) EFFECT OF AUTHORITY PROVIDED BY SEC-  
8           TION.—No authority provided by this section shall  
9           be executed in a manner that jeopardizes, minimizes,  
10          reduces, or lessens any public health or safety stand-  
11          ard.

12 **SEC. 1102. TITLE 17 INNOVATIVE TECHNOLOGY LOAN**  
13 **GUARANTEE PROGRAM.**

14          (a) FUNDING.—The matter under the heading  
15          “TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE  
16          PROGRAM” under the heading “ENERGY PROGRAMS”  
17          under the heading “DEPARTMENT OF ENERGY” of  
18          title III of division C of the Omnibus Appropriations Act,  
19          2009 (Public Law 111–8; 123 Stat. 619) is amended, in  
20          the matter preceding the first proviso—

21                  (1) by striking “\$47,000,000,000” and insert-  
22                  ing “\$100,000,000,000”; and

23                  (2) by striking “\$18,500,000,000” and insert-  
24                  ing “\$54,000,000,000”.

1 (b) LOAN GUARANTEE RETENTION FEE.—Section  
2 1702(h) of the Energy Policy Act of 2005 (42 U.S.C.  
3 16512(h)) is amended—

4 (1) by redesignating paragraph (2) as para-  
5 graph (3); and

6 (2) by inserting after paragraph (1) the fol-  
7 lowing:

8 “(2) LOAN GUARANTEE RETENTION FEES.—

9 “(A) IN GENERAL.—The Secretary shall  
10 charge and collect a loan guarantee retention  
11 fee from each advanced nuclear energy facility  
12 project described in section 1703(b)(4) to which  
13 the Secretary has made a guarantee under sub-  
14 section (a).

15 “(B) FEE STRUCTURE.—

16 “(i) GRACE PERIOD.—The Secretary  
17 may not charge or collect a loan guarantee  
18 retention fee from a project described in  
19 subparagraph (A) until the date that is 5  
20 years after the date on which construction  
21 of the project is completed.

22 “(ii) FEE STRUCTURE.—With respect  
23 to a project described in subparagraph (A),  
24 the rate for the loan guarantee retention  
25 fee shall—

1                   “(I) for the 1-year period begin-  
2                   ning on the date described in clause  
3                   (i), be charged at a rate equal to 0.5  
4                   percent;

5                   “(II) for each 1-year period  
6                   thereafter until the date that is 10  
7                   years after the date described in  
8                   clause (i), be charged at a rate equal  
9                   to the sum obtained by adding—

10                   “(aa) the rate charged by  
11                   the Secretary during the prior 1-  
12                   year period; and

13                   “(bb) 0.5 percent; and

14                   “(III) for each 1-year period  
15                   after the date described clause (ii)(II),  
16                   be charged at a rate equal to 5 per-  
17                   cent.”.

18 **SEC. 1103. STANDBY SUPPORT FOR CERTAIN NUCLEAR**  
19 **PLANT DELAYS.**

20                   (a) DEFINITIONS.—Section 638(a) of the Energy  
21 Policy Act of 2005 (42 U.S.C. 16014(a)) is amended—

22                   (1) by redesignating paragraph (4) as para-  
23                   graph (7); and

24                   (2) by inserting after paragraph (3) the fol-  
25                   lowing:

1           “(4) FULL POWER OPERATION.—The term ‘full  
2 power operation’, with respect to a facility, means  
3 the earlier of—

4           “(A) the commercial operation date (or the  
5 equivalent under the terms of the financing doc-  
6 uments for the facility); and

7           “(B) the date on which the facility  
8 achieves operation at an average nameplate ca-  
9 pacity of 50 percent or more during any con-  
10 secutive 30-day period after the completion of  
11 startup testing for the facility.

12           “(5) INCREASED PROJECT COSTS.—The term  
13 ‘increased project costs’ means the increased cost of  
14 constructing, commissioning, testing, operating, or  
15 maintaining a reactor prior to full-power operation  
16 incurred as a result of a delay covered by the con-  
17 tract, including costs of demobilization and re-  
18 mobilization, increased costs of equipment, materials  
19 and labor due to delay (including idle time), in-  
20 creased general and administrative costs, and esca-  
21 lation costs for completing construction.

22           “(6) LITIGATION.—The term ‘litigation’ means  
23 any—

24           “(A) adjudication in Federal, State, local,  
25 or tribal court; and

1           “(B) any administrative proceeding or  
2           hearing before a Federal, State, local, or tribal  
3           agency or administrative entity.”.

4           (b) CONTRACT AUTHORITY.—Section 638(b) of the  
5 Energy Policy Act of 2005 (42 U.S.C. 16014(b)) is  
6 amended by striking paragraph (1) and inserting the fol-  
7 lowing:

8           “(1) CONTRACTS.—

9           “(A) IN GENERAL.—The Secretary may  
10          enter into contracts under this section with  
11          sponsors of an advanced nuclear facility that  
12          cover at any 1 time a total of not more than  
13          12 reactors, which shall consist of not less than  
14          2 nor more than 4 different reactor designs, in  
15          accordance with paragraph (2).

16          “(B) REPLACEMENT CONTRACTS.—If any  
17          contract entered into under this section termi-  
18          nates or expires without a claim being paid by  
19          the Secretary under the contract, the Secretary  
20          may enter into a new contract under this sec-  
21          tion in replacement of the contract.”.

22          (c) COVERED COSTS.—Section 638(d) of the Energy  
23 Policy Act of 2005 (42 U.S.C. 16014(d)) is amended by  
24 striking paragraphs (2) and (3) and inserting the fol-  
25 lowing:

1           “(2) COVERAGE.—In the case of reactors that  
2 receive combined licenses and on which construction  
3 is commenced, the Secretary shall pay—

4                   “(A) 100 percent of the covered costs of  
5 delay that occur after the initial 30-day period  
6 of covered delay; but

7                   “(B) not more than \$500,000,000 per con-  
8 tract.

9           “(3) COVERED DEBT OBLIGATIONS.—Debt obli-  
10 gations covered under subparagraph (A) of para-  
11 graph (5) shall include debt obligations incurred to  
12 pay increased project costs.”.

13       (d) DISPUTE RESOLUTION.—Section 638 of the En-  
14 ergy Policy Act of 2005 (42 U.S.C. 16014) is amended—

15           (1) by redesignating subsections (f) through (h)  
16 as subsections (g) through (i), respectively; and

17           (2) by inserting after subsection (e) the fol-  
18 lowing:

19       “(f) DISPUTE RESOLUTION.—

20           “(1) IN GENERAL.—Any controversy or claim  
21 arising out of or relating to any contract entered  
22 into under this section shall be determined by arbi-  
23 tration in Washington, DC, in accordance with the  
24 applicable Commercial Arbitration Rules of the  
25 American Arbitration Association.

1           “(2) TREATMENT OF DECISION.—A decision by  
2           an arbitrator shall be final and binding, and the  
3           United States district court for Washington, DC, or  
4           the district in which the project is located shall have  
5           jurisdiction to enter judgment on the decision.”.

6           (e) REPORTS BY COMMISSIONS.—Section 638 of the  
7           Energy Policy Act of 2005 (42 U.S.C. 16014) (as amend-  
8           ed by subsection (d)) is amended by striking subsection  
9           (g) and inserting the following:

10          “(g) REPORTS BY COMMISSION.—

11               “(1) QUARTERLY REPORTS.—Effective begin-  
12               ning not later than 90 days after the date of enact-  
13               ment of the American Power Act, the Commission  
14               shall submit to the Committee on Appropriations,  
15               and the Committee on Energy and Natural Re-  
16               sources, of the Senate and the Committee on Appro-  
17               priations, and the Committee on Energy and Com-  
18               merce, of the House of Representatives a quarterly  
19               report that—

20                       “(A) describes the status of licensing ac-  
21                       tions associated with each advanced nuclear fa-  
22                       cility that is being licensed by the Commission,  
23                       or covered by a contract under this section;



1           “(B) describes the schedules for completion  
2           of the licensing actions, including licensing  
3           milestones;

4           “(C) as necessary, provides an explanation  
5           for why licensing milestones have not been met;

6           “(D) describes the quantity of additional  
7           personnel, amounts of funds, or other resources  
8           that are necessary to ensure that the Commis-  
9           sion possesses the capability to review and proc-  
10          ess licensing applications in a timely manner;  
11          and

12          “(E) indicates the steps that will be taken  
13          by the Commission to ensure the expeditious re-  
14          view and processing of submitted, complete li-  
15          censing applications.

16          “(2) BIENNIAL REPORTS.—Effective beginning  
17          not later than 90 days after the date of enactment  
18          of the American Power Act, the Commission shall  
19          submit to the Committee on Appropriations, and the  
20          Committee on Energy and Natural Resources, of the  
21          Senate and the Committee on Appropriations, and  
22          the Committee on Energy and Commerce, of the  
23          House of Representatives a biennial report that—

24                 “(A) contains recommendations for amend-  
25                 ments to existing laws (including regulations)

1           that should be made to help remove barriers to  
2           the expeditious review of complete licensing ap-  
3           plications; and

4           “(B) describes each action taken or  
5           planned to be taken by the Commission to im-  
6           prove the guidance provided by the Commission  
7           to license applicants to improve the quality of  
8           license applications.”.

9   **SEC. 1104. SPENT FUEL RECYCLING RESEARCH AND DE-**  
10                           **VELOPMENT CENTER OF EXCELLENCE.**

11           (a) DEFINITIONS.—In this section:

12                   (1) CENTER OF EXCELLENCE.—The term “cen-  
13           ter of excellence” means a spent fuel recycling re-  
14           search and development center of excellence des-  
15           ignated under subsection (b)(1).

16                   (2) NATIONAL LABORATORY.—The term “Na-  
17           tional Laboratory” has the meaning given the term  
18           in section 2 of the Energy Policy Act of 2005 (42  
19           U.S.C. 15801).

20           (b) CENTER OF EXCELLENCE.—

21                   (1) IN GENERAL.—Not later than 1 year after  
22           the date of enactment of this Act, the Secretary  
23           shall designate a National Laboratory as a spent  
24           fuel recycling research and development center of ex-  
25           cellence.

1 (2) PURPOSE.—

2 (A) IN GENERAL.—In accordance with  
3 subparagraph (B), the center of excellence shall  
4 serve as the lead site for continuing research  
5 and development of advanced nuclear fuel cycles  
6 and separation technologies.

7 (B) RESEARCH INITIATIVES.—In carrying  
8 out subparagraph (A), the center of excellence  
9 shall conduct research initiatives—

10 (i) to develop technologies that reduce  
11 the quantity of waste requiring disposal or  
12 storage;

13 (ii) to ensure adequate protection  
14 against the proliferation of nuclear mate-  
15 rials that could be used in the manufacture  
16 of nuclear weapons; and

17 (iii) to achieve other goals that the  
18 Secretary determines to be appropriate.

19 (3) SITE SELECTION.—In selecting a center of  
20 excellence, the Secretary shall give preference to a  
21 site that has—

22 (A) the most technically sound bid;

23 (B) a demonstrated technical expertise in  
24 spent fuel recycling; and

25 (C) community support.

1 **SEC. 1105. PERMITS AND LICENSES; HEARINGS AND JUDI-**  
2 **CIAL REVIEW; ADJUDICATORY HEARING.**

3 (a) PERMITS AND LICENSES.—Section 185 b. of the  
4 Atomic Energy Act of 1954 (42 U.S.C. 2235 b.) is amend-  
5 ed in the first sentence—

6 (1) by striking “public hearing” and inserting  
7 “hearing”; and

8 (2) by inserting “or if the Commission has de-  
9 termined that no hearing is required to be held  
10 under that section,” after “section 189 a. (1)(A),”.

11 (b) HEARINGS AND JUDICIAL REVIEW.—Section 189  
12 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) is  
13 amended—

14 (1) in subsection a.—

15 (A) in paragraph (1)(A)—

16 (i) in the second sentence—

17 (I) by striking “The Commis-  
18 sion” and all that follows through  
19 “Federal Register, on” and inserting  
20 “On”;

21 (II) by inserting “or an operating  
22 license” after “construction permit”  
23 each place it appears; and

24 (III) by striking the period at the  
25 end; and

26 (ii) in the third sentence—

1 (I) by striking “In cases” and all  
2 that follows through “such a hear-  
3 ing”;

4 (II) by striking “therefor” and  
5 inserting “for a hearing”; and

6 (III) by striking “issue an oper-  
7 ating license” and inserting “issue a  
8 construction permit, an operating li-  
9 cense,”; and

10 (B) in paragraph (2)(A), in the second  
11 sentence, by striking “required hearing” and in-  
12 serting “hearing held by the Commission under  
13 this section”; and

14 (2) in subsection b. (2), by striking “to begin  
15 operating” and inserting “to operate”.

16 (c) ADJUDICATORY HEARING.—Section 193(b) of the  
17 Atomic Energy Act of 1954 (42 U.S.C. 2243(b)) is  
18 amended—

19 (1) in paragraph (1), by striking “on the  
20 record” and all that follows through “and 63” and  
21 inserting “if a person the interest of whom may be  
22 affected by the construction and operation of a ura-  
23 nium enrichment facility under sections 53 and 63  
24 has requested a hearing regarding the licensing of  
25 the construction and operation of the facility”; and

1           (2) in paragraph (2), by striking “Such hear-  
2           ing” and inserting “If a hearing is held under para-  
3           graph (1), the hearing”.

4           (d) **APPLICABILITY.**—The amendments made by this  
5           section shall apply with respect to each application and  
6           proceeding pending before the Nuclear Regulatory Com-  
7           mission as of the date of enactment of this Act.

8           **SEC. 1106. CONTINUATION OF SERVICE.**

9           Section 201(c) of the Energy Reorganization Act of  
10          1974 (42 U.S.C. 5841(c)) is amended—

11           (1) by striking “(c) Each member” and insert-  
12           ing the following:

13           “(c) **SERVICE OF MEMBERS.**—

14           “(1) **IN GENERAL.**—Except as provided in para-  
15           graph (2), each member”; and

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

17           “(2) **EXTENDED SERVICE BY MEMBERS OF**  
18           **COMMISSION.**—

19           “(A) **IN GENERAL.**—Except as provided in  
20           subparagraph (B), a member of the Commis-  
21           sion may serve on the Commission after the  
22           date on which the term of service of the mem-  
23           ber has expired.

1           “(B) EXCEPTION.—A member of the Com-  
2           mission described in subparagraph (A) may not  
3           serve after the earlier of—

4                   “(i) the date on which the term of  
5                   service of the successor of the member of  
6                   the Commission commences; or

7                   “(ii) the date of adjournment of the  
8                   session of Congress the commencement  
9                   date of which begins after the date of expi-  
10                  ration of the term of service of the member  
11                  of the Commission.”.

12 **SEC. 1107. NUCLEAR ENERGY RESEARCH INITIATIVE.**

13           Section 952(a) of the Energy Policy Act of 2005 (42  
14 U.S.C. 16272(a)) is amended—

15                   (1) by striking “The Secretary” and inserting  
16                   the following:

17                           “(1) IN GENERAL.—The Secretary;” and

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

19                           “(2) AUTHORIZED RESEARCH INITIATIVES.—In  
20                   carrying out the program under this subsection, the  
21                   Secretary shall conduct research to lower the cost of  
22                   nuclear reactor systems, including research regard-  
23                   ing—

24                           “(A) modular and small-scale reactors;

25                           “(B) balance-of-plant issues;

1           “(C) cost-efficient manufacturing and con-  
2           struction;

3           “(D) licensing issues; and

4           “(E) enhanced proliferation controls.

5           “(3) CONSULTATION REQUIREMENT.—In car-  
6           rying out initiatives under paragraph (2), the Sec-  
7           retary shall consult with—

8           “(A) the Secretary of Commerce;

9           “(B) the Secretary of the Treasury;

10          “(C) the Nuclear Regulatory Commission;

11          and

12          “(D) any other individual who the Sec-  
13          retary determines to be necessary.

14          “(4) SCHEDULE.—

15          “(A) IN GENERAL.—Not later than 180  
16          days after the date of enactment of this para-  
17          graph, the Secretary shall develop and publish  
18          on the website of the Department of Energy a  
19          schedule that contains an outline of a 5-year  
20          strategy to lower effectively the costs of nuclear  
21          reactors.

22          “(B) PUBLIC WORKSHOPS.—In developing  
23          the schedule under subparagraph (A), the Sec-  
24          retary shall conduct public workshops to pro-  
25          vide an opportunity for public comment.



1           “(C) REVIEW.—Before the date on which  
2           the Secretary publishes the schedule under sub-  
3           paragraph (A), the Nuclear Energy Advisory  
4           Committee shall conduct a review of the sched-  
5           ule.

6           “(D) ANNUAL UPDATES.—

7                   “(i) IN GENERAL.—Not later than  
8                   180 days after the date on which the Sec-  
9                   retary publishes the schedule under sub-  
10                  paragraph (A) and annually thereafter, the  
11                  Secretary shall update the schedule.

12                   “(ii) PUBLIC WORKSHOPS.—In updat-  
13                   ing the schedule under clause (i), the Sec-  
14                   retary shall conduct public workshops in  
15                   accordance with subparagraph (B).

16           “(5) COST SHARING.—Section 988 shall apply  
17           to initiatives carried out under this section.

18           “(6) AUTHORIZATION OF APPROPRIATIONS.—  
19           There is authorized to be appropriated to carry out  
20           this section \$50,000,000 for each of fiscal years  
21           2011 through 2015.”.

22 **SEC. 1108. INSPECTIONS, TESTS, ANALYSES AND ACCEPT-**  
23 **ANCE CRITERIA.**

24           Section 185 b. of the Atomic Energy Act of 1954 (42  
25 U.S.C. 2235 b.) is amended by striking the third sentence

1 and inserting the following: “Following issuance of the  
2 combined license, the Commission shall ensure that the  
3 prescribed inspections, tests, and analyses have been  
4 met.”.

5 **SEC. 1109. ENVIRONMENTAL REVIEWS FOR NUCLEAR EN-**  
6 **ERGY PROJECTS.**

7 Section 185 b. of the Atomic Energy Act of 1954 (42  
8 U.S.C. 2235 b.) is amended by adding at the end the fol-  
9 lowing:

10 “(c) ENVIRONMENTAL REVIEWS FOR NUCLEAR EN-  
11 ERGY PROJECTS.—

12 “(1) IN GENERAL.—In a proceeding for a com-  
13 bined construction permit and operating license for  
14 a site for which an early site permit has been issued,  
15 any environmental impact statement prepared by the  
16 Commission and cooperating agencies shall be pre-  
17 pared as a supplement to the environmental impact  
18 statement prepared for the early site permit.

19 “(2) INCORPORATION BY REFERENCE.—The  
20 supplemental environmental impact statement shall  
21 incorporate by reference the analysis, findings, and  
22 conclusions from the environmental impact state-  
23 ment prepared for the early site permit,  
24 supplementing the discussion, analyses, findings,  
25 and conclusions on matters resolved in the early site

1 permit proceeding only to the extent necessary to  
2 address information that is—

3 “(A) new; and

4 “(B) significant in that the information  
5 would materially change the prior findings or  
6 conclusions.

7 “(3) REGULATIONS.—Not later than 90 days  
8 after the date of enactment of this subsection, the  
9 Commission shall initiate rulemaking to amend the  
10 regulations of the Commission to implement this  
11 subsection.

12 “(4) RELATIONSHIP TO OTHER LAW.—Nothing  
13 in this section exempts the Commission from any re-  
14 quirement for full compliance with section 102(2)(C)  
15 of the National Environmental Policy Act of 1969  
16 (42 U.S.C. 4332(2)(C)).”.

17 **PART II—EXTENSION OF DUTY SUSPENSION FOR**  
18 **CERTAIN NUCLEAR PARTS**

19 **SEC. 1111. SUSPENSION OF DUTY ON CERTAIN COMPO-**  
20 **NENTS USED IN NUCLEAR FACILITIES.**

21 (a) IN GENERAL.—Subchapter II of chapter 99 of  
22 the Harmonized Tariff Schedule of the United States is  
23 amended by inserting in numerical sequence the following:

“	9902.84.15	Watertube boilers with a steam production exceeding 45 t per hour, for use in nuclear facilities (provided for in subheading 8402.11.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the watertube boiler was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020
	9902.84.16	Reactor vessels (including reactor vessel heads) for use in nuclear facilities (provided for in subheading 8401.10.00 or 8401.40.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the reactor vessel was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020
	9902.84.17	Pressurizers (whether or not including heaters) for use in nuclear facilities (provided for in subheading 8401.40.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the pressurizer was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020
	9902.84.18	Reactor coolant system loop pipe and cold legs, for use in nuclear facilities (provided for in subheading 8401.40.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the reactor coolant system loop pipe and cold legs was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020
	9902.84.19	Heat exchangers for use in nuclear facilities (provided for in subheading 8402.11.00 or 8402.90.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the heat exchanger was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020
	9902.84.20	Main stepup transformers for use in nuclear facilities (provided for in subheading 8504.23.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the main stepup transformer was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020

9902.84.21	Steam turbines (whether or not part of a generator set) for use in nuclear facilities (provided for in subheading 8406.81.10), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the steam turbine was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020
9902.84.22	Main generators (whether or not part of a generator set) for use in nuclear facilities (provided for in subheading 8501.64.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the main generator was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020
9902.84.23	Turbine condensers for use in nuclear facilities (provided for in subheading 8404.20.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the turbine condenser was entered into on or before 12/31/2010	Free	No change	No change	On or before 12/31/2020
9902.84.24	Moisture separator reheaters for use in nuclear facilities (provided for in subheading 8402.90.00), entered after 12/31/2008 and on or before 12/31/2020, if the contract for the purchase of the moisture separator reheater was entered into on or before 12/31/2010 .....	Free	No change	No change	On or before 12/31/2020

1 (b) CLERICAL AMENDMENT.—Subchapter II of chap-  
 2 ter 99 of the Harmonized Tariff Schedule of the United  
 3 States is amended by striking headings 9902.84.02 and  
 4 9902.84.03.

5 (c) EFFECTIVE DATE.—The amendments made by  
 6 this section apply to goods entered, or withdrawn from  
 7 warehouse for consumption, on or after the date that is  
 8 15 days after the date of the enactment of this Act.

1                                   **PART III—TAX PROVISIONS**  
2   **SEC. 1121. 5-YEAR ACCELERATED DEPRECIATION PERIOD**  
3                                   **FOR NEW NUCLEAR POWER PLANTS.**

4           (a) **IN GENERAL.**—Subparagraph (B) of section  
5 168(e)(3) of the Internal Revenue Code of 1986 is amend-  
6 ed by striking “and” at the end of clause (vi)(III), by  
7 striking the period at the end of clause (vii) and inserting  
8 “, and”, and by inserting after clause (vii) the following  
9 new clause:

10                                   “(viii) any tangible property (not in-  
11 cluding a building or its structural compo-  
12 nents) which is used as an integral part of  
13 an advanced nuclear power facility (as de-  
14 fined in section 45J(d)(1), determined  
15 without regard to subparagraph (B) there-  
16 of) the original use of which commences  
17 with the taxpayer after the date of the en-  
18 actment of this clause.”.

19           (b) **CONFORMING AMENDMENT.**—Section  
20 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986  
21 is amended by inserting “and not described in subpara-  
22 graph (B)(viii) of this paragraph” after “section  
23 1245(a)(3)”.

24           (c) **EFFECTIVE DATE.**—The amendments made by  
25 this section shall apply to property placed in service after  
26 the date of the enactment of this Act.

1 **SEC. 1122. INVESTMENT TAX CREDIT FOR NUCLEAR POWER**  
2 **FACILITIES.**

3 (a) NEW CREDIT FOR NUCLEAR POWER FACILI-  
4 TIES.—Section 46 of the Internal Revenue Code of 1986  
5 is amended—

6 (1) by striking “and” at the end of paragraph  
7 (5);

8 (2) by striking the period at the end of para-  
9 graph (6) and inserting “; and”; and

10 (3) by inserting after paragraph (5) the fol-  
11 lowing new paragraph:

12 “(7) the nuclear power facility construction  
13 credit.”.

14 (b) NUCLEAR POWER FACILITY CONSTRUCTION  
15 CREDIT.—Subpart E of part IV of subchapter A of chap-  
16 ter 1 of the Internal Revenue Code of 1986 is amended  
17 by inserting after section 48D the following new section:

18 **“SEC. 48E. NUCLEAR POWER FACILITY CONSTRUCTION**  
19 **CREDIT.**

20 “(a) IN GENERAL.—For purposes of section 46, the  
21 nuclear power facility construction credit for any taxable  
22 year is 10 percent of the qualified nuclear power facility  
23 expenditures with respect to a qualified nuclear power fa-  
24 cility.

25 “(b) WHEN EXPENDITURES TAKEN INTO AC-  
26 COUNT.—

1           “(1) IN GENERAL.—Qualified nuclear power fa-  
2           cility expenditures shall be taken into account for  
3           the taxable year in which the qualified nuclear power  
4           facility is placed in service.

5           “(2) COORDINATION WITH SUBSECTION (c).—  
6           The amount which would (but for this paragraph) be  
7           taken into account under paragraph (1) with respect  
8           to any qualified nuclear power facility shall be re-  
9           duced (but not below zero) by any amount of quali-  
10          fied nuclear power facility expenditures taken into  
11          account under subsection (c) by the taxpayer or a  
12          predecessor of the taxpayer, to the extent any  
13          amount so taken into account under subsection (c)  
14          has not been required to be recaptured under section  
15          50(a).

16          “(c) PROGRESS EXPENDITURES.—

17                 “(1) IN GENERAL.—A taxpayer may elect to  
18                 take into account qualified nuclear power facility ex-  
19                 penditures—

20                         “(A) in the case of a qualified nuclear  
21                         power facility which is a self-constructed facil-  
22                         ity, no earlier than the taxable year for which  
23                         such expenditures are properly chargeable to  
24                         capital account with respect to such facility,  
25                         and



1           “(B) in the case of a qualified nuclear fa-  
2           cility which is not self-constructed property, no  
3           earlier than the taxable year in which such ex-  
4           penditures are paid.

5           “(2) SPECIAL RULES FOR APPLYING PARA-  
6           GRAPH (1).—For purposes of paragraph (1)—

7           “(A) COMPONENT PARTS, ETC.—Notwith-  
8           standing that a qualified nuclear power facility  
9           is a self-constructed facility, property described  
10          in paragraph (3)(B) shall be taken into account  
11          in accordance with paragraph (1)(B), and such  
12          amounts shall not be included in determining  
13          qualified nuclear power facility expenditures  
14          under paragraph (1)(A).

15          “(B) CERTAIN BORROWING DIS-  
16          REGARDED.—Any amount borrowed directly or  
17          indirectly by the taxpayer on a nonrecourse  
18          basis from the person constructing the facility  
19          for the taxpayer shall not be treated as an  
20          amount expended for such facility.

21          “(C) LIMITATION FOR FACILITIES OR COM-  
22          PONENTS WHICH ARE NOT SELF-CON-  
23          STRUCTED.—

24                 “(i) IN GENERAL.—In the case of a  
25                 facility or a component of a facility which

1 is not self-constructed, the amount taken  
2 into account under paragraph (1)(B) for  
3 any taxable year shall not exceed the ex-  
4 cess of—

5 “(I) the product of the overall  
6 cost to the taxpayer of the facility or  
7 component of a facility, multiplied by  
8 the percentage of completion of the  
9 facility or component of a facility,  
10 over

11 “(II) the amount taken into ac-  
12 count under paragraph (1)(B) for all  
13 prior taxable years as to such facility  
14 or component of a facility.

15 “(ii) CARRYOVER OF CERTAIN  
16 AMOUNTS.—In the case of a facility or  
17 component of a facility which is not self-  
18 constructed, if for the taxable year the  
19 amount which (but for clause (i)) would  
20 have been taken into account under para-  
21 graph (1)(B) exceeds the amount allowed  
22 by clause (i), then the amount of such ex-  
23 cess shall increase the amount taken into  
24 account under paragraph (1)(B) for the

1           succeeding taxable year without regard to  
2           this paragraph.

3           “(D) DETERMINATION OF PERCENTAGE OF  
4           COMPLETION.—The determination under sub-  
5           paragraph (C) of the portion of the overall cost  
6           to the taxpayer of the construction which is  
7           properly attributable to construction completed  
8           during any taxable year shall be made on the  
9           basis of engineering or architectural estimates  
10          or on the basis of cost accounting records,  
11          using information available at the close of the  
12          taxable year in which the credit is being  
13          claimed.

14          “(E) DETERMINATION OF OVERALL  
15          COST.—The determination under subparagraph  
16          (C) of the overall cost to the taxpayer of the  
17          construction of a facility shall be made on the  
18          basis of engineering or architectural estimates  
19          or on the basis of cost accounting records,  
20          using information available at the close of the  
21          taxable year in which the credit is being  
22          claimed.

23          “(F) NO PROGRESS EXPENDITURES FOR  
24          PROPERTY FOR YEAR PLACED IN SERVICE,  
25          ETC.—In the case of any qualified nuclear facil-

1           ity, no qualified nuclear facility expenditures  
2           shall be taken into account under this sub-  
3           section for the earlier of—

4                   “(i) the taxable year in which the fa-  
5                   cility is placed in service, or

6                   “(ii) the first taxable year for which  
7                   recapture is required under section  
8                   50(a)(2) with respect to such facility or for  
9                   any taxable year thereafter.

10           “(3) SELF-CONSTRUCTED.—For purposes of  
11           this subsection—

12                   “(A) IN GENERAL.—The term ‘self-con-  
13                   structed facility’ means any facility if, at the  
14                   close of the first taxable year to which the elec-  
15                   tion in this subsection applies, it is reasonable  
16                   to believe that more than 80 percent of the  
17                   qualified nuclear facility expenditures for such  
18                   facility will be made directly by the taxpayer.

19                   “(B) TREATMENT OF COMPONENTS.—A  
20                   component of a facility shall be treated as not  
21                   self-constructed if, at the close of the first tax-  
22                   able year in which expenditures for the compo-  
23                   nent are paid, it is reasonable to believe that  
24                   the cost of the component is at least 5 percent  
25                   of the expected cost of the facility.

1           “(4) ELECTION.—An election shall be made  
2           under this subsection for a qualified nuclear power  
3           facility by claiming the nuclear power facility con-  
4           struction credit for expenditures described in para-  
5           graph (1) on the taxpayer’s return of the tax im-  
6           posed by this chapter for the taxable year. Such an  
7           election shall apply to the taxable year for which  
8           made and all subsequent taxable years. Such an  
9           election, once made, may be revoked only with the  
10          consent of the Secretary.

11          “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
12         poses of this section—

13                 “(1) QUALIFIED NUCLEAR POWER FACILITY.—  
14                 The term ‘qualified nuclear power facility’ means an  
15                 advanced nuclear facility (as defined in section  
16                 45J(d)(2)) which—

17                         “(A) is placed in service before January 1,  
18                         2025, and

19                         “(B) when placed in service, will use nu-  
20                         clear power to produce electricity.

21                 Such term shall not include any property which is  
22                 part of a facility the production from which is al-  
23                 lowed as a credit under section 45J for the taxable  
24                 year or any prior taxable year.

1           “(2) QUALIFIED NUCLEAR POWER FACILITY  
2 EXPENDITURES.—The term ‘qualified nuclear power  
3 facility expenditures’ means any amount paid, ac-  
4 crued, or properly chargeable to capital account—

5           “(A) with respect to a qualified nuclear  
6 power facility,

7           “(B) for which depreciation will be allow-  
8 able under section 168 once the facility is  
9 placed in service, and

10           “(C) which is incurred before the qualified  
11 nuclear power facility is placed in service or in  
12 connection with the placement of such facility  
13 in service.

14           “(3) DELAYS AND SUSPENSION OF CONSTRUC-  
15 TION.—

16           “(A) IN GENERAL.—Except for sales or  
17 dispositions between members of the same af-  
18 filiated group, for purposes of applying this sec-  
19 tion and section 50, a nuclear power facility  
20 that is under construction shall cease, with re-  
21 spect to the taxpayer, to be a qualified nuclear  
22 power facility as of the date on which the tax-  
23 payer sells, disposes of, or cancels, abandons, or  
24 otherwise terminates the construction of, the fa-  
25 cility.

1           “(B) RESUMPTION OF CONSTRUCTION.—If  
2           a nuclear power facility that is under construc-  
3           tion ceases, with respect to the taxpayer, to be  
4           a qualified nuclear power facility by reason of  
5           subparagraph (A) and work is subsequently re-  
6           sumed on the construction of such facility, the  
7           qualified nuclear power facility expenditures  
8           shall be determined without regard to any delay  
9           or temporary termination of construction of the  
10          facility.

11          “(e) APPLICATION OF OTHER RULES.—Rules similar  
12          to the rules of subsections (c)(4) and (d) of section 46  
13          (as in effect on the day before the enactment of the Rev-  
14          enue Reconciliation Act of 1990) shall apply for purposes  
15          of this section to the extent not inconsistent herewith.

16          “(f) ELECTION TO HAVE CREDIT NOT APPLY.—

17                 “(1) IN GENERAL.—A taxpayer may elect to  
18                 have this section not apply for any taxable year.

19                 “(2) TIME AND MANNER FOR MAKING ELEC-  
20                 TION.—Rules similar to the rules of section 43(e)  
21                 shall apply for purposes of this subsection.”.

22          “(c) SPECIAL RULE FOR BASIS ADJUSTMENT.—Para-  
23          graph (3) of section 50(c) of the Internal Revenue Code  
24          of 1986 is amended by inserting “or nuclear power facility  
25          construction credit” after “energy credit”.

1 (d) PROVISIONS RELATING TO CREDIT RECAP-  
2 TURE.—

3 (1) PROGRESS EXPENDITURE RECAPTURE  
4 RULES.—

5 (A) BASIC RULES.—Subparagraph (A) of  
6 section 50(a)(2) of the Internal Revenue Code  
7 of 1986 is amended to read as follows:

8 “(A) IN GENERAL.—If during any taxable  
9 year any building to which section 47(d) applied  
10 or any facility to which section 48E(e) applied  
11 ceases (by reason of sale or other disposition,  
12 cancellation or abandonment of contract, or  
13 otherwise) to be, with respect to the taxpayer,  
14 property which, when placed in service, will be  
15 a qualified rehabilitated building or a qualified  
16 nuclear power facility, then the tax under this  
17 chapter for such taxable year shall be increased  
18 by an amount equal to the aggregate decrease  
19 in the credits allowed under section 38 for all  
20 prior taxable years which would have resulted  
21 solely from reducing to zero the credit deter-  
22 mined under this subpart with respect to such  
23 building or facility.”.



1 (B) AMENDMENT TO EXCESS CREDIT RE-  
2 CAPTURE RULE.—Subparagraph (B) of section  
3 50(a)(2) of such Code is amended by—

4 (i) inserting “or paragraph (2) of sec-  
5 tion 48E(b)” after “paragraph (2) of sec-  
6 tion 47(b)”;

7 (ii) inserting “or section 48E(b)(1)”  
8 after “section 47(b)(1)”; and

9 (iii) inserting “or facility” after  
10 “building”.

11 (C) AMENDMENT OF SALE AND LEASE-  
12 BACK RULE.—Subparagraph (C) of section  
13 50(a)(2) of such Code is amended by inserting  
14 “or the qualified nuclear power facility expendi-  
15 tures under section 48E(e)” after “47(d)”.

16 (D) COORDINATION.—Subparagraph (D)  
17 of section 50(a)(2) of such Code is amended by  
18 inserting “or 48E(e)” after “section 47(d)”.

19 (e) APPLICATION OF AT-RISK RULES.—Subpara-  
20 graph (C) of section 49(a)(1) of the Internal Revenue  
21 Code of 1986 is amended—

22 (1) by striking “and” at the end of clause (v);

23 (2) by striking the period at the end of clause

24 (vi) and inserting “, and”; and

1           (3) by inserting after clause (vi) the following  
2           new clause:

3                       “(vii) the basis of any property which  
4                       is part of a qualified nuclear power facility  
5                       under section 48E.”.

6           (f) DENIAL OF DOUBLE BENEFIT.—Subsection (c)  
7 of section 45J of the Internal Revenue Code of 1986 (re-  
8 lating to other limitations) is amended by adding at the  
9 end the following new paragraph:

10                   “(3) DENIAL OF DOUBLE BENEFIT.—No credit  
11           shall be allowed under this section with respect to  
12           any facility for which a credit is allowed under sec-  
13           tion 48C or 48E for such taxable year or any prior  
14           taxable year.”.

15           (g) TREATMENT UNDER ALTERNATIVE MINIMUM  
16 TAX.—Section 38(c)(4)(B) of the Internal Revenue Code  
17 of 1986 is amended by striking “and” at the end of clause  
18 (vii), by redesignating clause (viii) as clause (ix), and by  
19 inserting after clause (vii) the following new clause:

20                   “(viii) the credit determined under  
21           section 46 to the extent that such credit is  
22           attributable to the nuclear power facility  
23           construction credit under section 48E,  
24           and”.

1 (h) COORDINATION WITH NUCLEAR POWER  
2 GRANTS.—Section 501(c)(12) of the Internal Revenue  
3 Code of 1986 is amended by adding at the end the fol-  
4 lowing new subparagraph:

5 “(J) In the case of a mutual or cooperative  
6 electric company described in this paragraph or  
7 an organization described in section  
8 1381(a)(2)(C), subparagraph (A) shall be ap-  
9 plied without taking into account any grant re-  
10 ceived under section 346 of the American  
11 Power Act.”.

12 (i) CONFORMING AMENDMENTS.—

13 (1) Section 6501(m) of the Internal Revenue  
14 Code of 1986 is amended by inserting “48E(f),”  
15 after “45H(g),”.

16 (2) The table of sections for subpart E of part  
17 IV of subchapter A of chapter 1 of such Code is  
18 amended by inserting after the item relating to sec-  
19 tion 48D the following new item:

“Sec. 48E. Nuclear power facility construction credit.”.

20 (j) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to periods after the date of enact-  
22 ment of this Act, under rules similar to the rules of section  
23 48(m) of the Internal Revenue Code of 1986 (as in effect  
24 on the day before the date of the enactment of the Rev-  
25 enue Reconciliation Act of 1990).

1 **SEC. 1123. INCLUSION OF NUCLEAR POWER FACILITIES IN**  
2 **QUALIFYING ADVANCED ENERGY PROJECT**  
3 **CREDIT.**

4 (a) IN GENERAL.—Subparagraph (A) of section  
5 48C(c)(1) of the Internal Revenue Code of 1986 is amend-  
6 ed by striking “or” at the end of subclause (VI), by redес-  
7 ignating subclause (VII) as subclause (VIII) and , and by  
8 inserting after subclause (VI) the following new subclause:

9 “(VII) property designed to be  
10 used to produce energy from an ad-  
11 vanced nuclear power facility (as de-  
12 fined in section 45J(d)(1), determined  
13 without regard to subparagraph (B)  
14 thereof), or”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to periods beginning after the date  
17 of the enactment of this Act, under rules similar to the  
18 rules of section 48(m) of the Internal Revenue Code of  
19 1986 (as in effect on the day before the date of the enact-  
20 ment of the Revenue Reconciliation Act of 1990).

21 **SEC. 1124. MODIFICATION OF CREDIT FOR PRODUCTION**  
22 **FROM ADVANCED NUCLEAR POWER FACILI-**  
23 **TIES.**

24 (a) IN GENERAL.—Paragraph (2) of section 45J(b)  
25 of the Internal Revenue Code (relating to national limita-

1 tion) is amended by striking “6,000 megawatts” and in-  
2 serting “8,000 megawatts”.

3 (b) ALLOCATION OF CREDIT TO PRIVATE PARTNERS  
4 OF TAX-EXEMPT ENTITIES.—

5 (1) IN GENERAL.—Section 45J of the Internal  
6 Revenue Code of 1986(relating to credit for produc-  
7 tion from advanced nuclear power facilities) is  
8 amended—

9 (A) by redesignating subsection (e) as sub-  
10 section (f); and

11 (B) by inserting after subsection (d) the  
12 following new subsection:

13 “(e) SPECIAL RULE FOR PUBLIC-PRIVATE PARTNER-  
14 SHIPS.—

15 “(1) IN GENERAL.—In the case of an advanced  
16 nuclear power facility which is owned by a public-  
17 private partnership or co-owned by a qualified public  
18 entity and a non-public entity, any qualified public  
19 entity which is a member of such partnership or a  
20 co-owner of such facility may transfer such entity’s  
21 allocation of the credit under subsection (a) to any  
22 non-public entity which is a member of such part-  
23 nership or which is a co-owner of such facility, ex-  
24 cept that the aggregate allocations of such credit  
25 claimed by such non-public entity shall be subject to

1 the limitations under subsections (b) and (c) and  
2 section 38. For purposes of sections 141 through  
3 150, any and all such proceeds or other benefit de-  
4 rived by an governmental unit from any transfer  
5 under this paragraph shall not result in, and shall  
6 be considered not to constitute, a private business  
7 use.

8 “(2) QUALIFIED PUBLIC ENTITY.—For pur-  
9 poses of this subsection, the term ‘qualified public  
10 entity’ means—

11 “(A) a Federal, State, or local government  
12 entity, or any political subdivision or agency or  
13 instrumentality thereof,

14 “(B) a mutual or cooperative electric com-  
15 pany described in section 501(c)(12) or section  
16 1381(a)(2), or

17 “(C) a not-for-profit electric utility which  
18 has or had received a loan or loan guarantee  
19 under the Rural Electrification Act of 1936.

20 “(3) VERIFICATION OF TRANSFER OF ALLOCA-  
21 TION.—A qualified public entity that makes a trans-  
22 fer under paragraph (1), and a nonpublic entity that  
23 receives an allocation under such a transfer, shall  
24 provide verification of such transfer in such manner  
25 and at such time as the Secretary shall prescribe.

1           “(4) COORDINATION WITH DEPARTMENT OF  
2           TREASURY GRANTS.—In the case of any property  
3           with respect to which the Secretary makes a grant  
4           to a qualified public entity under section 346 of the  
5           American Power Act, no credit that would be allo-  
6           cable to a qualified public entity shall be determined  
7           under this section for the taxable year in which such  
8           grant is made or any subsequent taxable year.”.

9           (2) COORDINATION WITH GENERAL BUSINESS  
10          CREDIT.—Subsection (c) of section 38 of such Code  
11          (relating to limitation based on amount of tax) is  
12          amended by adding at the end the following new  
13          paragraph:

14          “(6) SPECIAL RULE FOR CREDIT FOR PRODUC-  
15          TION FROM ADVANCED NUCLEAR POWER FACILI-  
16          TIES.—

17                 “(A) IN GENERAL.—In the case of the  
18                 credit for production from advanced nuclear  
19                 power facilities determined under section  
20                 45J(a), paragraph (1) shall not apply with re-  
21                 spect to any qualified public entity (as defined  
22                 in section 45J(e)(2)) which transfers the enti-  
23                 ty’s allocation of such credit to a non-public  
24                 partner or a co-owner of such facility as pro-  
25                 vided in section 45J(e)(1).

1           “(B) VERIFICATION OF TRANSFER.—Sub-  
2 paragraph (A) shall not apply to any qualified  
3 public entity unless such entity provides  
4 verification of a transfer of credit allocation as  
5 required under section 45J(e)(3).”.

6           (3) SPECIAL RULE FOR PROCEEDS OF TRANS-  
7 FERS FOR MUTUAL OR COOPERATIVE ELECTRIC  
8 COMPANIES.—Section 501(c)(12) of such Code is  
9 amended by adding at the end the following new  
10 subparagraph:

11           “(I) In the case of a mutual or cooperative  
12 electric company described in this paragraph or  
13 an organization described in section 1381(a)(2),  
14 income received or accrued from a transfer de-  
15 scribed in section 45J(e)(1) shall be treated as  
16 an amount collected from members for the sole  
17 purpose of meeting losses and expenses.”.

18           (c) EFFECTIVE DATE.—

19           (1) IN GENERAL.—The amendment made by  
20 subsection (a) shall apply to electricity produced in  
21 taxable years beginning after the date of the enact-  
22 ment of this Act.

23           (2) ALLOCATION OF CREDIT.—The amend-  
24 ments made by subsection (b) shall apply to taxable



1       years beginning after the date of the enactment of  
2       this Act.

3       **SEC. 1125. TREATMENT OF QUALIFIED PUBLIC ENTITIES**  
4                   **WITH RESPECT TO PRIVATE ACTIVITY**  
5                   **BONDS.**

6       (a) IN GENERAL.—Section 141(b)(6)(A) of the Inter-  
7       nal Revenue Code of 1986 is amended by inserting “or  
8       a qualified public entity (as defined in section 45J(e)(2))”  
9       after “governmental unit”.

10       (b) EFFECTIVE DATE.—The amendment made by  
11       this section shall apply to obligations issued after the date  
12       of the enactment of this Act.

13       **SEC. 1126. GRANTS FOR QUALIFIED NUCLEAR POWER FA-**  
14                   **CILITY EXPENDITURES IN LIEU OF TAX**  
15                   **CREDITS.**

16       (a) IN GENERAL.—Upon application, the Secretary  
17       of the Treasury shall, subject to the requirements of this  
18       section, provide a grant to each qualified person who  
19       places in service a qualified nuclear power facility to reim-  
20       burse such qualified person for a portion of the qualified  
21       nuclear power facility expenditures of such property as  
22       provided in subsection (b).

23       (b) GRANT AMOUNT.—The amount of the grant  
24       under subsection (a) with respect to a qualified nuclear

1 power facility shall be 10 percent of the qualified nuclear  
2 power facility expenditures.

3 (c) TIME FOR PAYMENT OF GRANT.—The Secretary  
4 of the Treasury shall make payment of any grant under  
5 subsection (a) during the 60-day period beginning on the  
6 later of—

7 (1) the date of the application for such grant,  
8 or

9 (2) the date the qualified nuclear power facility  
10 for which the grant is being made is placed in serv-  
11 ice.

12 (d) QUALIFIED PERSON.—For purposes of this sec-  
13 tion, the term “qualified person” means a public power  
14 provider or a cooperative electric company as those terms  
15 are defined in section 54C(d) of the Internal Revenue  
16 Code of 1986.

17 (e) COORDINATION WITH SECTION 48D.—For pur-  
18 poses of this section—

19 (1) the definition of qualified nuclear power fa-  
20 cility in section 48D(d)(1) of the Internal Revenue  
21 Code of 1986 shall be applied without regard to the  
22 last sentence thereof, and

23 (2) expenditures will be treated as qualified nu-  
24 clear power facility expenditures without regard to  
25 section 48D(d)(2)(B) of such Code.

1           (f) APPLICATION OF CERTAIN RULES.—In making  
2 grants under this section, the Secretary of the Treasury  
3 shall apply rules similar to the rules of section 50 of the  
4 Internal Revenue Code of 1986. In applying such rules,  
5 if the property is disposed of, or otherwise ceases to be  
6 a qualified nuclear power facility, the Secretary of the  
7 Treasury shall provide for the recapture of the appropriate  
8 percentage of the grant amount in such manner as the  
9 Secretary of the Treasury determines appropriate. In ap-  
10 plying section 50 of the Internal Revenue Code of 1986,  
11 subsection (b)(4)(A)(i) of such section shall not apply.

12           (g) DEFINITIONS.—Terms used in this section which  
13 are also used in section 48D of the Internal Revenue Code  
14 of 1986 shall have the same meaning for purposes of this  
15 section as when used in such section 48D. Any reference  
16 in this section to the Secretary of the Treasury shall be  
17 treated as including the Secretary's delegate.

18           (h) APPROPRIATIONS.—There is hereby appropriated  
19 to the Secretary of the Treasury such sums as may be  
20 necessary to carry out this section.

21           (i) TERMINATION.—The Secretary of the Treasury  
22 shall not make any grant to any person under this section  
23 unless the application of such person for such grant is re-  
24 ceived before January 1, 2025.

## 1     **Subtitle B—Offshore Oil and Gas**

### 2     **SEC. 1201. FINDINGS AND PURPOSES.**

3           (a) FINDINGS.—Congress finds that—

4                 (1) domestic offshore oil and gas production  
5                 supports the broader goal of advancing the energy  
6                 independence of the United States;

7                 (2) as the United States accelerates a transition  
8                 to clean energy sources in response to the incentives  
9                 and programs established under this Act and the  
10                amendments made by this Act, the United States  
11                will continue to depend for some time on traditional  
12                energy sources to fuel economic and job growth;

13                (3) the catastrophic oil spill in the Gulf of Mex-  
14                ico caused by the explosion of the Deepwater Hori-  
15                zon offshore oil rig tragically illustrates the impera-  
16                tive of moving to clean sources of energy and im-  
17                proving safeguards for domestic production of oil  
18                and gas, particularly in offshore areas;

19                (4) the Deepwater Horizon spill has placed local  
20                economies, wildlife, and the invaluable coastal eco-  
21                system of the Gulf of Mexico at great risk, and illus-  
22                trates that the coastal and marine resources of the  
23                United States are sensitive ecological areas of crit-  
24                ical importance to the economy and environment of  
25                the United States;

1           (5) a thorough investigation is needed into the  
2           cause of the spill and the adequacy of existing safe-  
3           ty, emergency response, and environmental regula-  
4           tions, and lessons learned must be rapidly applied to  
5           reduce the risk of, and improve the response to, any  
6           future catastrophic spills; and

7           (6) significant financial resources are also need-  
8           ed to repair to the maximum extent practicable dam-  
9           ages to coastal and marine resources resulting from  
10          the Deepwater Horizon and other offshore oil spills.

11          (b) PURPOSES.—The purposes of this Act are—

12           (1) to place the United States on a sure path  
13           to a cleaner, more secure energy future by estab-  
14           lishing powerful, lasting incentives to develop and  
15           deploy fuels and technologies that are produced do-  
16           mestically and reduce significantly the risk of cli-  
17           mate change and other environmental harms that  
18           can devastate lives, communities, and livelihoods;  
19           and

20           (2) to achieve that purpose, to consider through  
21           this Act or accompanying legislation—

22           (A) a moratorium on any new offshore  
23           drilling activities until the cause of the explo-  
24           sion of the Deepwater Horizon offshore oil rig  
25           is determined and the Secretary of the Interior

1 certifies that it is safe to continue proposed  
2 drilling plans;

3 (B) liability mechanisms that ensure ade-  
4 quate funds are available to mitigate the eco-  
5 nomic and environmental impacts of offshore  
6 drilling accidents;

7 (C) new precautionary safety measures for  
8 ensuring protection for workers and marine eco-  
9 systems;

10 (D) new investments in preparedness, edu-  
11 cation, and training to minimize offshore acci-  
12 dents, as well as acceleration of investments in  
13 response capabilities;

14 (E) new studies to assess the effects of oil  
15 spill mitigation procedures and tools;

16 (F) determination by coastal States of  
17 whether offshore drilling may be permitted off  
18 the shorelines of the States and the ability of  
19 States to veto proposed drilling plans if the  
20 States would suffer significant adverse impacts  
21 in the event of an accident;

22 (G) revenue sharing with States that do  
23 allow drilling, with the States using the revenue  
24 to protect the coastlines and coastal ecosystems  
25 of the States, and maintain sufficient prepared-



1           “(B) COASTAL STATE.—The term ‘coastal  
2 State’ means a State with a coastal seaward  
3 boundary within 300 statute miles distance of  
4 the geographic center of a leased tract in an  
5 Outer Continental Shelf planning area that—

6                   “(i) as of January 1, 2000, had no oil  
7 or natural gas production; and

8                   “(ii) is not a Gulf producing State (as  
9 defined in section 102 of the Gulf of Mex-  
10 ico Energy Security Act of 2006 (43  
11 U.S.C. 1331 note; Public Law 109–432)).

12           “(C) DISTANCE.—The terms ‘distance’ and  
13 ‘distances’ mean minimum great circle distance  
14 and distances, respectively.

15           “(D) LEASED TRACT.—The term ‘leased  
16 tract’ means a tract leased under this Act for  
17 the purpose of drilling for, developing, and pro-  
18 ducing oil or natural gas resources.

19           “(E) OUTER CONTINENTAL SHELF  
20 AREA.—The term ‘outer Continental Shelf area’  
21 means—

22                   “(i) any area withdrawn from dispo-  
23 sition by leasing by the ‘Memorandum on  
24 Withdrawal of Certain Areas of the United  
25 States Outer Continental Shelf from Leas-



1                   ing Disposition’, from 34 Weekly Comp.  
2                   Pres. Doc. 1111, dated June 12, 1998; or  
3                   “(ii) any area of the outer Continental  
4                   Shelf as to which Congress has denied the  
5                   use of appropriated funds or other means  
6                   for preleasing, leasing, or related activities.

7                   “(2) POST LEASING REVENUES.—Subject to  
8                   paragraph (5), in any outer Continental Shelf area  
9                   in which the Secretary allows leasing, in addition to  
10                  any bonus bids, the coastal State shall, without fur-  
11                  ther appropriation or action, receive, from leasing of  
12                  the area, 37.5 percent of—

13                  “(A) any lease rental payments;

14                  “(B) any lease royalty payments;

15                  “(C) any royalty proceeds from a sale of  
16                  royalties taken in kind by the Secretary; and

17                  “(D) any other revenues from a bidding  
18                  system under section 8.

19                  “(3) ALLOCATION AMONG COASTAL POLITICAL  
20                  SUBDIVISIONS OF STATES.—

21                  “(A) IN GENERAL.—The Secretary shall  
22                  pay 20 percent of the allocable share of each  
23                  coastal State, as determined under this sub-  
24                  section, directly to certain coastal political sub-  
25                  divisions of the coastal State.

1 “(B) ALLOCATION.—

2 “(i) IN GENERAL.—For each leased  
3 tract used to calculate the allocation of a  
4 coastal State, the Secretary shall pay the  
5 coastal political subdivisions within 300  
6 miles of the geographic center of the leased  
7 tract based on the relative distance of such  
8 coastal political subdivisions from the  
9 leased tract in accordance with this sub-  
10 paragraph.

11 “(ii) DISTANCES.—For each coastal  
12 political subdivision described in clause (i),  
13 the Secretary shall determine the distance  
14 between the point on the coastal political  
15 subdivision coastline closest to the geo-  
16 graphic center of the leased tract and the  
17 geographic center of the tract.

18 “(iii) PAYMENTS.—The Secretary  
19 shall divide and allocate the qualified  
20 Outer Continental Shelf revenues derived  
21 from the leased tract among coastal polit-  
22 ical subdivisions described in clause (i) in  
23 amounts that are inversely proportional to  
24 the applicable distances determined under  
25 clause (ii).

1           “(4) CONSERVATION ROYALTY.—After making  
2           distributions under paragraphs (1) and (2) and sec-  
3           tion 31, the Secretary shall, without further appro-  
4           priation or action, distribute a conservation royalty  
5           equal to 12.5 percent of Federal royalty revenues de-  
6           rived from all areas leased under this section for any  
7           year, into the land and water conservation fund es-  
8           tablished under section 2 of the Land and Water  
9           Conservation Fund Act of 1965 (16 U.S.C. 460l-5)  
10          to be used to carry out State and Federal programs  
11          in accordance with sections 6 and 7 of that Act (16  
12          U.S.C. 460l-8, 460l-9), as determined by the Sec-  
13          retary of the Interior, which shall be considered in-  
14          come to the fund for purposes of section 2 of that  
15          Act (16 U.S.C. 460l-5).

16          “(5) LIMITATIONS ON AMOUNT OF DISTRIB-  
17          UTED REVENUES.—

18                 “(A) IN GENERAL.—Subject to subpara-  
19                 graph (B), the total amount of revenues made  
20                 available in an Outer Continental Shelf plan-  
21                 ning area under paragraph (2) shall not exceed  
22                 \$500,000,000 for each of fiscal years 2011  
23                 through 2055.

24                 “(B) EXPENDITURES.—For the purpose of  
25                 subparagraph (A), for each of fiscal years 2011

1 through 2055, expenditures under paragraph  
2 (2) shall be net of receipts from that fiscal year  
3 from any area in a coastal State.

4 “(C) PRO RATA REDUCTIONS.—If subpara-  
5 graph (A) limits the amount of revenues that  
6 would be paid under paragraph (2)—

7 “(i) the Secretary shall reduce the  
8 amount of revenues provided to each re-  
9 cipient on a pro rata basis; and

10 “(ii) any remainder of the revenues  
11 shall revert to the general fund of the  
12 Treasury.

13 “(6) DEFICIT REDUCTION.—After making dis-  
14 tributions in accordance with paragraphs (1) and (2)  
15 and in accordance with section 31, the Secretary  
16 shall, without further appropriation or action, dis-  
17 tribute an amount equal to 50 percent of Federal  
18 royalty revenues derived from all areas leased under  
19 this section for any year, into direct Federal deficit  
20 reduction.”.

21 **SEC. 1203. REVENUE SHARING FROM AREAS IN ALASKA AD-**  
22 **JACENT ZONE.**

23 Section 18 of the Outer Continental Shelf Lands Act  
24 (43 U.S.C. 1344) (as amended by section 1202) is amend-  
25 ed by adding at the end the following:

1       “(j) REVENUE SHARING FROM AREAS IN ALASKA  
2 ADJACENT ZONE.—

3               “(1) IN GENERAL.—Except as provided in para-  
4 graph (2), effective beginning on the date that is 5  
5 years after the date of enactment of this subsection,  
6 revenues from production that derives from an area  
7 in the Alaska Adjacent Zone shall be distributed in  
8 the same proportion and for the same uses as pro-  
9 vided in subsection (i).

10              “(2) ALLOCATION AMONG REGIONAL CORPORA-  
11 TIONS.—

12               “(A) IN GENERAL.—The Secretary shall  
13 pay 33 percent of any allocable share of the  
14 State of Alaska, as determined under this sec-  
15 tion, directly to certain Regional Corporations  
16 established under section 7(a) of the Alaska  
17 Native Claims Settlement Act (43 U.S.C.  
18 1606(a)).

19              “(B) ALLOCATION.—

20               “(i) IN GENERAL.—For each leased  
21 tract used to calculate the allocation of the  
22 State of Alaska, the Secretary shall pay  
23 the Regional Corporations, after deter-  
24 mining those Native villages within the re-  
25 gion of the Regional Corporation which are

1 within 300 miles of the geographic center  
2 of the leased tract based on the relative  
3 distance of such villages from the leased  
4 tract, in accordance with this paragraph.

5 “(ii) DISTANCES.—For each such vil-  
6 lage, the Secretary shall determine the dis-  
7 tance between the point in the village clos-  
8 est to the geographic center of the leased  
9 tract and the geographic center of the  
10 tract.

11 “(iii) PAYMENTS.—The Secretary  
12 shall divide and allocate the qualified  
13 Outer Continental Shelf revenues derived  
14 from the leased tract among the qualifying  
15 Regional Corporations in amounts that are  
16 inversely proportional to the distances of  
17 all of the Native villages within each quali-  
18 fying region.

19 “(iv) REVENUES.—All revenues re-  
20 ceived by each Regional Corporation shall  
21 be—

22 “(I) treated by the Regional Cor-  
23 poration as revenue subject to the dis-  
24 tribution requirements of section  
25 7(i)(1)(A) of the Alaska Native

1 Claims Settlement Act (43 U.S.C.  
2 1606(i)(1)(A)); and

3 “(II) divided annually by the Re-  
4 gional Corporation among all 12 Re-  
5 gional Corporations in accordance  
6 with section 7(i) of that Act.

7 “(v) FURTHER DISTRIBUTION.—A Re-  
8 gional Corporation receiving revenues  
9 under clause (iv)(II) shall further dis-  
10 tribute 50 percent of the revenues received  
11 in accordance with section 7(j) of the Alas-  
12 ka Native Claims Settlement Act (43  
13 U.S.C. 1606(j).

14 “(3) LIMITATIONS ON AMOUNT OF DISTRIB-  
15 UTED REVENUES.—

16 “(A) IN GENERAL.—The total amount of  
17 revenues made available in an area in the Alas-  
18 ka Adjacent Zone under this subsection shall  
19 not exceed \$500,000,000 for each of fiscal  
20 years 2011 through 2055.

21 “(B) PRO RATA REDUCTIONS.—If subpara-  
22 graph (A) limits the amount of revenues that  
23 would be paid under paragraph (2)—

1                   “(i) the Secretary shall reduce the  
2                   amount of revenues provided to each re-  
3                   cipient; and

4                   “(ii) any remainder of the revenues  
5                   shall revert to the general fund of the  
6                   Treasury.”.

7 **SEC. 1204. RESERVATION OF LANDS AND RIGHTS.**

8           Section 12 of the Outer Continental Shelf Lands Act  
9 (43 U.S.C. 1341) is amended by adding at the end the  
10 following:

11           “(g) STATE LIMITATION ON DRILLING.—

12                   “(1) IN GENERAL.—A State may enact a law  
13                   prohibiting leasing for oil and gas, or natural gas,  
14                   within 75 miles of the coastline of the State.

15                   “(2) PETITION FOR WITHDRAWAL FROM 5-YEAR  
16                   PLAN.—On enactment of a State law described in  
17                   paragraph (1), the Governor of the State may sub-  
18                   mit to the Secretary a petition requesting that any  
19                   area within 75 miles of the coastline of the State be  
20                   withdrawn from the applicable 5-Year Outer Conti-  
21                   nental Shelf Oil and Gas Leasing Program.

22                   “(3) ACTION BY SECRETARY.—

23                   “(A) IN GENERAL.—Not later than 90  
24                   days after the receipt of a petition of a State



1           described in paragraph (2), the Secretary shall  
2           approve the petition.

3           “(B) CONSTRUCTIVE APPROVAL.—If the  
4           Secretary fails to approve the petition during  
5           the 90-day period beginning on the date of re-  
6           ceipt of the petition by the Secretary, the peti-  
7           tion shall be considered approved.

8           “(4) AMENDMENT OF 5-YEAR LEASING PRO-  
9           GRAMS.—Not later than 180 days after the approval  
10          of a petition under paragraph (3), the Secretary  
11          shall amend the applicable 5-Year Outer Continental  
12          Shelf Oil and Gas Leasing Program to reflect the  
13          action of the State.

14          “(5) SEPARATE PETITIONS.—To prohibit leas-  
15          ing of oil and gas or natural gas within 75 miles of  
16          the coastline of a State under this subsection, a  
17          State, with the concurrence of the Governor and leg-  
18          islature of the State, shall submit separate petitions  
19          for a prohibitions on oil and gas leasing or natural  
20          gas leasing.

21          “(6) SCOPE OF PETITIONS.—A petition of a  
22          State under paragraph (2) may request that within  
23          the area described in paragraph (1) certain areas be  
24          withdrawn from all leasing and certain areas be  
25          withdrawn from only 1 type of leasing.”.

1 **SEC. 1205. IMPACT STUDIES.**

2 Section 12 of the Outer Continental Shelf Lands Act  
3 (43 U.S.C. 1341) (as amended by section 1204) is amend-  
4 ed by adding at the end the following:

5 “(h) IMPACT STUDIES.—

6 “(1) IN GENERAL.—If a 5-year plan developed  
7 by the Secretary pursuant to section 18 includes an  
8 area off the coastline of a State that is eligible to  
9 receive revenue sharing under this Act, the Sec-  
10 retary, in consultation with relevant agencies, shall  
11 prepare an assessment of—

12 “(A) the probability of an oil spill occur-  
13 ring in the designated area, taking into consid-  
14 eration—

15 “(i) the anticipated volume of oil with-  
16 in the area;

17 “(ii) the location of planned explo-  
18 ration and drilling activities in the area;  
19 and

20 “(iii) local tides, currents, winds, and  
21 weather patterns and events (such as hur-  
22 ricanes) that may affect the area;

23 “(B) the potential environmental impact  
24 on the coastline of the State of an oil spill re-  
25 sulting from drilling activities within the area  
26 identified in the 5-year plan;

1           “(C) the potential impact on the coastal  
2           economy of the State, including public and pri-  
3           vate infrastructure, tourism, commercial and  
4           recreational fishing and boating, and other  
5           forms of coastal recreation, of an oil spill re-  
6           sulting from drilling activities within the area  
7           identified in the 5-year plan;

8           “(D) the potential impact on the coastal  
9           economy of any other States that the assess-  
10          ment identifies would be directly impacted by  
11          an oil spill resulting from drilling activities  
12          within the area identified in the 5-year plan, in-  
13          cluding impacts on the public and private infra-  
14          structure, tourism, commercial and recreational  
15          fishing and boating, and other forms of coastal  
16          recreation of 1 or more States; and

17          “(E) the potential impact on any military  
18          operations in the coastal area of an oil spill re-  
19          sulting from drilling activities within the area  
20          identified in the 5-year plan.

21          “(2) PROHIBITION ON OIL AND GAS LEASING.—

22          If an assessment conducted under paragraph (1)(D)  
23          indicates that a State would be significantly im-  
24          pacted by an oil spill resulting from drilling activities  
25          within an area identified in a 5-year plan—



1 (B) would be best addressed through Fed-  
2 eral legislation; or

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

5 (2) identify regulatory implementation chal-  
6 lenges, including challenges relating to approval of  
7 State and tribal programs and delegation of author-  
8 ity for permitting; and

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

12 (c) EXISTING REPORTS.—To the extent a pre-exist-  
13 ing interagency effort accomplishes a similar purpose and  
14 addresses the same topics as described in this section, the  
15 Administrator may rely on the results of the efforts and  
16 shall submit the report required under subsection (a) as  
17 soon as practicable.

18 (d) FINDING.—Congress finds that it is in the public  
19 interest to achieve widespread, commercial-scale deploy-  
20 ment of carbon capture and storage in the United States  
21 and throughout Asia and other parts of the world before  
22 January 1, 2030.

23 **SEC. 1402. STUDIES AND REPORTS.**

24 (a) STUDY OF LEGAL FRAMEWORK FOR GEOLOGICAL  
25 STORAGE SITES.—

1 (1) ESTABLISHMENT OF TASK FORCE.—

2 (A) IN GENERAL.—As soon as practicable,  
3 but not later than 180 days after the date of  
4 enactment of this Act, the Administrator shall  
5 establish a task force that includes representa-  
6 tives from the Department of the Interior, the  
7 Department of Energy, the Department of  
8 Transportation, State and tribal agencies and  
9 attorneys general, academia, and nongovern-  
10 mental organizations with relevant expertise.

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

14 (i) existing Federal environmental  
15 law, State environmental laws, and com-  
16 mon law that apply to geological storage  
17 sites for carbon dioxide, including the abil-  
18 ity of those laws to serve as risk manage-  
19 ment tools;

20 (ii) the existing statutory framework,  
21 including Federal and State laws, that  
22 apply to harm and damage to the environ-  
23 ment or public health at closed sites at  
24 which carbon dioxide injection has been  
25 used for enhanced hydrocarbon recovery;

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

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

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

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

24 (b) ENVIRONMENTAL LAWS.—

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

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

11                   **PART II—CARBON CAPTURE AND**  
12                   **SEQUESTRATION DEPLOYMENT**

13 **SEC. 1411. DEFINITIONS.**

14           (a) IN GENERAL.—In this part:

15           (1) CARBON CAPTURE.—The term “carbon cap-  
16 ture” has the meaning given the term in section  
17 963(a) of the Energy Policy Act of 2005 (42 U.S.C.  
18 16293(a)).

19           (2) CARBON SEQUESTRATION.—The term “car-  
20 bon sequestration” has the meaning given the term  
21 in section 963(a) of the Energy Policy Act of 2005  
22 (42 U.S.C. 16293(a)).

23           (3) COUNCIL.—The term “Council” means the  
24 Carbon Capture and Sequestration Program Part-  
25 nership Council established under section 1413(a).



1           (4) **ELECTRIC CONSUMER.**—The term “electric  
2 consumer” has the meaning given the term in sec-  
3 tion 3 of the Public Utility Regulatory Policies Act  
4 of 1978 (16 U.S.C. 2602).

5           (5) **ELECTRIC UTILITY.**—The term “electric  
6 utility” has the meaning given the term in section  
7 3 of the Federal Power Act (16 U.S.C. 796).

8           (6) **FOSSIL FUEL-BASED ELECTRICITY.**—The  
9 term “fossil fuel-based electricity” means electricity  
10 that is produced, in whole or in part, from the com-  
11 bustion of a fossil fuel.

12           (7) **FOSSIL FUEL.**—The term “fossil fuel”  
13 means coal, petroleum, or natural gas, or any deriv-  
14 ative of coal, petroleum, or natural gas.

15           (8) **INSTITUTION OF HIGHER EDUCATION.**—The  
16 term “institution of higher education” has the  
17 meaning given the term in section 101(a) of the  
18 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

19           (9) **NATIONAL LABORATORY.**—The term “Na-  
20 tional Laboratory” has the meaning given the term  
21 in section 2 of the Energy Policy Act of 2005 (42  
22 U.S.C. 15801).

23           (10) **PROGRAM DIRECTOR.**—The term “Pro-  
24 gram Director” means the Program Director of the

1 special funding program appointed under section  
2 1413(g).

3 (11) SPECIAL FUNDING PROGRAM.—The term  
4 “special funding program” means the special fund-  
5 ing program for development and deployment of car-  
6 bon capture, sequestration, and conversion tech-  
7 nologies established in accordance with section 1412.

8 (12) STATE REGULATORY AUTHORITY.—The  
9 term “State regulatory authority” has the meaning  
10 given the term in section 3 of the Public Utility Reg-  
11 ulatory Policies Act of 1978 (16 U.S.C. 2602).

12 (13) UNITED STATES.—The term “United  
13 States” means—

14 (A) the States of the United States;

15 (B) the District of Columbia; and

16 (C) the territories and possessions of the  
17 United States, including the territorial waters  
18 of the United States and the exclusive economic  
19 zone.

20 (b) MODIFICATION OF DEFINITIONS INCORPORATED  
21 BY REFERENCE.—Section 963 of the Energy Policy Act  
22 of 2005 (42 U.S.C. 16293) is amended—

23 (1) by redesignating subsections (a) through (d)  
24 as subsections (b) through (e), respectively;

1           (2) by inserting before subsection (b) (as so re-  
2 designated) the following:

3           “(a) DEFINITIONS.—In this section:

4           “(1) CARBON CAPTURE.—The term ‘carbon  
5 capture’ means the process of capturing anthropo-  
6 genic carbon dioxide from a stationary source.

7           “(2) CARBON SEQUESTRATION.—The term ‘car-  
8 bon sequestration’ means the act of storing carbon  
9 dioxide through physical, chemical, or biological  
10 processes that can prevent the carbon dioxide from  
11 reaching the atmosphere.”;

12           (3) in subsection (b) (as so redesignated), by  
13 striking “IN GENERAL” and inserting “PROGRAM”;  
14 and

15           (4) in subsection (c) (as so redesignated), by  
16 striking “subsection (a)” and inserting “subsection  
17 (b)”.

18 **SEC. 1412. SPECIAL FUNDING PROGRAM FOR DEVELOP-**  
19 **MENT AND DEPLOYMENT OF CARBON CAP-**  
20 **TURE, SEQUESTRATION, AND CONVERSION**  
21 **TECHNOLOGIES.**

22 (a) VIEWS OF STATE REGULATORY AUTHORITIES.—

23           (1) IN GENERAL.—Not later than 180 days  
24 after the date of enactment of this Act, a State reg-  
25 ulatory authority shall notify the Secretary in writ-

1       ing of the views of the State regulatory authority on  
2       the establishment of the special funding program.

3           (2) NOTICE OF TIMELINE.—As soon as prac-  
4       ticable, but not later than 30 days after the date of  
5       enactment of this Act, the Secretary shall notify  
6       each State regulatory authority of the need to sub-  
7       mit views under paragraph (1) during the period de-  
8       scribed in that paragraph.

9           (b) ESTABLISHMENT.—The Secretary shall establish  
10      the special funding program only if—

11           (1) the State regulatory authorities of at least  
12      30 States (including the District of Columbia and  
13      Puerto Rico as States) submit written notices of ap-  
14      proval by the deadline established under subsection  
15      (a); and

16           (2) the special funding program can be estab-  
17      lished not later than 1 year after the date of enact-  
18      ment of this Act.

19           (c) TERMINATION.—

20           (1) ASSESSMENTS.—The authority of the Sec-  
21      retary to collect assessments shall expire on the date  
22      that is 10 years after the date of the establishment  
23      of the special funding program.

24           (2) AWARDS.—The authority of the Secretary  
25      to make funding awards under this part shall expire

1 on the date that is 15 years after the date of the  
2 establishment of the special funding program.

3 (d) ANNUAL REPORT.—Not later than February 1 of  
4 each year, the Secretary shall publish and submit to Con-  
5 gress and each State regulatory authority a report that—

6 (1) includes an identification and description of  
7 all programs and projects undertaken under the spe-  
8 cial funding program during the previous fiscal year;  
9 and

10 (2) describes the allocation or planned alloca-  
11 tion of resources of the special funding program for  
12 each program and project in the current and subse-  
13 quent fiscal year.

14 **SEC. 1413. CARBON CAPTURE AND SEQUESTRATION PRO-**  
15 **GRAM PARTNERSHIP COUNCIL.**

16 (a) ESTABLISHMENT.—The Secretary shall establish,  
17 and appoint the members of, a Carbon Capture and Se-  
18 questration Program Partnership Council to carry out du-  
19 ties described in subsection (f).

20 (b) VOTING MEMBERSHIP.—

21 (1) TOTAL VOTING MEMBERSHIP.—

22 (A) IN GENERAL.—The Council shall be  
23 composed of not more than 15 voting members.

1 (B) QUORUM.—A majority of the voting  
2 members shall constitute a quorum for official  
3 action of the Council.

4 (2) MINIMUM REPRESENTATION.—The voting  
5 membership of the Council shall include at least 1  
6 representative of each of the following:

7 (A) Investor-owned utilities.

8 (B) Utilities owned by a State or unit of  
9 local government.

10 (C) Rural electric cooperatives.

11 (D) Fossil fuel producers.

12 (E) Nonprofit organizations.

13 (F) Independent generators or wholesale  
14 power providers.

15 (G) Consumer groups.

16 (H) Employee organizations (as defined in  
17 section 3 of the Employee Retirement Income  
18 Security Act of 1974 (29 U.S.C. 1002).

19 (3) REPRESENTATION OF ELECTRIC UTILI-  
20 TIES.—A majority of the voting membership of the  
21 Council shall be representatives of electric utilities  
22 selling fossil fuel-based electricity to electric con-  
23 sumers subject to assessment under section 1416.

24 (4) NOMINATIONS.—The Secretary shall ap-  
25 point the Council members representing entities de-

1       scribed in subparagraphs (A), (B), and (C) of para-  
2       graph (2) from slates of nominees, containing at  
3       least 2 candidates for each vacancy to be filled, sub-  
4       mitted by—

5               (A) the Edison Electric Institute, on behalf  
6               of investor-owned utilities;

7               (B) the American Public Power Associa-  
8               tion, on behalf of utilities owned by a State  
9               agency or unit of local government; and

10              (C) the National Rural Electric Coopera-  
11              tive Association, on behalf of rural electric co-  
12              operatives.

13              (5) RECUSAL.—A voting member of the Council  
14              may not participate in the review or approval of an  
15              application from an entity with which the voting  
16              member is affiliated.

17              (c) NONVOTING MEMBERSHIP.—The Secretary shall  
18              appoint to the Council as nonvoting members—

19                      (1) the Under Secretary for Science;

20                      (2) the Assistant Secretary with responsibility  
21                      for research and development of fossil fuels;

22                      (3) a representative of the Environmental Pro-  
23                      tection Agency;

24                      (4) 2 representatives of State regulatory au-  
25                      thorities, chosen to represent different transmission

1       interconnections, from a slate of nominees, con-  
2       taining at least 2 candidates for each vacancy to be  
3       filled, submitted by the National Association of  
4       State Regulatory Utility Commissioners; and

5               (5) such additional officers and employees of  
6       the Federal Government as the Secretary determines  
7       are necessary for the Council to carry out the func-  
8       tions of the Council effectively.

9       (d) TERMS.—

10               (1) IN GENERAL.—Except as otherwise pro-  
11       vided in this paragraph, a voting member of the  
12       Council—

13                       (A) shall serve a term of 4 years; and

14                       (B) may serve not more than 2 full con-  
15       secutive terms.

16               (2) UNEXPIRED TERMS.—A member who fills  
17       the unexpired term of a voting member may serve  
18       not more than a total of 8 consecutive years.

19               (3) REAPPOINTMENT OF FORMER VOTING MEM-  
20       BERS.—A former voting member of the Council may  
21       be reappointed if the member has not been a mem-  
22       ber of the Council for a period of at least 2 years.

23               (4) INITIAL APPOINTMENT.—The Secretary  
24       shall make initial appointments of voting members  
25       of the Council for terms of 1, 2, 3, and 4 years,



1 staggered to provide for the selection of 3 members  
2 each year, as determined by the Secretary.

3 (5) VACANCIES.—A vacancy on the Council—

4 (A) shall not affect the powers of the  
5 Council; and

6 (B) shall be filled in the same manner as  
7 the original appointment was made.

8 (e) PERSONNEL MATTERS.—

9 (1) COMPENSATION.—

10 (A) NON-FEDERAL EMPLOYEES.—A mem-  
11 ber of the Council who is not an officer or em-  
12 ployee of the Federal Government may be com-  
13 pensated at a rate equal to the daily equivalent  
14 of the annual rate of basic pay prescribed for  
15 level IV of the Executive Schedule under section  
16 5315 of title 5, United States Code, for each  
17 day (including travel time) during which the  
18 member is engaged in the performance of the  
19 duties of the Council.

20 (B) FEDERAL EMPLOYEES.—A member of  
21 the Council who is an officer or employee of the  
22 Federal Government shall serve without com-  
23 pensation in addition to the compensation re-  
24 ceived for the services of the member as an offi-  
25 cer or employee of the Federal Government.

1           (2) TRAVEL EXPENSES.—A member of the  
2 Council shall be allowed travel expenses, including  
3 per diem in lieu of subsistence, at rates authorized  
4 for an employee of an agency under subchapter 1 of  
5 chapter 57 of title 5, United States Code, while  
6 away from the home or regular place of business of  
7 the member in the performance of the duties of the  
8 Council.

9           (3) CHAIR.—The Secretary shall appoint a vot-  
10 ing member of the Council to serve as the Chair of  
11 the Council.

12           (4) EXECUTIVE SECRETARY.—The Secretary  
13 shall appoint an Executive Secretary in the Depart-  
14 ment of Energy to assist the Council in the conduct  
15 of the duties of the Council.

16 (f) COUNCIL DUTIES.—The Council shall—

17           (1) advise, assist, consult with, and make rec-  
18 ommendations to the Secretary and the Program Di-  
19 rector on matters related to the activities carried out  
20 by and through the special funding program;

21           (2)(A) review applications for grants, contracts,  
22 cooperative agreements, and other transactions for  
23 which the approval of the Council is required under  
24 section 1414(b); and

1 (B) vote on whether to recommend for approval  
2 the applications;

3 (3) review and make recommendations on any  
4 intellectual property policies required—

5 (A) to advance the purposes of the special  
6 funding program;

7 (B) to encourage individual ingenuity and  
8 innovation; and

9 (C) to ensure that inventors, whose con-  
10 tributions to the development of clean coal tech-  
11 nology are not subject to the protections af-  
12 farded by section 14 of the Stevenson-Wydler  
13 Technology Innovation Act of 1980 (15 U.S.C.  
14 3710e), are provided intellectual property right  
15 protection that is not less than the protection  
16 afforded to inventors provided protection under  
17 that section;

18 (4) collect information on projects being carried  
19 out by other programs to advance the development  
20 and deployment of technologies for carbon capture,  
21 sequestration, and conversion;

22 (5)(A) approve an annual overall plan for the  
23 special funding program and projects to be carried  
24 out under the special funding program; and

1 (B) submit to Congress, the Secretary, and  
2 each State regulatory authority a copy of the plan;  
3 and

4 (6) meet at least 3 times each year, at the call  
5 of the Chair or on the request of the Program Direc-  
6 tor, at a location subject to the approval of the Pro-  
7 gram Director.

8 (g) PROGRAM DIRECTOR AND SENIOR PROGRAM  
9 MANAGERS.—

10 (1) APPOINTMENT.—The Secretary, in con-  
11 sultation with the Council, shall appoint a Program  
12 Director for the special funding program, who shall  
13 have a background and qualifications especially ap-  
14 propriate to managing the special funding program.

15 (2) COMPENSATION.—The rate of pay for the  
16 Program Director shall not exceed the rate payable  
17 for level V of the Executive Schedule under section  
18 5316 of title 5, United States Code.

19 (3) SENIOR PROGRAM MANAGERS.—

20 (A) IN GENERAL.—Notwithstanding sec-  
21 tions 3304 and 3309 through 3318 of title 5,  
22 United States Code, the Program Director may  
23 recruit and directly appoint up to 5 highly  
24 qualified scientists, engineers, or critical tech-

1            nical personnel into the competitive service, to  
2            help manage the special funding program.

3            (B) EXCEPTION.—The authority granted  
4            by subparagraph (A) shall not apply to posi-  
5            tions in the excepted service or the Senior Exec-  
6            utive Service.

7            (C) REQUIREMENTS.—In exercising the  
8            authority granted by subparagraph (A), the  
9            Secretary shall ensure that any action taken by  
10           the Secretary—

11                    (i) is consistent with the merit prin-  
12                    ciples of section 2301 of title 5, United  
13                    States Code; and

14                    (ii) complies with the public notice re-  
15                    quirements of section 3327 of title 5,  
16                    United States Code.

17            (h) TECHNICAL ADVISORY COMMITTEE.—

18                    (1) IN GENERAL.—The Secretary, acting  
19                    through the Program Director, and in consultation  
20                    with the Council, shall appoint a technical advisory  
21                    committee to provide independent scientific review of  
22                    applications for grants, contracts, cooperative agree-  
23                    ments, and other transactions to be funded under  
24                    the special funding program.

1           (2) MEMBERSHIP.—The technical advisory  
2 committee shall be composed of not less than 7  
3 members appointed from among—

4           (A) institutions of higher education;

5           (B) National Laboratories;

6           (C) independent research institutions;

7           (D) the National Energy Technology Lab-  
8 oratory; and

9           (E) other qualified institutions;

10          (3) CONFLICTS OF INTEREST.—Members of the  
11 technical advisory committee may not be affiliated  
12 with, or employed by, any organization represented  
13 by voting members of the Council.

14          (4) DUTIES.—

15           (A) PEER REVIEW.—The technical advi-  
16 sory committee shall provide independent as-  
17 sessments and technical evaluations, and make  
18 recommendations to the Council, on all applica-  
19 tions for funding under the special funding pro-  
20 gram.

21           (B) PROGRAMMATIC ASSESSMENTS.—

22           (i) IN GENERAL.—The technical advi-  
23 sory committee may provide an inde-  
24 pendent review of other technical matters

1 relating to the special funding program, in-  
2 cluding—

3 (I) approaches to prioritizing  
4 technologies;

5 (II) appropriateness of engineer-  
6 ing techniques;

7 (III) monitoring and verification  
8 technologies for sequestration;

9 (IV) geological site selection; and

10 (V) cost control measures for  
11 projects.

12 (ii) RECOMMENDATIONS.—The tech-  
13 nical advisory committee may make rec-  
14 ommendations to the Secretary concerning  
15 the types of investments, scientific re-  
16 search, or engineering practices that would  
17 best further the purposes of this part.

18 (C) PUBLIC AVAILABILITY.—Except for in-  
19 formation exempt from disclosure under para-  
20 graphs (4) and (6) of section 552(b) of title 5,  
21 United States Code, all reports and evaluations  
22 made by the technical advisory committee shall  
23 be made available to the public when the re-  
24 ports and evaluations are received by the Coun-  
25 cil.

1           (5) TRAVEL EXPENSES.—A member of the  
2 technical advisory committee shall be allowed travel  
3 expenses, including per diem in lieu of subsistence,  
4 at rates authorized for an employee of an agency  
5 under subchapter I of chapter 57 of title 5, United  
6 States Code, while away from the home or regular  
7 place of business of the member in the performance  
8 of the duties of the committee.

9 **SEC. 1414. FUNCTIONS AND ADMINISTRATION OF THE SPE-**  
10 **CIAL FUNDING PROGRAM.**

11 (a) SUPPORT OF PROJECTS.—

12           (1) IN GENERAL.—The special funding program  
13 shall support projects to accelerate the commercial  
14 availability of carbon capture and sequestration  
15 technologies and methods, including technologies  
16 that capture and sequester, or capture and convert,  
17 carbon dioxide.

18           (2) PRIORITY.—In making awards under the  
19 special funding program, the Program Director shall  
20 give priority to projects that include cost sharing.

21 (b) PROJECT APPROVAL.—The Program Director  
22 shall make awards for grants, contracts, cooperative  
23 agreements, and other transactions under this part only  
24 if the award is—



1           (1) recommended to the Council by the tech-  
2           nical advisory committee established under section  
3           1413(h), after scientific and technical peer review;

4           (2) approved by the voting members of the  
5           Council;

6           (3) for a project to be carried out in the United  
7           States; and

8           (4) prioritized in regions of the United States  
9           with a high probability of carbon capture and se-  
10          questration development and deployment potential.

11          (c) SPECIFIC PURPOSES.—In making awards, the  
12          Program Director shall ensure, to the maximum extent  
13          practicable, that grants, contracts, cooperative agree-  
14          ments, and other transactions funded under the special  
15          funding program support commercial-scale demonstra-  
16          tions of carbon capture and sequestration technology  
17          projects that—

18                 (1) are capable of advancing the technologies to  
19                 commercial readiness;

20                 (2) encompass each of the different coal types  
21                 and other fossil fuel varieties;

22                 (3) are geographically diverse;

23                 (4) involve diverse sequestration media;

1           (5) employ capture and sequestration, or cap-  
2           ture and conversion, technologies potentially suitable  
3           for new or retrofit applications; and

4           (6) result in a capture of emissions from the  
5           generation of at least 10 gigawatts.

6           (d) ELIGIBLE ENTITIES.—Entities eligible for fund-  
7           ing under this part include—

8           (1) electric utilities selling fossil fuel-based elec-  
9           tricity to electric consumers;

10           (2) institutions of higher education;

11           (3) National Laboratories;

12           (4) Federal research agencies;

13           (5) State research agencies;

14           (6) nonprofit organizations; and

15           (7) consortiums of 2 or more entities described  
16           in paragraphs (1) through (6).

17           (e) PURCHASE OF CARBON DIOXIDE.—A grant, con-  
18           tract, cooperative agreement, or other transaction under  
19           this part may be used—

20           (1) in the case of established projects that are  
21           sequestering carbon dioxide emissions, to purchase  
22           carbon dioxide if necessary to conduct tests of car-  
23           bon sequestration sites; or

24           (2) for other purposes consistent with this part.

25           (f) ORGANIZATION OF FUNDING INTO TRANCHES.—

1           (1) IN GENERAL.—The Program Director, with  
2           the approval of the Council, may divide available  
3           funds into a series of tranches, each supporting the  
4           deployment of a specified quantity of electric gener-  
5           ating capacity using carbon capture, sequestration,  
6           or conversion technologies.

7           (2) FORM OF FUNDING.—If the Program Direc-  
8           tor and the Council agree to distribute funds by  
9           tranche under this subsection, the Program Director  
10          shall distribute funds—

11                 (A) in the form of a payment per ton of  
12                 carbon captured and sequestered or converted  
13                 by the project;

14                 (B) based on a sliding scale that provides  
15                 higher payments per ton for projects achieving  
16                 higher levels of capture and sequestration or  
17                 capture and conversion;

18                 (C) taking in account the cost of electricity  
19                 used per ton captured;

20                 (D) in a manner that provides for decreas-  
21                 ing payments per ton of carbon dioxide for suc-  
22                 cessive tranches; and

23                 (E) taking into account the reasonable in-  
24                 cremental capital and operating costs associated  
25                 with implementation of the carbon capture and

1           sequestration or carbon capture and conversion  
2           technologies.

3           (g) RELATION TO OTHER LAW.—Projects funded  
4 under this part to inject carbon dioxide into geological for-  
5 mations shall be carried out in accordance with this part  
6 and section 963 of the Energy Policy Act of 2005 (42  
7 U.S.C. 16293) and related provisions of that Act.

8           (h) RESTRICTIONS ON FUNDING.—

9           (1) NO SMALL-SCALE PROJECTS.—A pilot-scale  
10 project, or similar small-scale project, under 100  
11 megawatts shall not be eligible for support under the  
12 special funding program.

13           (2) MID-SCALE PROJECTS.—Mid-scale projects,  
14 of not less than 100 megawatts and not more than  
15 300 megawatts, shall be eligible for up to 20 percent  
16 of the total funds awarded.

17           (3) DEDICATION OF FUNDS.—Except as pro-  
18 vided in subsection (i), the special funding program  
19 shall use all funds derived from assessments under  
20 section 1415 to fund grants, contracts, cooperative  
21 agreements, and other transactions under this part.

22           (i) ADMINISTRATIVE EXPENSES.—Not more than 5  
23 percent of the funds collected for any fiscal year under  
24 section 1415 may be used for the administrative expenses  
25 of carrying out the special funding program.

1 **SEC. 1415. ASSESSMENTS AND FUNDING.**

2 (a) AMOUNT.—

3 (1) IN GENERAL.—For each fiscal year fol-  
4 lowing the establishment of the special funding pro-  
5 gram, the Secretary shall collect an assessment on  
6 electric utilities for all fossil fuel-based electricity  
7 sold to electric consumers, as determined under sec-  
8 tion 1417.

9 (2) FUEL TYPE RATE.—The assessments de-  
10 scribed in paragraph (1) shall—

11 (A) reflect the relative carbon dioxide emis-  
12 sion rates of different fossil fuel-based elec-  
13 tricity; and

14 (B) initially shall be not less than the fol-  
15 lowing amounts for coal, natural gas, and oil:

“Fuel type rate of assessment per kilowatt hour	
Coal .....	\$0.00145
Natural Gas .....	\$0.00074
Oil .....	\$0.00108”.

16 (3) ADJUSTMENTS.—The Secretary may adjust  
17 the amount of assessments on fossil fuel-based elec-  
18 tricity to reflect changes in the expected quantities  
19 of the electricity from different fuel types so that the  
20 assessments generate not less than \$2,000,000,000  
21 and not more than \$2,100,000,000 for each fiscal  
22 year.

1           (4) RESIDENTIAL EXEMPTION.—Nothing in this  
2 part authorizes the Secretary to collect an assess-  
3 ment under paragraph (1) from individual con-  
4 sumers with respect to electricity used for the resi-  
5 dences of the individual consumers.

6           (b) TREATMENT OF ASSESSMENTS.—Notwith-  
7 standing section 3302 of title 31, United States Code, all  
8 amounts collected by the Secretary under this section  
9 shall—

10           (1) be credited as offsetting collections to carry  
11 out activities authorized under section 1414;

12           (2) be available for expenditure only to pay the  
13 costs of carrying out the activities authorized under  
14 section 1414;

15           (3) be available only to the extent provided for  
16 in advance in an appropriations Act; and

17           (4) remain available until expended.

18           (c) FEE TITLE.—The Secretary may vest fee title or  
19 other property interests acquired under projects conducted  
20 under this part in any entity, including the United States.

21           (d) DATA PROTECTION.—For a period not exceeding  
22 5 years after completion of the operations phase of a  
23 grant, contract, cooperative agreement, or other trans-  
24 action under this part, the Secretary may provide appro-  
25 priate protections (including exemptions from subchapter

1 II of chapter 5 of title 5, United States Code) against the  
2 dissemination of information that—

3 (1) results from demonstration activities carried  
4 out under this part; and

5 (2) would be a trade secret or commercial or fi-  
6 nancial information that is privileged or confidential  
7 if the information had been obtained from and first  
8 produced by a non-Federal party participating in the  
9 project.

10 (e) REVERSION OF UNUSED FUNDS.—Effective be-  
11 ginning on the date that is 7 years after the establishment  
12 of the special funding program, if the Secretary, acting  
13 through the Program Director, does not obligate at least  
14 75 percent of the available proceeds of the assessed fees  
15 for any fiscal year due to an absence of qualified projects  
16 or similar circumstances, the Secretary, without further  
17 appropriation, shall reimburse the remaining unobligated  
18 balance of the fees, less administrative and other expenses  
19 authorized by this part, to the electric utilities on which  
20 the fees were assessed, in proportion to the collected as-  
21 sessments of the electric utilities.

22 **SEC. 1416. ERCOT.**

23 (a) DEFINITIONS.—In this section:

24 (1) ERCOT.—The term “ERCOT” means the  
25 Electric Reliability Council of Texas.

1           (2) LOAD-SERVING ENTITY.—The term “load-  
2           serving entity” has the meaning given the term in  
3           ERCOT Protocols in effect on the date of enactment  
4           of this Act.

5           (3) QUALIFIED SCHEDULING ENTITY.—The  
6           term “qualified scheduling entity” has the meaning  
7           given the term in ERCOT Protocols in effect on the  
8           date of enactment of this Act.

9           (4) RENEWABLE ENERGY CREDIT.—The term  
10          “renewable energy credit” has the meaning given the  
11          term by the Public Utility Commission of Texas pur-  
12          suant to section 39.904(b) of the Public Utility Reg-  
13          ulatory Act of 1999 of the State of Texas as in ef-  
14          fect on the date of enactment of this Act.

15          (b) ASSESSMENT, COLLECTION, AND REMIT-  
16          TANCE.—

17               (1) IN GENERAL.—Notwithstanding any other  
18               provision of this part, within ERCOT, the assess-  
19               ment required under section 1415 shall be—

20                       (A) levied directly on qualified scheduling  
21                       entities, or successor entities of the qualified  
22                       scheduling entities;

23                       (B) charged in an amount that is con-  
24                       sistent with other charges imposed on qualified



1 scheduling entities as a fee on energy used by  
2 the load-serving entities; and

3 (C) collected and remitted by ERCOT to  
4 the Secretary in the amounts and in the same  
5 manner as described in section 1415.

6 (2) REQUIREMENTS.—The assessment amounts  
7 referred to in paragraph (1) shall—

8 (A) be determined by the quantity and  
9 types of fossil fuel-based electricity delivered di-  
10 rectly to all electric consumers in the prior cal-  
11 endar year beginning with the year ending im-  
12 mediately prior to the beginning of the period  
13 described in section 1412(c); and

14 (B) take into account the number of re-  
15 newable energy credits retired by the load-serv-  
16 ing entities represented by a qualified sched-  
17 uling entity during the prior calendar year.

18 (c) ADMINISTRATION EXPENSES.—Not more than 1  
19 percent of the funds collected for any fiscal year by  
20 ERCOT under this section may be used for the adminis-  
21 trative expenses incurred in the determination, collection,  
22 and remittance of the assessments to the Secretary.

23 (d) AUDIT.—ERCOT shall submit to the Secretary  
24 a copy of the annual audit of ERCOT relating to the ad-  
25 ministration of this section.

1 **SEC. 1417. DETERMINATION OF FOSSIL FUEL-BASED ELEC-**  
2 **TRICITY DELIVERIES.**

3 (a) FINDINGS.—Congress finds that—

4 (1) the assessments under section 1415 are to  
5 be collected based on the quantity of fossil fuel-  
6 based electricity sold by each electric utility to elec-  
7 tric consumers;

8 (2) because many electric utilities purchase all  
9 or part of the electricity needed by the electric con-  
10 sumers of the utilities from other entities, it may not  
11 be practicable to determine the precise fuel mix for  
12 the power sold by each individual electric utility; and

13 (3) it may be necessary to use average data,  
14 often on a regional basis with reference to Regional  
15 Transmission Organization or North American Elec-  
16 tric Reliability Corporation regions, to make the de-  
17 terminations necessary for making the assessments.

18 (b) PROPOSED REGULATION.—

19 (1) IN GENERAL.—The Secretary, in consulta-  
20 tion with the Administrator and the Energy Infor-  
21 mation Administration, shall issue for notice and  
22 comment a proposed regulation to determine the  
23 level and type of fossil fuel-based electricity delivered  
24 to electric consumers by each electric utility in the  
25 United States during the most recent calendar year

1 or other period determined by the Secretary to be  
2 most appropriate.

3 (2) BALANCING.—The proposed regulation shall  
4 balance the need to be efficient, reasonably precise,  
5 and timely, taking into account the nature and cost  
6 of data currently available and the nature of mar-  
7 kets and regulations in effect in various regions of  
8 the United States.

9 (3) VARYING METHODOLOGIES.—The Secretary  
10 may apply different methodologies in different re-  
11 gions of the United States if appropriate to obtain  
12 the best balance of factors described in paragraph  
13 (2).

14 (c) FINAL REGULATION.—

15 (1) IN GENERAL.—Not later than 180 days  
16 after the date of enactment of this Act, and after  
17 opportunity for comment, the Secretary shall pro-  
18 mulgate a final regulation under this section for de-  
19 termining the level and type of fossil fuel-based elec-  
20 tricity delivered to electric consumers by each elec-  
21 tric utility in the United States during the appro-  
22 priate period, as determined by the Secretary.

23 (2) NEW DATA SOURCES.—In promulgating the  
24 final regulation, the Secretary may—

1 (A) consider opportunities and costs to de-  
2 velop new data sources in the future; and

3 (B) issue recommendations for the Energy  
4 Information Administration or other agencies to  
5 collect the data.

6 (3) UPDATES.—After notice and opportunity  
7 for comment, the Secretary may, by regulation, up-  
8 date and modify the methodology for making deter-  
9 minations under this section.

10 (d) ANNUAL DETERMINATIONS.—

11 (1) IN GENERAL.—In accordance with the final  
12 regulation promulgated under subsection (c), the  
13 Secretary shall—

14 (A) make annual determinations of the  
15 quantities and types for each electric utility;  
16 and

17 (B) publish the determinations in the Fed-  
18 eral Register.

19 (2) USE.—Determinations described in para-  
20 graph (1) shall be used—

21 (A) to carry out section 1412; and

22 (B) by the Secretary in applying any as-  
23 sessment under this part.

24 (e) REHEARING AND JUDICIAL REVIEW.—

1           (1) IN GENERAL.—The owner or operator of  
2           any electric utility that believes that the Secretary  
3           has misapplied the methodology in the final regula-  
4           tion in determining the quantity and types of fossil  
5           fuel-based electricity delivered by the electric utility  
6           may seek a rehearing of the determination not later  
7           than 30 days after publication of the determination  
8           in the Federal Register.

9           (2) DEADLINE.—Not later than 30 days after  
10          a rehearing petition is formally requested, the Sec-  
11          retary shall rule on the rehearing petition.

12          (3) JUDICIAL REVIEW.—A determination of the  
13          Secretary under paragraph (2) shall be final and  
14          subject to judicial review in the United States Court  
15          of Appeals for the District of Columbia Circuit.

16 **SEC. 1418. COMPLIANCE WITH ASSESSMENTS.**

17          (a) IN GENERAL.—The Secretary may bring an ac-  
18          tion in the appropriate court of the United States to com-  
19          pel compliance with an assessment levied by the Secretary  
20          under this part.

21          (b) PAYMENT.—A successful action for compliance  
22          under this section may require payment by the defendant  
23          of the costs incurred by the Secretary in bringing the ac-  
24          tion.

1 **SEC. 1419. MIDCOURSE REVIEW.**

2 Not later than 5 years after the establishment of the  
3 special funding program, the Comptroller General of the  
4 United States shall submit to Congress a report that—

5 (1) evaluates the activities of the special fund-  
6 ing program, including—

7 (A) project selection and methods of dis-  
8 bursement of assessed fees;

9 (B) impacts on the prospects for commer-  
10 cialization of carbon capture and sequestration  
11 technologies; and

12 (C) the extent to which assessed fees sup-  
13 port the qualified projects received by the Sec-  
14 retary; and

15 (2) makes such recommendations as the Comp-  
16 troller General of the United States considers to be  
17 appropriate in each of those areas.

18 **SEC. 1420. RECOVERY OF COSTS.**

19 (a) IN GENERAL.—An electric utility, the trans-  
20 mission, delivery, or sales of electric energy of which are  
21 subject to any form of rate regulation, may not be denied  
22 an opportunity to recover the full amount of the prudently  
23 incurred costs associated with complying with this part,  
24 consistent with applicable State or Federal law.

25 (b) RATEPAYER REBATES.—Regulatory authorities  
26 that approve cost recovery pursuant to subsection (a) may

1 order rebates to ratepayers to the extent that electric utili-  
2 ties selling fossil fuel-based electricity to electric con-  
3 sumers are reimbursed undedicated or unassigned bal-  
4 ances in accordance with section 1415.

5 **PART III—COMMERCIAL DEPLOYMENT OF CAR-**  
6 **BON CAPTURE AND SEQUESTRATION TECH-**  
7 **NOLOGIES**

8 **SEC. 1431. COMMERCIAL DEPLOYMENT OF CARBON CAP-**  
9 **TURE AND PERMANENT SEQUESTRATION**  
10 **TECHNOLOGIES.**

11 Part G of title VII of the Clean Air Act (as added  
12 by section 2101) is amended by inserting after section 793  
13 the following:

14 **“SEC. 794. COMMERCIAL DEPLOYMENT OF CARBON CAP-**  
15 **TURE AND PERMANENT SEQUESTRATION**  
16 **TECHNOLOGIES.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) CARBON CAPTURE AND PERMANENT SE-  
19 QUESTRATION.—The term ‘carbon capture and per-  
20 manent sequestration’ shall—

21 “(A) have such meaning as the Adminis-  
22 trator shall determine, by regulation; and

23 “(B) include—

24 “(i) permanent geological sequestra-  
25 tion; and

1                   “(ii) conversion of captured carbon di-  
2                   oxide to a stable form that will safely and  
3                   permanently sequester the carbon dioxide.

4                   “(2) ENHANCED HYDROCARBON RECOVERY.—

5                   “(A) IN GENERAL.—The term ‘enhanced  
6                   hydrocarbon recovery’ means a process by  
7                   which oil, methane, or another natural gas is  
8                   recovered by the injection of carbon dioxide into  
9                   a geological formation.

10                  “(B) EXCLUSION.—The term ‘enhanced  
11                  hydrocarbon recovery’ does not include the in  
12                  situ generation of a new hydrocarbon.

13                  “(3) QUALIFYING ELECTRIC GENERATING  
14                  UNIT.—The term ‘qualifying electric generating unit’  
15                  means an electric utility unit—

16                  “(A) that derives at least 50 percent of the  
17                  annual fuel input of the unit from—

18                          “(i) coal or waste coal;

19                          “(ii) petroleum coke; or

20                          “(iii) any combination of those 2  
21                          fuels; and

22                          “(B)(i) that has a nameplate capacity of  
23                          200 megawatts or more; or

24                          “(ii) in the case of retrofit applications, the  
25                          carbon capture and permanent sequestration



1           technology of which is applied to the flue gas or  
2           fuel gas stream from at least 200 megawatts of  
3           the total nameplate generating capacity of the  
4           unit.

5           “(4) QUALIFYING INDUSTRIAL SOURCE.—The  
6           term ‘qualifying industrial source’ means a source  
7           that—

8                   “(A) is not a qualifying electric generating  
9                   unit;

10                   “(B) absent carbon capture and permanent  
11                   sequestration, would emit more than 50,000  
12                   tons per year of carbon dioxide; and

13                   “(C) does not produce a liquid transpor-  
14                   tation fuel from a solid fossil-based feedstock.

15           “(5) TREATED GENERATING CAPACITY.—

16                   “(A) IN GENERAL.—The term ‘treated  
17                   generating capacity’ means the portion of the  
18                   total generating capacity of an electric gener-  
19                   ating unit (or industrial source, measured by  
20                   such method as the Administrator may des-  
21                   ignate to be equivalent to the calculation under  
22                   subparagraph (B)) for which the flue gas or  
23                   fuel gas is treated by the carbon capture and  
24                   permanent sequestration technology.

1           “(B) CALCULATION.—In determining the  
2           treated portion of flue gas or fuel gas of an  
3           electric generating unit under subparagraph  
4           (A), the Administrator shall multiply the name-  
5           plate capacity of the unit by the ratio that—

6                   “(i) the mass of flue gas or fuel gas  
7                   that is treated by the carbon capture and  
8                   permanent sequestration technology; bears  
9                   to

10                   “(ii) the total mass of the flue gas or  
11                   fuel gas that is produced when the unit is  
12                   operating at maximum capacity.

13           “(b) REGULATIONS.—Not later than 2 years after  
14           the date of enactment of this title, the Administrator shall  
15           promulgate regulations providing for the distribution of  
16           emission allowances allocated under section 781(c)(1),  
17           pursuant to the requirements of this section, to support  
18           the commercial deployment of carbon capture and perma-  
19           nent sequestration technologies in electric power genera-  
20           tion and industrial operations.

21           “(c) ELIGIBILITY CRITERIA AND METHOD OF DIS-  
22           TRIBUTION.—

23                   “(1) ELIGIBILITY.—For an owner or operator  
24                   of a project to be eligible to receive emission allow-  
25                   ances under this section, the project shall—

1           “(A) implement carbon capture and per-  
2           manent sequestration technology—

3                   “(i) at a qualifying electric generating  
4           unit that, on implementation of the carbon  
5           capture and permanent sequestration tech-  
6           nology, will achieve an emission limitation  
7           that is at least a 50-percent reduction in  
8           emissions of the carbon dioxide produced  
9           by—

10                   “(I) the unit, measured on an  
11           annual basis, as determined by the  
12           Administrator; or

13                   “(II) in the case of retrofit appli-  
14           cations described in subsection  
15           (a)(3)(B)(ii), the treated portion of  
16           flue gas from the unit, measured on  
17           an annual basis, as determined by the  
18           Administrator; or

19                   “(ii) at a qualifying industrial source  
20           that, on implementation, will achieve an  
21           emission limitation that is at least a 50-  
22           percent reduction in emissions of the car-  
23           bon dioxide produced by the emission  
24           point, measured on an annual basis, as de-  
25           termined by the Administrator;

1           “(B)(i) geologically sequester carbon diox-  
2           ide at a site that meets all applicable permitting  
3           and certification requirements for permanent  
4           geological sequestration; or

5           “(ii) pursuant to such requirements as the  
6           Administrator may prescribe by regulation, con-  
7           vert captured carbon dioxide to a stable form  
8           that will safely and permanently sequester the  
9           carbon dioxide;

10           “(C) meet all other applicable State, tribal,  
11           and Federal permitting requirements; and

12           “(D) be located in the United States.

13           “(2) METHOD OF DISTRIBUTION.—

14           “(A) PERIOD.—The Administrator shall  
15           distribute emission allowances allocated under  
16           section 781(c)(1) to eligible projects for each of  
17           the first 10 calendar years for which each eligi-  
18           ble project is in commercial operation.

19           “(B) BONUS ALLOWANCE FORMULA FOR  
20           ELECTRIC GENERATING UNITS.—

21           “(i) PHASE I DISTRIBUTION.—For  
22           each project that is certified under sub-  
23           section (h), the quantity of emission allow-  
24           ances that the Administrator shall dis-  
25           tribute for a calendar year to the owner or

1 operator of the eligible project shall be  
2 equal to the quotient obtained by divid-  
3 ing—

4 “(I) the product obtained by mul-  
5 tipling—

6 “(aa) the number of metric  
7 tons of carbon dioxide emissions  
8 avoided through carbon capture  
9 and permanent sequestration of  
10 emissions by the project for a  
11 particular year, as determined  
12 pursuant to such methodology as  
13 the Administrator shall prescribe,  
14 by regulation; and

15 “(bb) a bonus allowance  
16 value that is assigned to the  
17 project under subsection (d)(2);  
18 by

19 “(II) the average fair market  
20 value of an emission allowance during  
21 the calendar year preceding the earlier  
22 of—

23 “(aa) the calendar year dur-  
24 ing which the project captured

1 and sequestered the carbon diox-  
2 ide emissions; or

3 “(bb) the calendar year in  
4 which the project receives an ad-  
5 vanced distribution of emission  
6 allowances under subsection  
7 (h)(3)(B).

8 “(ii) PHASE II DISTRIBUTION.—For  
9 each project that qualifies under subsection  
10 (e), the quantity of emission allowances  
11 that the Administrator shall distribute for  
12 a calendar year to the owner or operator of  
13 the eligible project shall be determined  
14 through—

15 “(I) reverse auction, as pre-  
16 scribed by regulation under subsection  
17 (e)(3); or

18 “(II) if the Administrator decides  
19 not to distribute emission allowances  
20 through a reverse auction, an alter-  
21 nate distribution method established  
22 by regulation under subsection (e)(4).

23 “(C) FORMULA FOR INDUSTRIAL  
24 SOURCES.—For each project that qualifies  
25 under subsection (g), the quantity of emission

1 allowances that the Administrator shall dis-  
2 tribute for a calendar year to the owner or op-  
3 erator of the eligible project shall be determined  
4 in accordance with subsection (g)(2).

5 “(D) CONSISTENCY.—The Administrator  
6 shall develop a method of distribution for each  
7 category of eligible projects under this para-  
8 graph in a manner that is consistent with the  
9 certification and distribution requirements of  
10 subsection (h).

11 “(d) PHASE I DISTRIBUTION TO ELECTRIC GENER-  
12 ATING UNITS.—

13 “(1) APPLICABILITY.—

14 “(A) IN GENERAL.—Subject to subpara-  
15 graph (B), this subsection shall apply to  
16 projects that are undertaken at qualifying elec-  
17 tric generating units that the Administrator de-  
18 termines to be eligible to receive emission allow-  
19 ances under this section.

20 “(B) CAPACITY.—The total cumulative  
21 generating capacity of the projects described in  
22 subparagraph (A) shall be equal to approxi-  
23 mately 20 gigawatts of the treated generating  
24 capacity.

25 “(2) BONUS ALLOWANCE VALUES.—

1 “(A) FIRST TRANCHE.—

2 “(i) IN GENERAL.—The first tranche  
3 shall include the first 10 gigawatts of  
4 treated generating capacity undertaken at  
5 qualifying electric generating units that re-  
6 ceive emission allowances under this sec-  
7 tion.

8 “(ii) CERTAIN UNITS.—For an eligible  
9 project achieving carbon capture and per-  
10 manent sequestration of 90 percent or  
11 more of the carbon dioxide that otherwise  
12 would be emitted by the unit, the bonus al-  
13 lowance value shall be \$96 per ton of car-  
14 bon dioxide emissions avoided through the  
15 use of carbon capture and permanent se-  
16 questration.

17 “(iii) BONUS ALLOWANCE VALUE.—  
18 The Administrator shall establish, by regu-  
19 lation, a bonus allowance value for each  
20 rate of carbon capture and permanent se-  
21 questration achieved by an eligible  
22 project—

23 “(I) beginning at a minimum of  
24 \$50 per ton for a 50-percent rate; and





1                    sequestration achieved by an eligible  
2                    project—

3                    “(I) beginning at a minimum of  
4                    \$50 per ton for a 50-percent rate; and

5                    “(II) varying in direct proportion  
6                    with increasing rates of carbon cap-  
7                    ture and permanent sequestration up  
8                    to \$85 per ton for a 90-percent rate.

9                    “(C) INCREASE IN BONUS ALLOWANCE  
10                    VALUE.—For an eligible project that com-  
11                    mences commercial operation by not later than  
12                    January 1, 2017, and that meets the eligibility  
13                    criteria under subsection (c), the otherwise-ap-  
14                    plicable bonus allowance value under this para-  
15                    graph shall be increased by \$10, if the owner  
16                    or operator of the eligible project submits to the  
17                    Administrator by not later than January 1,  
18                    2012, a notification of the intent to implement  
19                    carbon capture and permanent sequestration  
20                    technology at a qualifying electric generating  
21                    unit in accordance with subsection (c).

22                    “(D) REDUCTION.—

23                    “(i) IN GENERAL.—For a carbon cap-  
24                    ture and permanent sequestration project  
25                    sequestering in a geological formation for

1 purposes of enhanced hydrocarbon recovery,  
2 the Administrator, by regulation, shall  
3 reduce the applicable bonus allowance  
4 value under this paragraph to reflect the  
5 lower net cost of the project, as compared  
6 to permanent sequestration into geological  
7 formations solely for purposes of seques-  
8 tration.

9 “(ii) ASSESSMENT OF NET COST.—  
10 For the purpose of this subparagraph, an  
11 assessment of net cost of a project shall  
12 account for the cost of the injection of car-  
13 bon dioxide, or other method of enhanced  
14 hydrocarbon recovery, that would have oth-  
15 erwise been undertaken in the absence of  
16 the carbon capture and permanent seques-  
17 tration project under consideration.

18 “(E) ADJUSTMENTS.—The Administrator  
19 shall annually adjust for monetary inflation the  
20 bonus allowance values established under this  
21 paragraph.

22 “(F) MEASUREMENT.—The Administrator  
23 shall measure the tranches and capture levels  
24 for assigning the bonus allowance values under  
25 this subsection based on the treated generating

1 capacity of the qualifying electric generating  
2 units and qualifying industrial sources that re-  
3 ceive emission allowances under this subsection.

4 “(G) AVERAGE FAIR MARKET VALUE.—

5 “(i) IN GENERAL.—The Administrator  
6 and the Secretary of Energy may jointly  
7 determine that the average fair market  
8 value for emission allowances or bonus al-  
9 lowances have been too low or too high to  
10 achieve efficient and cost-effective commer-  
11 cial deployment of carbon capture and per-  
12 manent sequestration technology in a cal-  
13 endar year.

14 “(ii) ACTION ON DETERMINATION.—  
15 On making a determination under clause  
16 (i), the Administrator may—

17 “(I) promulgate regulations to  
18 adjust the bonus allowance value  
19 under this paragraph; or

20 “(II) distribute an appropriate  
21 quantity of emission allowances allo-  
22 cated under section **【781(b)(5)】** from  
23 any future vintage year.

24 “(e) PHASE II DISTRIBUTION TO ELECTRIC GENER-  
25 ATING UNITS.—

1           “(1) APPLICATION.—This subsection shall  
2           apply only to the distribution of emission allowances  
3           for carbon capture and permanent sequestration  
4           projects undertaken at qualifying electric generating  
5           units and qualifying industrial sources after the  
6           treated generating capacity threshold identified  
7           under subsection (d)(1) is reached.

8           “(2) REGULATIONS.—Not later than 2 years  
9           before the date on which the capacity threshold iden-  
10          tified in subsection (d)(1) is projected to be reached,  
11          the Administrator shall promulgate regulations to  
12          govern the distribution of emission allowances to the  
13          owners or operators of eligible projects under this  
14          subsection.

15          “(3) REVERSE AUCTIONS.—

16                 “(A) IN GENERAL.—Except as provided in  
17                 paragraph (4), the regulations promulgated  
18                 pursuant to paragraph (2) shall provide for the  
19                 distribution of emission allowances to the own-  
20                 ers or operators of eligible projects under this  
21                 subsection through at least 2 reverse auctions,  
22                 each of which shall be held not less frequently  
23                 than once each calendar year.

24                 “(B) REQUIREMENTS.—

1                   “(i) PROJECTS AT INDUSTRIAL  
2 SOURCES.—The Administrator shall annu-  
3 ally establish a reverse auction for projects  
4 at industrial sources, which may not par-  
5 ticipate in other auctions.

6                   “(ii) OTHER AUCTIONS.—The Admin-  
7 istrator may establish a separate auction  
8 for each of not more than 5 different  
9 project categories, as defined based on—

10                   “(I) coal type;

11                   “(II) capture technology;

12                   “(III) geological formation type;

13                   “(IV) new unit versus retrofit ap-  
14 plication;

15                   “(V) such other factors as the  
16 Administrator may prescribe; or

17                   “(VI) any combination of the fac-  
18 tors described in subclauses (I)  
19 through (V).

20                   “(iii) EFFICIENT DISTRIBUTION.—  
21 The Administrator shall establish proce-  
22 dures for the auction of emission allow-  
23 ances under this subparagraph to ensure  
24 that the establishment of separate auctions  
25 for different project categories will not un-

1           duly impede the efficient and expeditious  
2           distribution of emission allowances to eligi-  
3           ble projects under this subsection.

4           “(iv) MINIMUM RATES.—The Admin-  
5           istrator may establish appropriate min-  
6           imum rates of carbon capture and perma-  
7           nent sequestration for the treated gener-  
8           ating capacity of a project in implementing  
9           this subparagraph.

10          “(C) AUCTION PROCESS.—At each reverse  
11          auction under this paragraph—

12                 “(i) the Administrator shall solicit  
13                 bids from eligible projects;

14                 “(ii) owners or operators of eligible  
15                 projects participating in the auction shall  
16                 submit a bid, including the desired level of  
17                 carbon dioxide permanent sequestration in-  
18                 centive per ton and the estimated quantity  
19                 of carbon dioxide that the project will per-  
20                 manently sequester during a 10-year pe-  
21                 riod; and

22                 “(iii) the Administrator shall select  
23                 bids within each auction for the permanent  
24                 sequestration quantity submitted, begin-  
25                 ning with the eligible project for which the

1 bid is submitted for the lowest level of per-  
2 manent sequestration incentive on a per-  
3 ton basis and meeting such other require-  
4 ments as the Administrator may specify,  
5 until the amounts available for the reverse  
6 auction are committed.

7 “(D) FORM OF DISTRIBUTION.—The Ad-  
8 ministrator shall distribute emission allowances  
9 to the owners or operators of eligible projects  
10 selected through a reverse auction under this  
11 paragraph pursuant to a formula equivalent to  
12 the formula contained in subsection (c)(2)(B),  
13 except that the bonus allowance value that is  
14 bid by the applicable entity shall be substituted  
15 for the bonus allowance values described in sub-  
16 section (c)(2).

17 “(4) ALTERNATIVE DISTRIBUTION METHOD.—

18 “(A) IN GENERAL.—If the Administrator  
19 determines that a reverse auction will not result  
20 in efficient and cost-effective commercial de-  
21 ployment of carbon capture and permanent se-  
22 questration technologies, the Administrator,  
23 pursuant to regulations under paragraph (2) or  
24 (5), shall prescribe a schedule for the provision  
25 of bonus allowances to the owners or operators



1 of eligible projects under this subsection, in ac-  
2 cordance with the requirements of this para-  
3 graph.

4 “(B) MULTIPLE TRANCHES.—The Admin-  
5 istrator shall divide emission allowances avail-  
6 able for distribution to the owners or operators  
7 of eligible projects into a series of tranches,  
8 each of which—

9 “(i) shall support the deployment of a  
10 specified quantity of cumulative electric  
11 generating capacity using carbon capture  
12 and permanent sequestration technology;  
13 and

14 “(ii) shall not be greater than 10  
15 gigawatts of treated generating capacity.

16 “(C) METHOD OF DISTRIBUTION.—The  
17 Administrator shall distribute emission allow-  
18 ances within each tranche, on a first-come,  
19 first-served basis—

20 “(i) based on the date of full-scale op-  
21 eration of carbon capture and permanent  
22 sequestration technology; and

23 “(ii) pursuant to a formula that—

24 “(I) is similar to the formula  
25 contained in subsection (c)(2)(C), ex-

1                   cept that the Administrator may pre-  
2                   scribe bonus allowance values dif-  
3                   ferent than those described in sub-  
4                   section (c)(2) based on the criteria es-  
5                   tablished under subparagraph (E);  
6                   and

7                   “(II) establishes the number of  
8                   emission allowances to be distributed  
9                   per ton of carbon dioxide sequestered  
10                  by the project.

11                  “(D) REQUIREMENTS.—For each tranche  
12                  established pursuant to subparagraph (B), the  
13                  Administrator shall establish a schedule for dis-  
14                  tributing emission allowances that—

15                  “(i) is based on a sliding scale that  
16                  provides higher bonus allowance values for  
17                  projects achieving higher rates of carbon  
18                  capture and permanent sequestration for  
19                  the treated generation capacity at the unit;

20                  “(ii) for each carbon capture and per-  
21                  manent sequestration rate, establishes a  
22                  bonus allowance value that is lower than  
23                  that established for the applicable rate for  
24                  the previous tranche (or, in the case of the  
25                  first tranche, than that established for the

1 applicable rate under subsection (d)(2));

2 and

3 “(iii) may establish different bonus al-  
4 lowance levels for not more than 5 dif-  
5 ferent project categories, as defined based  
6 on—

7 “(I) coal type;

8 “(II) capture and transportation  
9 technology;

10 “(III) geological formation type;

11 “(IV) new unit versus retrofit ap-  
12 plication;

13 “(V) such other factors as the  
14 Administrator may prescribe; or

15 “(VI) any combination of the fac-  
16 tors described in subclauses (I)  
17 through (V).

18 “(E) CRITERIA FOR ESTABLISHING BONUS  
19 ALLOWANCE VALUES.—In establishing bonus al-  
20 lowance values under this paragraph, the Ad-  
21 ministrator shall seek to cover not more than  
22 the reasonable incremental capital and oper-  
23 ating costs of a project that are attributable to  
24 implementation of carbon capture and perma-  
25 nent sequestration technologies and carbon

1 transportation technologies, taking into ac-  
2 count—

3 “(i) the reduced cost of compliance  
4 with section 722;

5 “(ii) the reduced cost associated with  
6 sequestering in a geological formation for  
7 purposes of enhanced hydrocarbon recov-  
8 ery, as compared to permanent sequestra-  
9 tion into geological formations solely for  
10 purposes of sequestration;

11 “(iii) the relevant factors defining the  
12 project category; and

13 “(iv) such other factors as the Admin-  
14 istrator determines to be appropriate.

15 “(5) REVISION OF REGULATIONS.—The Admin-  
16 istrator shall review and, as appropriate, revise the  
17 applicable regulations under this subsection not less  
18 frequently than once every 8 years.

19 “(f) LIMITS FOR CERTAIN ELECTRIC GENERATING  
20 UNITS.—

21 “(1) DEFINITIONS.—In this subsection:

22 “(A) COVERED EGU.—The term ‘covered  
23 EGU’ means a utility unit that is—

24 “(i) required to have a permit under  
25 section 503(a); and

1           “(ii) authorized under State or Fed-  
2           eral law to derive at least 30 percent of the  
3           annual heat input of the utility unit from  
4           coal, petroleum coke, or any combination  
5           of those fuels.

6           “(B) INITIALLY PERMITTED.—

7           “(i) IN GENERAL.—The term ‘initially  
8           permitted’, with respect to a covered EGU,  
9           means that the owner or operator of the  
10          covered EGU has received a  
11          preconstruction approval or permit under  
12          this Act for the covered EGU as a new  
13          (not a modified) source, but administrative  
14          review or appeal of the approval or permit  
15          has not been exhausted.

16          “(ii) TREATMENT.—A subsequent  
17          modification of any approval or permit de-  
18          scribed in clause (i), ongoing administra-  
19          tive or court review, appeal, or challenge,  
20          or the existence or tolling of any time to  
21          pursue further review, appeals, or chal-  
22          lenges, shall not affect the date on which  
23          a covered EGU is considered to be initially  
24          permitted under this subparagraph.

1           “(2) COVERED EGUS INITIALLY PERMITTED  
2 FROM 2009 THROUGH 2014.—For a covered EGU  
3 that is initially permitted during the period begin-  
4 ning on January 1, 2009, and ending on December  
5 31, 2014, the Administrator shall reduce the quan-  
6 tity of emission allowances that the owner or oper-  
7 ator of the covered EGU would otherwise be eligible  
8 to receive under this section as follows:

9           “(A) In the case of a covered EGU com-  
10 mencing operation on or before January 1,  
11 2019, if the date in clause (ii)(I) is earlier than  
12 the date in clause (ii)(II), by the product ob-  
13 tained by multiplying—

14                   “(i) 20 percent; and

15                   “(ii) the number of years, if any, that  
16 have elapsed between—

17                           “(I) the earlier of—

18                                   “(aa) January 1, 2020; and

19                                   “(bb) the date that is 5  
20 years after the commencement of  
21 operation of the covered EGU;  
22 and

23                           “(II) the first year that the cov-  
24 ered EGU achieves (and thereafter  
25 maintains) an emission limitation that

1 is at least a 50-percent reduction in  
2 emissions of carbon dioxide produced  
3 by the unit, measured on an annual  
4 basis.

5 “(B) In the case of a covered EGU com-  
6 mencing operation after January 1, 2019, by  
7 the product obtained by multiplying—

8 “(i) 20 percent; and

9 “(ii) the number of years, if any, that  
10 have elapsed between—

11 “(I) the commencement of oper-  
12 ation of the covered EGU; and

13 “(II) the first year that the cov-  
14 ered EGU achieves (and thereafter  
15 maintains) an emission limitation that  
16 is at least a 50-percent reduction in  
17 emissions of carbon dioxide produced  
18 by the unit, measured on an annual  
19 basis.

20 “(3) COVERED EGUS INITIALLY PERMITTED  
21 FROM 2015 THROUGH 2019.—The owner or operator  
22 of a covered EGU that is initially permitted during  
23 the period beginning on January 1, 2015, and end-  
24 ing on December 31, 2019, shall be ineligible to re-  
25 ceive emission allowances under this section if the

1 covered EGU, on commencement of operations (and  
2 thereafter), does not achieve and maintain an emis-  
3 sion limitation that is at least a 50-percent reduction  
4 in emissions of carbon dioxide produced by the cov-  
5 ered EGU, measured on an annual basis.

6 “(4) COVERED EGUS RECEIVING ADVANCED  
7 DISTRIBUTION.—

8 “(A) IN GENERAL.—For a covered EGU  
9 that receives an advanced distribution of emis-  
10 sion allowances, the Administrator shall reduce  
11 and recover, as applicable, the quantity of emis-  
12 sion allowances that the owner or operator of  
13 the EGU has received and remains eligible to  
14 receive under this section, which shall be equal  
15 to the product obtained by multiplying—

16 “(i) 20 percent; and

17 “(ii) the number of years, if any, that  
18 have elapsed between—

19 “(I) the date that is 18 months  
20 after—

21 “(aa) in the case of a cov-  
22 ered EGU that was initially per-  
23 mitted during the period begin-  
24 ning on January 1, 2009, and  
25 ending on December 31, 2014,



1 the date of commencement of op-  
2 eration of the EGU; or

3 “(bb) in the case of a cov-  
4 ered EGU that was initially per-  
5 mitted prior to January 1, 2009,  
6 the date that is 3 years after the  
7 date on which the project owner  
8 receives an advanced distribution  
9 for that EGU under subsection  
10 (h)(3)(B); and

11 “(II) the first year that the EGU  
12 achieves (and thereafter maintains) an  
13 emission limitation that is at least a  
14 50-percent reduction in emissions of  
15 carbon dioxide produced by the EGU,  
16 measured on an annual basis.

17 “(B) EXTENSION.—

18 “(i) IN GENERAL.—If an owner or op-  
19 erator of a covered EGU that receives an  
20 advanced distribution of emission allow-  
21 ances determines that the owner or op-  
22 erator will not be able to achieve at least a  
23 50-percent reduction in emissions of car-  
24 bon dioxide produced by the EGU, as  
25 measured on an annual basis, by the date

1 specified in subparagraph (A)(ii)(I), the  
2 owner or operator may petition the Admin-  
3 istrator to extend that date by not more  
4 than 18 months.

5 “(ii) TIME OF SUBMISSION OF PETI-  
6 TION.—The owner or operator shall submit  
7 a petition described in clause (i) to the Ad-  
8 ministrator as soon as practicable after the  
9 date on which the basis for the petition  
10 arises.

11 “(iii) CONDITIONS FOR EXTENSION.—  
12 The Administrator shall prescribe, by regu-  
13 lation, the conditions under which an ex-  
14 tension under clause (i) may be granted,  
15 including—

16 “(I) the inability of a covered  
17 EGU to sequester at the site, despite  
18 due diligence having been undertaken;  
19 and

20 “(II) legal challenges to the im-  
21 plementation of the carbon capture  
22 and permanent sequestration tech-  
23 nology.

24 “(g) INDUSTRIAL SOURCES.—

1           “(1) EMISSION ALLOWANCES.—The Adminis-  
2           trator—

3                   “(A) may distribute not more than 15 per-  
4                   cent of the emission allowances allocated under  
5                   section 781(c)(1) for any vintage year to the  
6                   owners or operators of eligible industrial  
7                   sources to support the commercial-scale deploy-  
8                   ment of carbon capture and permanent seques-  
9                   tration technologies at those sources; and

10                   “(B) notwithstanding any other provision  
11                   of law—

12                           “(i) may distribute to eligible indus-  
13                           trial sources not more than 15 percent of  
14                           the emission allowances allocated under  
15                           section 781(c)(1) for any vintage year in  
16                           the second tranche of phase I; but

17                           “(ii) may not distribute those emis-  
18                           sion allowances for any vintage year in the  
19                           first tranche of phase I.

20           “(2) DISTRIBUTION.—

21                   “(A) IN GENERAL.—The Administrator  
22                   shall prescribe, by regulation, requirements for  
23                   the distribution of emission allowances to the  
24                   owners or operators of industrial sources under  
25                   this subsection, based on a bonus allowance for-

1           mula that awards emission allowances to quali-  
2           fying projects on the basis of tons of carbon di-  
3           oxide captured and permanently sequestered.

4           “(B) METHOD.—The Administrator may  
5           provide for the distribution of emission allow-  
6           ances pursuant to—

7                   “(i) a reverse auction method similar  
8                   to the method described in subsection  
9                   (e)(3), including the use of separate auc-  
10                  tions for different project categories; or

11                   “(ii) an incentive schedule similar to  
12                   the schedule described in subsection (e)(4),  
13                   which shall ensure that incentives are es-  
14                   tablished so as to satisfy the requirement  
15                   described in subsection (e)(4)(E).

16           “(3) REVISION OF REGULATIONS.—The Admin-  
17           istrator shall review and, as appropriate, revise the  
18           regulations under this subsection not less frequently  
19           than once every 8 years.

20           “(h) CERTIFICATION AND DISTRIBUTION.—

21                   “(1) CERTIFICATION.—

22                           “(A) REQUEST.—

23                                   “(i) PHASE I; ALTERNATIVE DIS-  
24                                   TRIBUTION METHOD.—In the case of a  
25                                   qualifying project that is eligible to receive

1 allowances under phase I or subsection  
2 (e)(4), at any time prior to placing a car-  
3 bon capture and permanent sequestration  
4 project into commercial operation, the  
5 owner or operator of the planned project  
6 may request from the Administrator a cer-  
7 tification that the project is eligible to re-  
8 ceive emission allowances under this sec-  
9 tion.

10 “(ii) REVERSE AUCTIONS.—In the  
11 case of a qualifying project that wins a re-  
12 verse auction under subsection (e) or (g),  
13 within a reasonably brief period following  
14 completion of the auction (as specified by  
15 the Administrator), the owner or operator  
16 of the qualifying project shall request from  
17 the Administrator a certification that the  
18 project is eligible to receive emission allow-  
19 ances under this section.

20 “(iii) ELIGIBLE PROJECTS.—Eligible  
21 projects in phase I and phase II may re-  
22 ceive certification under this paragraph.

23 “(iv) ISSUANCE.—Not later than 90  
24 days after the date on which the Adminis-  
25 trator determines that the owner or oper-

1           ator of the planned project has submitted  
2           complete documentation pursuant to sub-  
3           paragraph (B), the Administrator shall  
4           issue a certification described in this sub-  
5           paragraph—

6                   “(I) if the owner or operator  
7                   demonstrates a commitment to con-  
8                   struct and operate a project that sat-  
9                   isfies—

10                           “(aa) the eligibility criteria  
11                           of subsection (c); and

12                           “(bb) the requirements of  
13                           this paragraph; and

14                   “(II) that is based on the consid-  
15                   eration by the Administrator of the  
16                   documentation submitted pursuant to  
17                   subparagraph (B), as well as other  
18                   relevant information, as determined  
19                   by the Administrator, in consultation  
20                   with the owner or operator.

21           “(B) DOCUMENTATION.—

22                   “(i) IN GENERAL.—The Administrator  
23                   shall prescribe, by regulation, the docu-  
24                   mentation necessary for making a deter-  
25                   mination of project eligibility for the cer-

1                   tification under subparagraph (A), includ-  
2                   ing—

3                   “(I) in the case of a planned  
4                   project receiving an advanced dis-  
5                   tribution of emission allowances, a  
6                   commitment to implement carbon and  
7                   permanent sequestration technology  
8                   on commencement of operation to  
9                   meet the eligibility requirements of  
10                  (c)(1) by not later than 18 months  
11                  after the date of commencement of  
12                  operation;

13                  “(II) technical information re-  
14                  garding the carbon capture and per-  
15                  manent sequestration technology, coal  
16                  type, geological formation type (if ap-  
17                  plicable), and other relevant design  
18                  features that are planned for the  
19                  project;

20                  “(III) the annual reductions in  
21                  carbon dioxide emissions that the car-  
22                  bon capture and permanent sequestra-  
23                  tion technology is projected to achieve  
24                  during each of the first 10 years that

1 the project achieves commercial oper-  
2 ation;

3 “(IV) a demonstration that the  
4 owner or operator is committed to  
5 constructing and operating the  
6 planned project on a timeline marked  
7 by reasonable milestones, through the  
8 completion of 1 of the actions speci-  
9 fied in subparagraph (C)(iii);

10 “(V) the amount of Federal  
11 funding the project owner has re-  
12 ceived, if any, to cover the costs of  
13 constructing a project that is eligible  
14 under this paragraph; and

15 “(VI) an assessment of the costs  
16 of constructing the project, which  
17 shall serve as a basis for the deter-  
18 mination of the Administrator regard-  
19 ing advanced distributions under  
20 paragraph (3)(C).

21 “(ii) NONRETROFIT APPLICATION.—

22 In the case of a project that is not a ret-  
23 rofit application, the assessment of costs  
24 described in clause (i)(VI) shall include an  
25 assessment of the costs of constructing the



1 electric generating unit or industrial source  
2 that will produce the flue gas or fuel gas  
3 to be treated by the carbon capture and  
4 permanent sequestration technology.

5 “(C) COMMITMENT.—

6 “(i) IN GENERAL.—Subject to clause  
7 (ii), the completion of any 1 of the quali-  
8 fying actions specified under clause (iii)  
9 shall constitute a commitment to construct  
10 and operate a planned carbon capture and  
11 permanent sequestration project.

12 “(ii) CONDITION.—In the case of a  
13 qualifying action specified in subclause (I)  
14 or (II) of clause (iii), the completion of  
15 such an action may be subject to a condi-  
16 tion that the Administrator will issue a  
17 certification under this paragraph for the  
18 distribution of emission allowances to the  
19 project.

20 “(iii) QUALIFYING ACTIONS.—Quali-  
21 fying actions under this subparagraph  
22 shall include—

23 “(I) the execution of—

24 “(aa) a commitment by  
25 lenders or other appropriate enti-

1 ties to finance the project, which  
2 may be subject to customary  
3 closing conditions that are associ-  
4 ated with the execution of the  
5 commitment;

6 “(bb) an authorization by a  
7 State regulatory authority to  
8 allow recovery, from the retail  
9 customers of the electric utility,  
10 of the costs of the project by a  
11 State-regulated electric utility  
12 that plans to construct the  
13 project; or

14 “(cc) an authorization by a  
15 State legislature to allow recov-  
16 ery, from the retail customers of  
17 electric utilities that are required  
18 to purchase some or all of the  
19 electricity from the project pursu-  
20 ant to State law, of the costs of  
21 the project, on the conditions  
22 that the project has been ap-  
23 proved by the legislature and,  
24 under State law, retail electric  
25 providers are required collectively

1 to purchase all of the net electric  
2 output from the project; and

3 “(II) a commitment by the owner  
4 or operator of the project to execute a  
5 surety bond in sufficient amounts by  
6 not later than 2 years after the date  
7 on which the Administrator issues the  
8 certification for the project.

9 “(D) CONTENT OF CERTIFICATION.—The  
10 Administrator shall prescribe, by regulation, the  
11 required content of each certification issued  
12 under this paragraph, including—

13 “(i) the annual reductions in carbon  
14 dioxide emissions that the carbon capture  
15 and sequestration technology the owner or  
16 operator of the planned project commits to  
17 achieve during each of the first 10 years  
18 that the project is in commercial operation;

19 “(ii) the construction and operating  
20 milestones to which the owner or operator  
21 of the planned project commits;

22 “(iii) a certification that the docu-  
23 mentation submitted under subparagraph  
24 (B) is true and accurate;

1           “(iv) for those sources that have re-  
2           ceived advanced distribution of emission al-  
3           lowances under paragraph (3)(B), the re-  
4           payment periods that the Administrator  
5           has specified pursuant to paragraph  
6           (3)(D)(v) as of the effective date of the  
7           certification; and

8           “(v) such other requirements as may  
9           be necessary to govern the advanced dis-  
10          tribution of emission allowances between  
11          the Administrator and the owner or oper-  
12          ator of the planned project, subject to the  
13          requirements of this subsection.

14          “(E) FAILURE TO REQUEST CERTIFI-  
15          CATION.—

16                 “(i) IN GENERAL.—An owner or oper-  
17                 ator may elect not to request a certifi-  
18                 cation on the eligibility of a planned  
19                 project under subparagraph (A) prior to  
20                 the commercial operation of the project.

21                 “(ii) DETERMINATION BY ADMINIS-  
22                 TRATOR.—If an owner or operator elects  
23                 not to request a certification under clause  
24                 (i), the Administrator shall make a deter-  
25                 mination regarding whether the project

1 satisfies the eligibility requirements of sub-  
2 section (c) at the time that the Adminis-  
3 trator makes a determination regarding  
4 the annual distribution of emission allow-  
5 ances under paragraph (3)(A).

6 “(2) RESERVATION OF EMISSION ALLOW-  
7 ANCES.—

8 “(A) AMOUNT.—

9 “(i) IN GENERAL.—For each project  
10 that receives a certification of eligibility  
11 under paragraph (1), the Administrator  
12 shall reserve on a first-come, first-served  
13 basis a portion of the emission allowances  
14 that are allocated for the deployment of  
15 carbon capture and permanent sequestra-  
16 tion technology under section 781(c)(1).

17 “(ii) DETERMINATION.—The reserva-  
18 tion of emission allowances for a particular  
19 eligible project under this paragraph shall  
20 be equal to the number of emission allow-  
21 ances that the project would be entitled to  
22 receive under the applicable distribution  
23 method under this section upon commer-  
24 cial operation of the carbon capture and

1 permanent sequestration technology, as de-  
2 termined by the Administrator based on—

3 “(I) the applicable bonus allow-  
4 ance value;

5 “(II) the number of tons of car-  
6 bon dioxide emissions projected to be  
7 avoided through the use of carbon  
8 capture and permanent sequestration  
9 technologies during each calendar  
10 year under paragraph (1)(B)(i)(II);  
11 and

12 “(III) a discount rate to account  
13 for the increase in the monetary infla-  
14 tion that may be expected to occur  
15 during each of the relevant 10 cal-  
16 endar years, as determined by the Ad-  
17 ministrator.

18 “(B) TERMINATION OF RESERVATION.—

19 “(i) IN GENERAL.—A reservation of  
20 emission allowances for a particular project  
21 under subparagraph (A) shall terminate if  
22 the Administrator determines that the  
23 owner or operator has failed to achieve a  
24 reasonable number of milestones for com-  
25 mencing construction or commercial oper-

1                   ation of the project, as specified under  
2                   paragraph (1)(B)(i)(III).

3                   “(ii) REDUCED QUANTITY OF CARBON  
4                   DIOXIDE CAPTURED AND SEQUESTERED.—  
5                   If the quantity of carbon dioxide emissions  
6                   avoided through the operation of the car-  
7                   bon capture and permanent sequestration  
8                   project on average over 3 consecutive cal-  
9                   endar years is less than the quantity speci-  
10                  fied for those calendar years under sub-  
11                  paragraph (A), the reservation of emission  
12                  allowances for the project under subpara-  
13                  graph (A) shall be reduced for future years  
14                  by the difference between—

15                   “(I) the quantity of carbon diox-  
16                   ide emissions avoided through oper-  
17                   ation of the carbon capture and per-  
18                   manent sequestration project on aver-  
19                   age over the applicable 3 consecutive  
20                   years; and

21                   “(II) the quantity specified under  
22                   subparagraph (A) for the applicable  
23                   years.

24                   “(iii) AVAILABILITY.—The Adminis-  
25                   trator shall immediately make available to

1 other eligible projects emission allowances  
2 for which the Administrator has termi-  
3 nated an emission allowance reservation  
4 for a particular project under this subpara-  
5 graph.

6 “(3) DISTRIBUTION PROCESS.—

7 “(A) ANNUAL DISTRIBUTION.—

8 “(i) IN GENERAL.—The Administrator  
9 shall distribute the emission allowances to  
10 eligible projects on an annual basis.

11 “(ii) BASIS.—The annual distribution  
12 of emission allowances shall be based on  
13 the total tons of carbon dioxide emissions  
14 avoided through operation of the carbon  
15 capture and permanent sequestration  
16 project during each of the first 10 years of  
17 commercial operation, in accordance with  
18 subsection (c)(2).

19 “(iii) TOTAL DISTRIBUTION  
20 AMOUNT.—The total amount of emission  
21 allowances distributed to an eligible project  
22 for each of the first 10 years of commer-  
23 cial operation may be greater than, or less  
24 than, the quantity of emissions allowances



1 that the Administrator has reserved for the  
2 eligible project under paragraph (2).

3 “(iv) REPORTS.—

4 “(I) IN GENERAL.—Except as  
5 provided in subparagraph (B), the Ad-  
6 ministrator shall make each annual  
7 distribution of emission allowances by  
8 not later than 90 days after the date  
9 on which the owner or operator of a  
10 project submits to the Administrator  
11 a report regarding the tons of carbon  
12 dioxide emissions avoided for that  
13 year through operation of the carbon  
14 capture and permanent sequestration  
15 project.

16 “(II) REQUIREMENT.—A report  
17 under subclause (I) shall be verified in  
18 accordance with regulations to be pro-  
19 mulgated by the Administrator.

20 “(B) ADVANCED DISTRIBUTION.—

21 “(i) IN GENERAL.—The Administrator  
22 may provide an advanced distribution of  
23 emission allowances to the projects—

1                   “(I) that receive emission allow-  
2                   ances under the phase I distributions  
3                   authorized by subsection (d); and

4                   “(II) for which the Administrator  
5                   has issued a certification of eligibility  
6                   under paragraph (1).

7                   “(ii) REQUIREMENTS.—An advanced  
8                   distribution of emission allowances for a  
9                   particular project shall be provided—

10                   “(I) prior to the operational  
11                   phase of the project, at an appro-  
12                   priate milestone that best ensures the  
13                   expeditious deployment of the carbon  
14                   capture and permanent sequestration  
15                   technology, as determined by the Ad-  
16                   ministrator;

17                   “(II) in a quantity that equals a  
18                   percentage, as specified in subpara-  
19                   graph (C), of the total number of  
20                   emission allowances that the Adminis-  
21                   trator has reserved for that project  
22                   during the 10-year period of commer-  
23                   cial operation; and

24                   “(III) using emission allowances  
25                   that are drawn—



1 accordance with regulations promul-  
2 gated by the Administrator.

3 “(III) AVOIDANCE OF DUPLICA-  
4 TIVE REPORTING.—If the unit on  
5 which a planned project is imple-  
6 mented already submits the informa-  
7 tion required by subclause (I) to the  
8 Administrator pursuant to another re-  
9 porting requirement, the owner or op-  
10 erator of the planned project may  
11 refer the Administrator to the other  
12 submission in which the required in-  
13 formation is provided.

14 “(C) PERCENTAGES.—

15 “(i) IN GENERAL.—Subject to clauses  
16 (ii) and (iii), the Administrator shall apply  
17 the following percentages for determining  
18 the advanced distribution of emission al-  
19 lowances:

20 “(I) 70 percent of the emission  
21 allowance reservation for the first  
22 tranche under subsection (d)(2)(A).

23 “(II) 50 percent of the emission  
24 allowance reservation for the second  
25 tranche under subsection (d)(2)(B).

1                   “(ii) COSTS LESS THAN VALUE OF AL-  
2                   LOWANCES.—If the costs described in  
3                   clause (iii) are less than the monetary  
4                   value of allowances represented by the per-  
5                   centages described in clause (i) at the time  
6                   of advanced distribution, the advanced dis-  
7                   tribution shall be limited to an amount  
8                   that is equivalent to the costs described in  
9                   clause (iii).

10                   “(iii) COSTS.—

11                   “(I) IN GENERAL.—For retrofit  
12                   projects, the advanced distribution  
13                   shall equate to 100 percent of the  
14                   costs of permitting, design or engi-  
15                   neering, labor, materials, land, and  
16                   equipment associated with the con-  
17                   struction and installation of the sys-  
18                   tem to capture, compress, transport,  
19                   and store carbon dioxide (including  
20                   design changes to the associated gen-  
21                   erating unit needed to accommodate  
22                   the carbon dioxide capture and com-  
23                   pression system).

24                   “(II) NEW ELECTRIC GENER-  
25                   ATING UNITS.—For new projects—

1                   “(aa) the advanced distribu-  
2                   tion shall equate to 100 percent  
3                   of the incremental permitting, de-  
4                   sign or engineering, labor, mate-  
5                   rials, land, and equipment cost  
6                   differences between—

7                   “(AA) a new coal power  
8                   plant with carbon capture  
9                   and storage; and

10                  “(BB) a new coal  
11                  power plant without carbon  
12                  capture and storage in the  
13                  location where the new coal  
14                  power plant is being con-  
15                  structed, and for the same  
16                  intended service territory ab-  
17                  sent carbon capture and  
18                  storage; and

19                  “(bb) it shall be the respon-  
20                  sibility of the organization that is  
21                  requesting advanced distributions  
22                  to provide to the Administrator a  
23                  cost estimate for both the new  
24                  coal power plant with carbon cap-  
25                  ture and storage and a new coal

1 power plant without carbon cap-  
2 ture and storage.

3 “(III) REDUCTION.—For the  
4 purposes of this subparagraph, the  
5 costs under this clause shall be re-  
6 duced by the amounts documented  
7 under paragraph (1)(B)(i)(V).

8 “(D) RECONCILIATION FOR ADVANCED  
9 PAYMENTS.—

10 “(i) IN GENERAL.—In the case of a  
11 project that receives an advanced distribu-  
12 tion of emission allowances under this  
13 paragraph, the Administrator shall dis-  
14 tribute annually the remainder of emission  
15 allowances reserved under paragraph (2)  
16 once the carbon capture and permanent se-  
17 questration technology begins commercial  
18 operation.

19 “(ii) TIMING OF DISTRIBUTION.—The  
20 annual distribution of emission allowances  
21 under clause (i) shall take place not later  
22 than 60 days after the end of each cal-  
23 endar year.

24 “(iii) CALCULATION OF REMAINING  
25 DISTRIBUTION.—Subject to clauses (iv)

1 and (v), the remaining distribution re-  
2 ferred to in clause (i) shall annually be cal-  
3 culated upward or downward as the dif-  
4 ference between—

5 “(I) the number of allowances  
6 that were reserved for the project in  
7 the relevant calendar year under para-  
8 graph (2)(A)(ii)(II); and

9 “(II) the number of allowances  
10 that the project would be eligible to  
11 receive under the bonus allowance for-  
12 mula described in subsection  
13 (c)(2)(B)(i) based on the tons of car-  
14 bon dioxide emissions that were avoid-  
15 ed through operation of the carbon  
16 capture and permanent sequestration  
17 project during the relevant calendar  
18 year.

19 “(iv) NUMBER OF ALLOWANCES.—For  
20 purposes of clauses (iii)(II) and (viii)(I),  
21 for the purposes of calculating the number  
22 of allowances under subsection  
23 (c)(2)(B)(i), the Administrator shall enter  
24 the average fair market value of emission



1 allowances in the year specified under sub-  
2 section (c)(2)(B)(i)(II)(bb).

3 “(v) METHODS OF RECONCILI-  
4 ATION.—

5 “(I) IN GENERAL.—If, in any  
6 calendar year, the number of tons of  
7 carbon dioxide emissions projected to  
8 be avoided for that year under para-  
9 graph (1)(B)(i)(III) is greater than  
10 the number of tons of carbon dioxide  
11 emissions that were actually avoided  
12 by a project during that year, based  
13 on the report submitted to the Admin-  
14 istrator under paragraph (3)(B)(iii),  
15 the difference may be accounted for  
16 by—

17 “(aa) the owner or operator  
18 of the project capturing and stor-  
19 ing an additional quantity of  
20 emissions that cumulatively ex-  
21 ceeds the difference between—

22 “(AA) the number of  
23 tons of carbon dioxide emis-  
24 sions that were projected to  
25 be avoided for the relevant

1 calendar year under para-  
2 graph (1)(B)(i)(II); and

3 “(BB) the number of  
4 tons of carbon dioxide emis-  
5 sions that were actually  
6 avoided through operation of  
7 the project during that year;

8 “(bb) the Administrator ad-  
9 justing the annual distributions  
10 under clause (iii), on the condi-  
11 tion that the reduction shall be  
12 sufficient to account for the dif-  
13 ference described in this sub-  
14 clause within the period specified  
15 by the Administrator in sub-  
16 clause (II); or

17 “(cc) the owner or operator  
18 of the project making a repay-  
19 ment in accordance with clause  
20 (vi).

21 “(II) PERIOD.—Compliance with  
22 subclause (I)(aa) shall occur over a  
23 period to be specified by the Adminis-  
24 trator, but not to exceed 18 months.

1                   “(III) INTEREST.—The Adminis-  
2                   trator may apply an appropriate rate  
3                   of interest to the repayment require-  
4                   ment under this clause.

5                   “(vi) ALTERNATE REPAYMENT BY AL-  
6                   LOWANCES OR CASH.—If the owner or op-  
7                   erator of the project elects to comply by re-  
8                   paying in accordance with clause  
9                   (v)(I)(aa), during the period specified by  
10                  the Administrator under clause (v)(II), the  
11                  owner or operator shall repay the Adminis-  
12                  trator an amount of allowances or cash (as  
13                  calculated under clause (viii)) if—

14                  “(I) the number of tons of car-  
15                  bon dioxide emissions that were actu-  
16                  ally avoided through operation of the  
17                  project during that period is less than  
18                  the number necessary to rectify the  
19                  difference described in clause (v)(I);  
20                  and

21                  “(II) the number of allowances  
22                  remaining reserved for a project is in-  
23                  sufficient to adjust for the difference  
24                  under clause (iii).

1                   “(vii) MILESTONES.—If the Adminis-  
2                   trator determines that the owner or oper-  
3                   ator failed to achieve a milestone for com-  
4                   mencing construction or commercial oper-  
5                   ation of the project (as specified in para-  
6                   graph (1)(B)), the owner or operator shall  
7                   repay the Administrator an amount of al-  
8                   lowances or cash calculated under clause  
9                   (viii).

10                   “(viii) CALCULATION.—The repay-  
11                   ments required under clauses (vi)(I) and  
12                   (vii) shall be equal to, at the option of the  
13                   owner or operator of the project—

14                   “(I) the difference between the  
15                   numbers of allowances described in  
16                   subclauses (I) and (II) of clause (iii);  
17                   or

18                   “(II) a cash payment in an  
19                   amount equal to the product obtained  
20                   by multiplying—

21                   “(aa) the difference between  
22                   the numbers of allowances de-  
23                   scribed in subclauses (I) and (II)  
24                   of clause (iii); and

1                   “(bb) the average fair mar-  
2                   ket value of an emission allow-  
3                   ance during the year in which the  
4                   repayment would be made under  
5                   clause (vi).

6                   “(ix) USE OF REPAID AMOUNTS.—The  
7                   Administrator shall use amounts received  
8                   as repayments under this subparagraph to  
9                   support the deployment of carbon capture  
10                  and permanent sequestration.

11               “(i) LIMITATIONS.—

12               “(1) IN GENERAL.—Emission allowances shall  
13               be distributed under this section only for tons of car-  
14               bon dioxide emissions that are captured and seques-  
15               tered in accordance with this section.

16               “(2) PERIOD.—A qualifying project may receive  
17               annual emission allowances under this section only  
18               for the first 10 years of operation.

19               “(3) CAPACITY.—

20               “(A) IN GENERAL.—Approximately 72  
21               gigawatts of total cumulative treated generating  
22               capacity may receive emission allowances under  
23               this section.

24               “(B) ALLOWANCE SURPLUS.—On reaching  
25               the cumulative capacity described in subpara-

1 graph (A), any emission allowances that are al-  
2 located for carbon capture and permanent se-  
3 questration deployment under section 781(c)(1)  
4 and are not yet obligated under this section  
5 shall be treated as emission allowances not des-  
6 igned for distribution for purposes of section  
7 781.

8 “(j) EXHAUSTION OF ACCOUNT AND ANNUAL ROLL-  
9 OVER OF SURPLUS EMISSION ALLOWANCES.—

10 “(1) IN GENERAL.—In distributing emission al-  
11 lowances under this section, the Administrator shall  
12 ensure that eligible projects receive distributions of  
13 emission allowances for the first 10 years of com-  
14 mercial operation.

15 “(2) DIFFERENT VINTAGE YEARS.—

16 “(A) DETERMINATION.—

17 “(i) IN GENERAL.—Subject to clause  
18 (ii), if the Administrator determines that  
19 the emission allowances allocated under  
20 section 781(c)(1) with a vintage year that  
21 matches the year of distribution will be ex-  
22 hausted once the estimated full 10-year  
23 distributions will be provided to current eli-  
24 gible participants, the Administrator shall  
25 provide to new eligible projects emission al-

1 allowances from vintage years after the year  
2 of the distribution.

3 “(ii) TIMING.—The Administrator  
4 may not transfer the allowance value for a  
5 future vintage year allowance to the eligi-  
6 ble participant under clause (i) until the  
7 last year in which the Administrator auc-  
8 tions, pursuant to section 790, allowances  
9 of that vintage year.

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 **SEC. 1432. CARBON CAPTURE AND SEQUESTRATION DE-**  
4 **PLOYMENT STUDIES.**

5 Part G of title VII of the Clean Air Act (as added  
6 by section 2101) is amended by inserting after section 788  
7 the following:

8 **“SEC. 789. CARBON CAPTURE AND SEQUESTRATION DE-**  
9 **PLOYMENT STUDIES.**

10 “(a) INITIAL STUDY.—

11 “(1) IN GENERAL.—The Comptroller General of  
12 the United States shall conduct and complete a  
13 study in accordance with this subsection not later  
14 than the earlier of—

15 “(A) May 1, 2033; or

16 “(B) the date that is 1 year after the date  
17 on which the Administrator determines that al-  
18 lowances distributed under section 781(c)(1)  
19 are becoming insufficient to meet requests for  
20 the allowances under section 794, if, by the  
21 date of the determination by the Administrator,  
22 there are in operation in the United States elec-  
23 tricity generating units or other stationary  
24 sources equipped with carbon capture and per-  
25 manent sequestration technology that, in the



1 aggregate, have a total of less than 72  
2 gigawatts of capacity.

3 “(2) CONTENTS.—In carrying out paragraph  
4 (1), the Comptroller General shall—

5 “(A) conduct a study of the state of carbon  
6 capture and sequestration technology and bar-  
7 riers to the deployment of the technology, in-  
8 cluding price competitiveness, regulatory re-  
9 quirements or uncertainty, and technical chal-  
10 lenges; and

11 “(B) submit to Congress, the Adminis-  
12 trator, and the Secretary a report on the results  
13 of the study, including recommendations re-  
14 garding potential measures that could be effec-  
15 tive in addressing the barriers described in sub-  
16 paragraph (A) and increasing the aggregate  
17 quantity of capacity deploying carbon capture  
18 and permanent sequestration technology in the  
19 United States to at least 72 gigawatts, includ-  
20 ing an assessment of the impact of providing an  
21 additional allocation of bonus allowances for the  
22 deployment of the technology.

23 “(b) ADDITIONAL ALLOWANCES.—Based on a study  
24 conducted under this section, the Secretary may direct the

1 Administrator, effective beginning in 2035 and for not  
2 more than 5 calendar years at a time, as appropriate—

3 “(1) to increase the quantity of allowances allo-  
4 cated pursuant to section 781(c)(1) by not more  
5 than 2.5 percent of the total quantity of allowances  
6 established under section 721 for a vintage year; and

7 “(2) to reduce the quantity of allowances pro-  
8 vided under section 781(a)(5) by an equivalent  
9 quantity.

10 “(c) CONGRESSIONAL ACTION.—If, during the 90-  
11 day period beginning on the date of an action of the Sec-  
12 retary under subsection (b), a law is enacted that overrides  
13 or revises the percentage of allowances specified by the  
14 Secretary under subsection (b), the Secretary shall rescind  
15 or revise the direction of the Secretary to the Adminis-  
16 trator in accordance with the law.

17 “(d) EFFECT ON OTHER PROVISIONS.—Any provi-  
18 sion of this title that refers to a quantity or percentage  
19 of the emission allowances established for a calendar year  
20 under section 721(a) shall be considered to refer to the  
21 quantity of emission allowances determined under section  
22 721(e), less any emission allowances established for that  
23 year that are allocated as a result of action taken under  
24 this section.

25 “(e) SUBSEQUENT STUDIES.—

1           “(1) IN GENERAL.—If the Administrator in-  
2           creases allocations pursuant to subsection (c), the  
3           Comptroller General shall review and revise the most  
4           recent study prepared under this section not later  
5           than May 1 of the calendar year prior to the latest  
6           vintage year for which the Administrator has been  
7           directed to increase allowances.

8           “(2) ADDITIONAL ALLOWANCES.—Based on the  
9           study, the Secretary may direct the Administrator to  
10          increase allowances in the manner prescribed in this  
11          section for not more than an additional 5 calendar  
12          years or until 2050, whichever is earlier.”.

13           **PART IV—PERFORMANCE STANDARDS**

14   **SEC. 1441. PERFORMANCE STANDARDS FOR COAL-FIRED**  
15           **POWER PLANTS.**

16          The Clean Air Act (42 U.S.C. 7401 et seq.) (as  
17          amended by section 2001) is amended by adding at the  
18          end the following:

19           **“TITLE VIII—GREENHOUSE GAS**  
20                   **STANDARDS**

21           **“SEC. 800. DEFINITIONS.**

22          “The terms used in this title and defined in title VII,  
23          except for the term ‘stationary source’, have the meanings  
24          given those terms in title VII.

1 **“SEC. 801. PERFORMANCE STANDARDS FOR NEW COAL-**  
2 **FIRED POWER PLANTS.**

3 “(a) DEFINITIONS.—In this section:

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

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

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

11 “(i) coal;

12 “(ii) petroleum coke; or

13 “(iii) any combination of those fuels.

14 “(2) INITIALLY PERMITTED.—

15 “(A) IN GENERAL.—The term ‘initially  
16 permitted’, with respect to a covered EGU,  
17 means that—

18 “(i) the owner or operator of the cov-  
19 ered EGU has received a preconstruction  
20 approval or permit under this Act as a new  
21 (but not modified) source; but

22 “(ii) administrative review or appeal  
23 of the approval or permit has not been ex-  
24 hausted.

25 “(B) CALCULATION.—A subsequent modi-  
26 fication of any approval or permit described in

1           subparagraph (A), ongoing administrative or  
2           court review, appeal, challenge, or the existence  
3           or tolling of any time to pursue additional re-  
4           view, appeal, or challenge shall not affect the  
5           date on which a covered EGU is considered to  
6           be initially permitted for purposes of this para-  
7           graph.

8           “(b) STANDARDS.—

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

11           “(A) achieve an emission limitation that  
12           represents at least a 65-percent reduction in  
13           emissions of the carbon dioxide produced by the  
14           covered EGU, as measured on an annual basis;  
15           or

16           “(B) meet such more-stringent standard as  
17           the Administrator may establish pursuant to  
18           subsection (c).

19           “(2) CERTAIN COVERED EGUS.—

20           “(A) IN GENERAL.—A covered EGU that  
21           is initially permitted during the period begin-  
22           ning on January 1, 2009, and ending on De-  
23           cember 31, 2019, shall achieve, by the applica-  
24           ble compliance date established under this para-  
25           graph, an emission limitation that represents at

1           least a 50-percent reduction in emissions of the  
2           carbon dioxide produced by the covered EGU,  
3           as measured on an annual basis.

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

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

15                   “(I) have a total of at least 10  
16                   gigawatts of capacity (including at  
17                   least 3 gigawatts that shall be  
18                   through electric generating units, and  
19                   up to 1 gigawatt that may be through  
20                   industrial applications (for which cap-  
21                   ture and permanent sequestration of  
22                   3,000,000 tons of carbon dioxide per  
23                   year on an aggregate annualized basis  
24                   shall be considered equivalent to 1  
25                   gigawatt)), measured as the sum of—

1                   “(aa) the treated generating  
2                   capacity for electric generating  
3                   unit retrofits and industrial  
4                   sources; and

5                   “(bb) the nameplate capac-  
6                   ity for new electric generating  
7                   units;

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

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

19                  “(ii) January 1, 2020.

20                  “(3) PROGRESS REVIEW.—

21                  “(A) IN GENERAL.—Not later than June  
22                  30, 2017, the Administrator and the Secretary  
23                  of Energy shall jointly prepare and submit to  
24                  Congress a review of the status of commercial

1 deployment of carbon capture and permanent  
2 sequestration technology that specifies—

3 “(i) the number and size of units in  
4 the United States that are capturing and  
5 permanently sequestering carbon dioxide;

6 “(ii) the tons of carbon dioxide being  
7 captured and permanently sequestered by  
8 those units; and

9 “(iii) the geographical and techno-  
10 logical diversity represented by those units  
11 and that technology.

12 “(B) FINDING.—To accompany the report  
13 under subparagraph (A), the Administrator and  
14 the Secretary of Energy shall make a finding  
15 that, in light of the status of commercial de-  
16 ployment of carbon capture and permanent se-  
17 questration technology, the applicable date  
18 specified in paragraph (2)(B)(ii) should—

19 “(i) remain in effect; or

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

22 “(C) CONDITIONS FOR EXTENSION.—The  
23 applicable date specified in paragraph (2)(B)(ii)  
24 shall be extended to January 1, 2022, only if—



1                   “(i) the Administrator and the Sec-  
2                   retary jointly find, pursuant to subpara-  
3                   graph (B), that the extension should occur;  
4                   and

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

7                   “(4) UNIT-SPECIFIC EXTENSION.—

8                   “(A) IN GENERAL.—If the deadline for  
9                   compliance with paragraph (2) is the applicable  
10                  date specified in paragraph (2)(B)(ii), the Ad-  
11                  ministrator may extend the deadline for compli-  
12                  ance by a covered EGU by not more than 18  
13                  months if the Administrator makes a deter-  
14                  mination, based on a showing by the owner or  
15                  operator of the covered EGU, that it will be  
16                  technically infeasible for the covered EGU to  
17                  meet the standard by that date.

18                  “(B) REQUEST.—To be eligible for an ex-  
19                  tension, an owner or operator of a covered EGU  
20                  shall submit to the Administrator a request for  
21                  an extension under subparagraph (A) by not  
22                  later than June 1, 2018.

23                  “(C) PUBLIC COMMENT.—The Adminis-  
24                  trator shall provide for public notice and com-

1           ment on each extension request submitted  
2           under subparagraph (B).

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

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

9           “(2) by rule, reduce the maximum carbon diox-  
10 ide emission rate for new covered EGUs to a rate  
11 that reflects the degree of emission limitation achiev-  
12 able through the application of the best system of  
13 emission reduction that (taking into account the cost  
14 of achieving the reduction and any nonair quality  
15 health and environmental impact and energy re-  
16 quirements) the Administrator determines has been  
17 adequately demonstrated.

18           “(d) REPORTS.—Not later than the date that is 18  
19 months after the date of enactment of this title, and semi-  
20 annually thereafter, the Administrator shall publish a re-  
21 port on the nameplate capacity of units (determined pur-  
22 suant to subsection (b)(2)(A)) in commercial operation in  
23 the United States equipped with carbon capture and stor-  
24 age technology, including the information described in  
25 subsection (b)(2)(A) (including the cumulative generating

1 capacity to which carbon capture and storage retrofit  
2 projects meeting the criteria described in section  
3 794(e)(1)(A) has been applied and the quantities of car-  
4 bon dioxide captured and sequestered by those projects).

5 “(e) REGULATIONS.—Not later than 2 years after the  
6 date of enactment of this title, the Administrator shall  
7 promulgate regulations to carry out this section.

8 **“SEC. 802. COAL-FUELED FLEET TRANSITION PROGRAM.**

9 “(a) PURPOSES.—The purposes of this section are—

10 “(1) to promote and accelerate the transition of  
11 existing coal-fueled power plants to lower greenhouse  
12 gas emissions and use of more energy efficient tech-  
13 nologies beyond what would reasonably be expected  
14 to occur considering the legal requirements of this  
15 Act; and

16 “(2) to recognize that—

17 “(A) during the period before advanced  
18 coal technologies coupled with carbon capture  
19 and storage become commercially available on a  
20 widespread basis, greater generation efficiency  
21 can achieve greenhouse gas reductions;

22 “(B) advance planning is required for unit  
23 retirements, retrofits, and the development of  
24 new generating options;

1           “(C) the reliability of electric service is a  
2           national priority and must be ensured in the  
3           process of converting and replacing coal-fueled  
4           generating units; and

5           “(D) to achieve the purposes of this sec-  
6           tion, financial and regulatory incentives, includ-  
7           ing expedited proceedings, should be considered  
8           and implemented, as appropriate, to support—

9                   “(i) projects involving unit retire-  
10                  ments;

11                   “(ii) retrofits that significantly reduce  
12                  greenhouse gas emissions to the atmos-  
13                  phere; and

14                   “(iii) conversions of existing coal-  
15                  fueled power plants to alternative fuel  
16                  sources with significantly lower greenhouse  
17                  gas emissions.

18           “(b) DEFINITIONS.—In this section:

19                   “(1) COAL.—The term ‘coal’ means solid fuel  
20                  classified as anthracite, bituminous, sub-bituminous,  
21                  or lignite by the American Society and Testing and  
22                  Materials, Designation D388-77.

23                   “(2) EXISTING COAL-FUELED POWER PLANT.—  
24                  The term ‘existing coal-fueled power plant’ means

1 any steam generating unit of more than **【\_\_\_\_\_】**  
2 megawatts that—

3 “(A) derives at least **【85】** percent of the  
4 annual heat input of the unit from coal, petro-  
5 leum coke, or any combination of those fuels;  
6 and

7 “(B) is not subject to performance stand-  
8 ards under section 801.

9 “(3) PETROLEUM COKE.—The term ‘petroleum  
10 coke’ means a carbonization product of high-boiling  
11 hydrocarbon fractions obtained in petroleum proc-  
12 essing (including heavy residues), typically from  
13 coker and other cracking processes.

14 **【“(c) DEPRECIATION AND INVESTMENT TAX CRED-**  
15 **ITS.—**Amendment of the Internal Revenue Code to pro-  
16 vide for accelerated depreciation under section 168 as fol-  
17 lows [insert method] and an investment tax credit of [xx]  
18 percent for replacements or retrofits of existing coal-fueled  
19 power plants that result in a significant decrease in green-  
20 house gas emissions as measured on a pounds of carbon  
21 dioxide per megawatt hour rate basis when compared to  
22 the greenhouse gas emissions from the existing coal-fueled  
23 power plant and that would not have occurred for another  
24 [xx] years, if then, without such financial incentives.

1 **[Note: This provision contains a number of issues, includ-**  
2 **ing appropriate design of tax incentives, to be discussed.]**

3 “(d) STUDY AND REPORT TO CONGRESS.—

4 “(1) ESTABLISHMENT OF TASK FORCE.—As  
5 soon as practicable, but not later than 90 days after  
6 the date of enactment of this title, the Administrator  
7 shall establish a task force (referred to in this sec-  
8 tion as the ‘task force’) to be composed of represent-  
9 atives from the Environmental Protection Agency,  
10 the Department of Energy, the Department of the  
11 Treasury, State public utility commissions, other rel-  
12 evant Federal, State, and local agencies, the elec-  
13 tricity generating sector, and nongovernmental orga-  
14 nizations, to conduct a study of—

15 “(A) existing programs established by Fed-  
16 eral and State environmental laws (including  
17 regulations) that apply to the siting, permitting,  
18 and operation of new, modified, and existing  
19 electricity generating units, and the effect the  
20 programs may have on the pace and extent of  
21 the transition of the existing coal-fueled power  
22 plants to significantly lower greenhouse gas  
23 emitting technologies or the retirement of exist-  
24 ing coal-fueled power plants in the fleet;

1           “(B) the effects of an exemption from sec-  
2           tions 111(d), 112, and 169(1) with regard to  
3           the installation of additional pollution control  
4           equipment at 1 or more electric generating  
5           units that commenced initial operation after  
6           December 31, 19[\_\_\_\_], and commits within a  
7           specified period to permanently cease operations  
8           for the generation of electricity not later than  
9           December 31, 20[\_\_\_\_], on the ability of elec-  
10          tric generators to significantly reduce green-  
11          house gas emissions from the generating system  
12          as a whole more rapidly and efficiently, while  
13          maintaining the reliability of electric service,  
14          than would likely occur without such an exemp-  
15          tion;

16           “(C) Federal regulations currently under  
17          development for control of power plant air pol-  
18          lutants other than greenhouse gases, and the  
19          potential effect the regulations may have on—

20                   “(i) power plant emissions;

21                   “(ii) attainment and maintenance of  
22                   national ambient air quality standards;

23                   “(iii) the transition of existing coal-  
24                   fueled power plants to cleaner generation;

25                   and

1           “(iv) the application of the programs  
2           described in subparagraph (A), including  
3           consideration of how the programs could  
4           be streamlined in light of the prospective  
5           regulatory requirements while contributing  
6           to reductions in public health risks result-  
7           ing from the pollutants;

8           “(D) financial incentives (such as incen-  
9           tives described in paragraph (2)), including—

10           “(i) the award of allowances for early  
11           closure of existing coal-fueled power plants;  
12           and

13           “(ii) regulatory changes that would  
14           facilitate and accelerate the retirement of  
15           existing coal-fueled power plants or the  
16           transition of existing coal-fueled power  
17           plants to lower greenhouse gas-emitting  
18           technologies or fuel sources in a manner  
19           that addresses needed control of other air  
20           pollutants; and

21           “(E) the effect on employment in the en-  
22           ergy sector of providing the incentives identified  
23           pursuant to subparagraphs (B), (C) and (D),  
24           and means by which any adverse effects could  
25           be ameliorated.



1           “(2) FINANCIAL INCENTIVES FOR COAL FLEET  
2           TRANSITION.—In conducting the study under this  
3           subsection, the task force shall consider whether the  
4           following types of financial incentives would be ap-  
5           propriate for achieving the purposes of this section:

6                   “(A) Tax incentives in addition to, or dif-  
7                   ferent than, the credits authorized under sec-  
8                   tion [\_\_\_\_\_] of the Internal Revenue Code of  
9                   1986 (as added by subsection (c)).

10                   “(B) Allowances, in addition to those avail-  
11                   able under section 798, for the retirement of ex-  
12                   isting coal-fueled power plants if—

13                           “(i) the units are retired during the  
14                           period beginning on January 1, 20[\_\_\_\_],  
15                           and ending on December 31, 20[\_\_\_\_,]  
16                           pursuant to an enforceable commitment  
17                           made by January 1, 201[\_\_\_\_];

18                           “(ii) the allowances are used for the  
19                           replacement of electric generation or the  
20                           construction of new electric generation that  
21                           results in a significant decrease of at least  
22                           [\_\_\_\_] percent in greenhouse gas emis-  
23                           sions as measured on a pounds of carbon  
24                           dioxide per megawatt hour rate basis when

1 compared to the greenhouse gas emissions  
2 from existing coal-fueled power plants; and  
3 “(iii) any increase in plant value and  
4 income as a result of the replacement or  
5 construction are used for the benefit of re-  
6 tail ratepayers.

7 “(3) REPORT.—Not later than 1 year after the  
8 date of enactment of this title, the task force shall  
9 submit to the Committee of Energy and Commerce  
10 of the House of Representatives and the Committee  
11 on Environment and Public Works of the Senate a  
12 report that describes the results of the study con-  
13 ducted under this subsection, including any con-  
14 sensus recommendations of the task force.

15 “(e) IMPLEMENTATION.—

16 “(1) IN GENERAL.—The Administrator, the  
17 Secretary of Energy, and the Secretary of the Treas-  
18 ury shall—

19 “(A) not later than **[\_\_\_\_]** days after the  
20 date of submission of the report required under  
21 subsection (d)(3), publish a response to the re-  
22 port, including any proposed changes to regula-  
23 tions or guidance to implement 1 or more of the  
24 recommendations of the task force and to

1           achieve the purposes of this Act , consistent  
2           with existing authority and obligations; and

3                   “(B) not later than [\_\_\_\_] days after the  
4           publication of the report, but in no case later  
5           than [\_\_\_\_] months after the date of enact-  
6           ment of this title, promulgate final regulations  
7           or guidance to implement the proposed changes  
8           described in subparagraph (A).

9                   “(2) PROJECT REVIEW.—Any Federal agency  
10          that issues permits or approvals for the authoriza-  
11          tion of projects covered by this section shall expe-  
12          dite, to the maximum extent practicable, the process  
13          for submitting, considering, and taking any required  
14          action for the projects.”.

## 15   **Subtitle D—Renewable Energy and** 16                   **Energy Efficiency**

### 17   **SEC. 1601. RENEWABLE ENERGY AND ENERGY EFFICIENCY.**

18          Congress finds that—

19                   (1) large-scale deployment of renewable energy  
20          and substantial improvement in energy efficiency are  
21          critical to the purposes of this Act and the amend-  
22          ments made by this Act, including—

23                           (A) improved energy security;

24                           (B) the reduction of greenhouse gas pollu-  
25          tion; and

1 (C) the creation of jobs; and

2 (2) to accelerate progress in those areas, meas-  
3 ures (in addition to the measures established under  
4 this Act and the amendments made by this Act) are  
5 necessary, including—

6 (A) mandates for the deployment of clean  
7 and renewable energy;

8 (B) innovative mechanisms to provide af-  
9 fordable funding for deployment of renewable  
10 technologies and other clean energy tech-  
11 nologies;

12 (C) transmission provisions to allow elec-  
13 tricity to flow freely from areas of great renew-  
14 able energy potential to load centers;

15 (D) improved building codes; and

16 (E) improved appliance standards.

17 **SEC. 1602. RURAL ENERGY SAVINGS PROGRAM.**

18 Subtitle D of the Consolidated Farm and Rural De-  
19 velopment Act is amended by adding after section 365 (7  
20 U.S.C. 2008) the following

21 **“SEC. 366. RURAL ENERGY SAVINGS PROGRAM.**

22 “(a) PURPOSE.—The purpose of this section is to cre-  
23 ate and save jobs by providing loans to qualified con-  
24 sumers that will use the loan proceeds to implement en-  
25 ergy efficiency measures to achieve significant reductions

1 in energy costs, energy consumption, or greenhouse gas  
2 emissions.

3 “(b) DEFINITIONS.—In this section:

4 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
5 tity’ means—

6 “(A) any public power district, public util-  
7 ity district, or similar entity, or any electric co-  
8 operative described in sections 501(c)(12) or  
9 1381(a)(2) of the Internal Revenue Code of  
10 1986, that borrowed and repaid, prepaid, or is  
11 paying an electric loan made or guaranteed by  
12 the Rural Utilities Service (or any predecessor  
13 agency); or

14 “(B) any entity primarily owned or con-  
15 trolled by an entity or entities described in sub-  
16 paragraph (A).

17 “(2) ENERGY EFFICIENCY MEASURES.—The  
18 term ‘energy efficiency measures’ means, for or at  
19 property served by an eligible entity, structural im-  
20 provements and investments in cost-effective, com-  
21 mercial off-the-shelf technologies to reduce home en-  
22 ergy use.

23 “(3) QUALIFIED CONSUMER.—The term ‘quali-  
24 fied consumer’ means a consumer served by an eligi-  
25 ble entity that has the ability to repay a loan made

1 under subsection (e), as determined by an eligible  
2 entity.

3 “(4) QUALIFIED ENTITY.—The term ‘qualified  
4 entity’ means a nongovernmental, not-for-profit or-  
5 ganization that the Secretary determines has signifi-  
6 cant experience, on a national basis, in providing eli-  
7 gible entities with—

8 “(A) energy, environmental, energy effi-  
9 ciency, and information research and tech-  
10 nology;

11 “(B) training, education, and consulting;

12 “(C) guidance in energy and operational  
13 issues and rural community and economic de-  
14 velopment;

15 “(D) advice in legal and regulatory mat-  
16 ters affecting electric service and the environ-  
17 ment; and

18 “(E) other relevant assistance.

19 “(5) SECRETARY.—The term ‘Secretary’ means  
20 the Secretary of Agriculture, acting through the  
21 Rural Utilities Service.

22 “(c) DISTRIBUTION.—Not later than September 30  
23 of each of calendar years 2012 through 2015, the Admin-  
24 istrator shall, in accordance with this section, distribute

1 allowances allocated pursuant to section 781(c)(5)(B) of  
2 the Clean Air Act for the following vintage year.

3 “(d) LOANS AND GRANTS TO ELIGIBLE ENTITIES.—

4 “(1) LOANS AUTHORIZED.—Subject to para-  
5 graph (2), the Secretary shall make loans to eligible  
6 entities that agree to use the loan funds to make  
7 loans to qualified consumers as described in sub-  
8 section (e) for the purpose of implementing energy  
9 efficiency measures.

10 “(2) LIST, PLAN, AND MEASUREMENT AND  
11 VERIFICATION REQUIRED.—

12 “(A) IN GENERAL.—As a condition of re-  
13 ceiving a loan or grant under this subsection,  
14 an eligible entity shall—

15 “(i) establish a list of energy effi-  
16 ciency measures that are expected to de-  
17 crease energy use or costs of qualified con-  
18 sumers;

19 “(ii) prepare an implementation plan  
20 for use of the loan funds; and

21 “(iii) provide for appropriate measure-  
22 ment and verification to ensure the effec-  
23 tiveness of the energy efficiency loans  
24 made by the eligible entity and that there

1 is no conflict of interest in carrying out  
2 this section.

3 “(B) REVISION OF LIST OF ENERGY EFFI-  
4 CIENCY MEASURES.—An eligible entity may up-  
5 date the list required under subparagraph  
6 (A)(i) to account for newly available efficiency  
7 technologies, subject to the approval of the Sec-  
8 retary.

9 “(C) EXISTING ENERGY EFFICIENCY PRO-  
10 GRAMS.—An eligible entity that, on or before  
11 the date of the enactment of this section or not  
12 later than 60 days after that date, has already  
13 established an energy efficiency program for  
14 qualified consumers may use an existing list of  
15 energy efficiency measures, implementation  
16 plan, or measurement and verification system of  
17 that program to satisfy the requirements of  
18 subparagraph (A) if the Secretary determines  
19 the list, plans, or systems are consistent with  
20 the purposes of this section.

21 “(3) NO INTEREST.—A loan under this sub-  
22 section shall bear no interest.

23 “(4) REPAYMENT.—A loan under this sub-  
24 section shall be repaid not more than 10 years after



1 the date on which an advance on the loan is first  
2 made to the eligible entity.

3 “(5) LOAN FUND ADVANCES.—The Secretary  
4 shall provide eligible entities with a schedule of not  
5 more than 10 years for advances of loan funds, ex-  
6 cept that any advance of loan funds to an eligible  
7 entity in any single year shall not exceed 50 percent  
8 of the approved loan amount.

9 “(6) JUMP-START GRANTS.—The Secretary  
10 shall make grants available to eligible entities se-  
11 lected to receive a loan under this subsection in  
12 order to assist an eligible entity to defray costs, in-  
13 cluding costs of contractors for equipment and labor,  
14 except that no eligible entity may receive a grant  
15 amount that is greater than 4 percent of the loan  
16 amount.

17 “(e) LOANS TO QUALIFIED CONSUMERS.—

18 “(1) TERMS OF LOANS.—Loans made by an eli-  
19 gible entity to qualified consumers using loan funds  
20 provided by the Secretary under subsection (d)—

21 “(A) may bear interest, not to exceed 3  
22 percent, to be used for purposes that include es-  
23 tablishing a loan loss reserve and to offset per-  
24 sonnel and program costs of eligible entities to  
25 provide the loans;

1           “(B) shall finance energy efficiency meas-  
2           ures for the purpose of decreasing energy usage  
3           or costs of the qualified consumer by an  
4           amount such that a loan term of not more than  
5           10 years will not pose an undue financial bur-  
6           den on the qualified consumer, as determined  
7           by the eligible entity;

8           “(C) shall not be used to fund energy effi-  
9           ciency measures made to personal property un-  
10          less the personal property—

11                   “(i) is or becomes attached to real  
12                   property as a fixture; or

13                   “(ii) is a manufactured home;

14          “(D) shall be repaid through charges  
15          added to the electric bill of the qualified con-  
16          sumer; and

17          “(E) shall require an energy audit by an  
18          eligible entity to determine the impact of pro-  
19          posed energy efficiency measures on the energy  
20          costs and consumption of the qualified con-  
21          sumer.

22          “(2) CONTRACTORS.—In addition to any other  
23          qualified general contractor, eligible entities may  
24          serve as general contractors.

1       “(f) CONTRACT FOR MEASUREMENT AND  
2 VERIFICATION, TRAINING, AND TECHNICAL ASSIST-  
3 ANCE.—

4               “(1) CONTRACT REQUIRED.—Not later than 60  
5 days after the date of enactment of this section, the  
6 Secretary shall enter into 1 or more contracts with  
7 a qualified entity for the purposes of—

8                       “(A) providing measurement and  
9 verification activities, including—

10                               “(i) developing and completing a rec-  
11 ommended protocol for measurement and  
12 verification for the Rural Utilities Service;

13                               “(ii) establishing a national measure-  
14 ment and verification committee consisting  
15 of representatives of eligible entities to as-  
16 sist the contractor in carrying out this sec-  
17 tion;

18                               “(iii) providing measurement and  
19 verification consulting services to eligible  
20 entities that receive loans under this sec-  
21 tion; and

22                               “(iv) providing training in measure-  
23 ment and verification; and

1           “(B) developing a program to provide tech-  
2           nical assistance and training to the employees  
3           of eligible entities to carry out this section.

4           “(2) USE OF SUBCONTRACTORS AUTHOR-  
5           IZED.—A qualified entity that enters into a contract  
6           under paragraph (1) may use subcontractors to as-  
7           sist the qualified entity in performing the contract.

8           “(g) FAST START DEMONSTRATION PROJECTS.—

9           “(1) DEMONSTRATION PROJECTS REQUIRED.—  
10          The Secretary shall enter into agreements with eligi-  
11          ble entities (or groups of eligible entities) that have  
12          energy efficiency programs described in subsection  
13          (d)(2)(C) to establish energy efficiency loan dem-  
14          onstration projects consistent with the purposes of  
15          this section that—

16                 “(A) implement approaches to energy au-  
17                 dits and investments in energy efficiency meas-  
18                 ures that yield measurable and predictable sav-  
19                 ings;

20                 “(B) use measurement and verification  
21                 processes to determine the effectiveness of en-  
22                 ergy efficiency loans made by eligible entities;

23                 “(C) include training for employees of eli-  
24                 gible entities, including any contractors of the

1 entities, to implement or oversee the activities  
2 described in subparagraphs (A) and (B);

3 “(D) provide for the participation of a ma-  
4 jority of eligible entities in a State;

5 “(E) reduce the need for generating capac-  
6 ity;

7 “(F) provide efficiency loans to—

8 “(i) not fewer than 20,000 consumers,  
9 in the case of a single eligible entity; or

10 “(ii) not fewer than 80,000 con-  
11 sumers, in the case of a group of eligible  
12 entities; and

13 “(G) serve areas where a large percentage  
14 of consumers reside—

15 “(i) in manufactured homes; or

16 “(ii) in housing units that are more  
17 than 50 years old.

18 “(2) DEADLINE FOR IMPLEMENTATION.—The  
19 agreements required by paragraph (1) shall be en-  
20 tered into not later than 90 days after the date of  
21 enactment of this section.

22 “(3) EFFECT ON AVAILABILITY OF LOANS NA-  
23 TIONALLY.—Nothing in this subsection shall delay  
24 the availability of loans to eligible entities on a na-

1 tional basis beginning not later than 180 days after  
2 the date of enactment of this section.

3 “(4) ADDITIONAL DEMONSTRATION PROJECT  
4 AUTHORITY.—

5 “(A) IN GENERAL.—The Secretary may  
6 conduct demonstration projects in addition to  
7 the project required by paragraph (1).

8 “(B) ADMINISTRATION.—The additional  
9 demonstration projects may be carried out with-  
10 out regard to subparagraphs (D), (F), or (G) of  
11 paragraph (1).

12 “(h) ADDITIONAL AUTHORITY.—The authority pro-  
13 vided in this section shall be in addition to any authority  
14 of the Secretary to offer loans or grants under any other  
15 law.

16 “(i) REGULATIONS.—

17 “(1) IN GENERAL.—Except as otherwise pro-  
18 vided in this subsection, not later than 180 days  
19 after the date of enactment of this section, the Sec-  
20 retary shall promulgate such regulations as are nec-  
21 essary to implement this section.

22 “(2) PROCEDURE.—The promulgation of the  
23 regulations and administration of this section shall  
24 be made without regard to—

1           “(A) chapter 35 of title 44, United States  
2           Code (commonly known as the ‘Paperwork Re-  
3           duction Act’); and

4           “(B) the Statement of Policy of the Sec-  
5           retary of Agriculture effective July 24, 1971  
6           (36 Fed. Reg. 13804), relating to notices of  
7           proposed rulemaking and public participation in  
8           rulemaking.

9           “(3) CONGRESSIONAL REVIEW OF AGENCY  
10          RULEMAKING.—In carrying out this section, the Sec-  
11          retary shall use the authority provided under section  
12          808 of title 5, United States Code.

13          “(4) INTERIM REGULATIONS.—Notwithstanding  
14          paragraphs (1) and (2), to the extent regulations are  
15          necessary to carry out any provision of this section,  
16          the Secretary shall implement such regulations  
17          through the promulgation of an interim rule.

18          “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
19          are authorized to be appropriated to carry out this section  
20          such sums as are necessary.”.

21       **SEC. 1603. SUPPORT OF STATE RENEWABLE ENERGY AND**  
22                       **ENERGY EFFICIENCY PROGRAMS.**

23          (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) COST-EFFECTIVE.—The term “cost-effec-  
5 tive”, with respect to an energy efficiency program,  
6 means that the program meets the total resource  
7 cost test, which requires that the net present value  
8 of economic benefits over the life of the program or  
9 measure, including avoided supply and delivery costs  
10 and deferred or avoided investments, is greater than  
11 the net present value of the economic costs over the  
12 life of the program, including program costs and in-  
13 cremental costs borne by the energy consumer.

14           (3) RENEWABLE ENERGY RESOURCE.—The  
15 term “renewable energy resource” has the meaning  
16 given the term in section 782 of the Clean Air Act.

17           (4) VINTAGE YEAR.—The term “vintage year”  
18 has the meaning given the term in section 700 of the  
19 Clean Air Act.

20           (b) DISTRIBUTION AMONG STATES.—

21           (1) IN GENERAL.—Not later than September  
22 30 of each of calendar years 2012 through 2021, the  
23 Administrator shall, in accordance with this section,  
24 distribute allowances allocated pursuant to section



1       781(c)(5)(C) of the Clean Air Act for the following  
2       vintage year.

3           (2) INDIAN TRIBES.—The Administrator shall  
4       distribute 0.5 percent of the allowances described in  
5       paragraph (1) to Indian tribes, on a competitive  
6       basis, to carry out renewable energy and energy effi-  
7       ciency programs, as determined by the Adminis-  
8       trator.

9           (3) STATES.—The Administrator shall dis-  
10      tribute the remaining allowances to States, in ac-  
11      cordance with paragraph (4), to carry out for renew-  
12      able energy and energy efficiency programs, as de-  
13      termined by the Administrator.

14          (4) STATE ALLOCATION.—The Administrator  
15      shall distribute allowances among the States under  
16      this section for each year in accordance with the fol-  
17      lowing formula:

18           (A)  $\frac{1}{3}$  of the allowances shall be divided  
19      equally among the States.

20           (B)  $\frac{1}{3}$  of the allowances shall be distrib-  
21      uted ratably among the States based on the  
22      population of each State, as contained in the  
23      most recent reliable census data available from  
24      the Bureau of the Census of the Department of  
25      Commerce, for all States at the time the Ad-

1            administrator calculates the formula for distribu-  
2            tion.

3            (C)  $\frac{1}{3}$  of the allowances shall be distrib-  
4            uted ratably among the States on the basis of  
5            the energy consumption of each State, as con-  
6            tained in the most recent State Energy Data  
7            Report available from the Energy Information  
8            Administration (or such alternative reliable  
9            source as the Administrator may designate).

10          (c) USES.—The allowances distributed to each State  
11          pursuant to this section shall be used exclusively for the  
12          following:

13            (1) Energy efficiency purposes, including imple-  
14          mentation of programs related to—

15            (A) building codes that improve energy ef-  
16          ficiency;

17            (B) energy-efficient manufactured homes;

18            (C) building energy performance labeling;

19            (D) low-income community energy effi-  
20          ciency improvements; and

21            (E) energy efficiency retrofits of existing  
22          buildings.

23            (2) Renewable energy purposes, including—

24            (A) deployment of technologies to generate  
25          electricity from renewable energy sources; and

1 (B) deployment of facilities or equipment,  
2 such as solar panels, to generate electricity or  
3 thermal energy from renewable energy re-  
4 sources in and on buildings in an urban envi-  
5 ronment.

6 (3) Cost-effective energy efficiency programs for  
7 end-use consumers of electricity, natural gas, home  
8 heating oil, or propane, including, if appropriate,  
9 programs or mechanisms administered by local gov-  
10 ernments and entities other than the State.

11 (4) Enabling the development of a Smart Grid  
12 (as described in section 1301 of the Energy Inde-  
13 pendence and Security Act of 2007 (42 U.S.C.  
14 17381)) for State, local government, and other pub-  
15 lic buildings and facilities, including integration of  
16 renewable energy resources and distributed genera-  
17 tion, demand response, demand-side management,  
18 and systems analysis.

19 (5) Providing the non-Federal share of support  
20 for surface transportation capital projects under—

21 (A) sections 5307, 5308, 5309, 5310, 5311  
22 and 5319 of title 49, United States Code; and

23 (B) sections 142, 146, and 149 of title 23,  
24 United States Code;

1       except that not more than 10 percent of allowances  
2       distributed to each State pursuant to this section  
3       shall be used for the purposes described in this para-  
4       graph.

5       (d) SUPPLEMENTATION.—For any allowances used  
6       for the purposes described in subsection (c), the State  
7       shall—

8           (1) with respect to energy efficiency programs  
9       described in subsection (c)(3), prioritize expansion of  
10      existing energy efficiency programs approved and  
11      overseen by the State or the appropriate State regu-  
12      latory authority; and

13          (2) demonstrate that the allowances have been  
14      used to supplement, and not to supplant, existing  
15      and otherwise available State, local, and ratepayer  
16      funding for the purpose.

17      (e) REPORTING.—Each State receiving allowances  
18      under this section shall include in biennial reports to the  
19      Administrator, in accordance with such requirements as  
20      the Administrator may prescribe—

21          (1) a list of entities receiving allowances or al-  
22      lowance value under this section, including entities  
23      receiving such allowances or allowance value from  
24      units of local government;

1           (2) the quantity and nature of allowances or al-  
2           lowance value received by each such recipient;

3           (3) the specific purposes for which such allow-  
4           ances or allowance value was conveyed to each such  
5           recipient;

6           (4) documentation of the quantity of energy  
7           savings, emission reductions, renewable energy de-  
8           ployment, and new or retooled manufacturing capac-  
9           ity resulting from the use of the allowances or allow-  
10          ance value; and

11          (5) a demonstration that the requirements de-  
12          scribed in subsection (d) have been satisfied.

13          (f) ENFORCEMENT.—

14           (1) IN GENERAL.—If the Administrator deter-  
15           mines that a State is not in compliance with this  
16           section, the Administrator may withhold up to twice  
17           the number of allowances that the State failed to use  
18           in accordance with this section, that the State would  
19           otherwise be eligible to receive under this section or  
20           title in later years.

21           (2) REDISTRIBUTION.—Allowances withheld  
22           pursuant to this subsection shall be distributed  
23           among the remaining States in accordance with sub-  
24           section (b).

1 **SEC. 1604. VOLUNTARY RENEWABLE ENERGY MARKETS.**

2 (a) FINDINGS.—Congress finds that—

3 (1) voluntary renewable energy markets can be  
4 efficient and effective programs for allowing con-  
5 sumers and businesses to voluntarily use or support  
6 renewable energy;

7 (2) more than 1,000,000 businesses, house-  
8 holds, government agencies, farms, and others volun-  
9 tarily purchase renewable electricity or renewable en-  
10 ergy certificates; and

11 (3) according to the Department, voluntary re-  
12 newable energy purchases—

13 (A) totaled 24,000,000,000 kilowatt-hours  
14 during calendar year 2008, representing 0.6  
15 percent of total United States electricity sales;  
16 and

17 (B) have increased at an average annual  
18 rate of 32 percent since calendar year 2004.

19 (b) STATEMENT OF POLICY.—

20 (1) IN GENERAL.—It is the policy of the United  
21 States to support the continued growth of voluntary  
22 renewable energy markets.

23 (2) ADMINISTRATION.—Nothing in this Act or  
24 the amendments made by this Act is intended to  
25 interfere with or prevent the continued operation

1           and growth of the voluntary renewable energy mar-  
2           ket.

3           (c) REPORT TO CONGRESS.—Not later than 2 years  
4 after the date of enactment of this Act, the Comptroller  
5 General of the United States shall submit to Congress a  
6 report describing the efficacy of the voluntary renewable  
7 energy market in the context of the pollution reduction  
8 and investment programs under this Act and the amend-  
9 ments made by this Act, including—

10           (1) whether meaningful reductions in carbon di-  
11           oxide emissions have occurred in response to invest-  
12           ments in the voluntary renewable energy market;

13           (2) whether the voluntary market continues to  
14           grow; and

15           (3) a list of recommended strategies for ensur-  
16           ing that—

17           (A) meaningful emissions reductions may  
18           occur; and

19           (B) the voluntary renewable energy market  
20           may continue to grow.

1     **Subtitle E—Clean Transportation**

2     **PART I—ELECTRIC VEHICLE INFRASTRUCTURE**

3     **SEC. 1701. NATIONAL TRANSPORTATION LOW-EMISSION EN-**  
4                   **ERGY PLAN; PILOT PROGRAM.**

5           (a) NATIONAL TRANSPORTATION LOW-EMISSION EN-  
6     ERGY PLAN.—The Secretary, in consultation with relevant  
7     stakeholders, shall develop a national transportation low-  
8     emission energy plan that—

9           (1) projects the near- and long-term need for  
10          and location of electric drive vehicle refueling infra-  
11          structure at strategic locations across all major na-  
12          tional highways, roads, and corridors;

13          (2) identifies infrastructure and standardization  
14          needs for electricity providers, infrastructure pro-  
15          viders, vehicle manufacturers, and electricity pur-  
16          chasers;

17          (3) establishes an aspirational goal of achieving  
18          strategic deployment of electric vehicle infrastructure  
19          by January 1, 2020;

20          (4) prioritizes the development of—

21           (A) standardized public charge access  
22           ports with wireless or smart card billing capa-  
23           bility; and

24           (B) level I and level II charge port systems  
25           (that charge an electric vehicle over a period of



1           8 to 14 hours and 4 to 8 hours, respectively)  
2           that will meet the energy requirements of the  
3           majority of plug-in hybrid and battery electric  
4           vehicles;

5           (5) examines the feasibility of level III charge  
6           port systems that can charge an electric vehicle over  
7           a period of 10 to 20 minutes; and

8           (6) focuses on infrastructure that provides con-  
9           sumers with the lowest cost while providing conven-  
10          ient charge system access.

11          (b) ELECTRIC DRIVE PILOT PROJECTS.—

12           (1) IN GENERAL.—The Secretary shall establish  
13          pilot projects to demonstrate electric drive vehicles  
14          and infrastructure.

15           (2) REQUIREMENTS.—The Secretary shall—

16           (A) establish the pilot projects described in  
17          paragraph (1) after publication of the plan de-  
18          veloped under subsection (a);

19           (B) use that plan to determine which re-  
20          gions of the United States are most ready to  
21          demonstrate electric vehicle infrastructure;

22           (C) carry out the pilot projects in different  
23          regions of the United States; and

24           (D) ensure that—

1                   (i) at least 1 pilot project is carried  
2                   out in a rural region of the United States;  
3                   and

4                   (ii) at least 1 pilot project is focused  
5                   on freight issues.

6           (c) FINANCIAL RESOURCES.—In carrying out the  
7 pilot projects under subsection (b), the Secretary shall co-  
8 ordinate the use of appropriate financial incentives, grant  
9 programs, and other Federal financial resources to ensure  
10 that electric infrastructure delivery entities are able to  
11 participate in the pilot projects.

12          (d) LEEP COORDINATOR.—The Secretary may des-  
13 ignate 1 full-time position within the Department of  
14 Transportation, to be known as the “LEEP coordinator”,  
15 with responsibility to oversee—

16               (1) the development of the plan under sub-  
17               section (a); and

18               (2) the implementation of the pilot projects  
19               under subsection (b).

20          (e) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated to carry out this section  
22 such sums as are necessary.

1           **PART II—TRANSPORTATION EFFICIENCY**

2   **SEC. 1711. GREENHOUSE GAS EMISSION REDUCTIONS**  
3                   **THROUGH TRANSPORTATION EFFICIENCY.**

4           (a) ENVIRONMENTAL PROTECTION AGENCY.—Title  
5 VIII of the Clean Air Act (as amended by section 1441)  
6 is amended by adding at the end the following:

7   **“SEC. 803. GREENHOUSE GAS EMISSION REDUCTIONS**  
8                   **THROUGH TRANSPORTATION EFFICIENCY.**

9           “(a) IN GENERAL.—The Administrator, in consulta-  
10 tion with the Secretary of Transportation (referred to in  
11 this section as the ‘Secretary’), shall promulgate, and up-  
12 date from time to time, regulations to establish—

13                   “(1) national transportation-related greenhouse  
14 gas emission reduction goals that are commensurate  
15 with the emission reduction targets established  
16 under the American Power Act and the amendments  
17 made by that Act;

18                   “(2) standardized emission models and related  
19 methods, to be used by States, metropolitan plan-  
20 ning organizations, and air quality agencies to ad-  
21 dress emission reduction goals, including—

22                           “(A) the development of surface transpor-  
23 tation-related greenhouse gas emission reduc-  
24 tion targets pursuant to sections 134 and 135  
25 of title 23, and sections 5303 and 5304 of title  
26 49, United States Code;

1           “(B) the assessment of projected surface  
2           transportation-related greenhouse gas emissions  
3           from transportation strategies;

4           “(C) the assessment of projected surface  
5           transportation-related greenhouse gas emissions  
6           from State and regional transportation plans;

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

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

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

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

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

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

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

7           “(3) to update transportation planning require-  
8           ments and approval of transportation plans as nec-  
9           essary to carry out this section.

10          “(c) CONSULTATION AND MODELS.—In promul-  
11          gating the regulations, the Administrator and the Sec-  
12          retary—

13           “(1) shall consult with States, Indian tribes,  
14           metropolitan planning organizations, and air quality  
15           agencies;

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

23           “(3) shall consider previously developed plans  
24           that were based on models and methodologies for re-

1        ducing greenhouse gas emissions in applying those  
2        regulations to the first approvals after promulgation.

3        “(d) TIMING.—The Administrator and the Secretary  
4 shall—

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

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

11        “(e) ASSESSMENT.—

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

18            “(2) REQUIREMENTS.—The assessment shall  
19        examine the contributions to emission reductions at-  
20        tributable to—

21            “(A) improvements in vehicle efficiency;

22            “(B) greenhouse gas performance of trans-  
23        portation fuels;

24            “(C) reductions in vehicle miles traveled;

1           “(D) changes in consumer demand and use  
2           of transportation management systems; and

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

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

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

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

14          (b) METROPOLITAN PLANNING ORGANIZATIONS.—

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

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

18                                 (i) by striking “minimizing” and in-  
19                                 serting “reducing”; and

20                                 (ii) by inserting “, reliance on oil, im-  
21                                 pacts on the environment, transportation-  
22                                 related greenhouse gas emissions,” after  
23                                 “consumption”;

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

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

6 (ii) by inserting “and public health”  
7 after “quality of life”; and

8 (iii) by inserting “, including housing  
9 and land use patterns” after “development  
10 patterns”;

11 (C) in subsection (i)—

12 (i) in paragraph (4)(A)—

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

15 (II) by inserting “transportation,  
16 public transportation, air quality, and  
17 housing, and shall consult, as appro-  
18 priate, with State and local agencies  
19 and Indian tribes responsible for”  
20 after “responsible for” and

21 (III) by inserting “public  
22 health,” after “conservation,”; and

23 (ii) in paragraph (5)(C)(iii), by insert-  
24 ing “and through the website of the metro-  
25 politan planning organization, including



1 emission reduction targets and strategies  
2 developed under subsection (k)(6), includ-  
3 ing an analysis of the anticipated effects of  
4 the targets and strategies,” after “World  
5 Wide Web”;

6 (D) in subsection (j)(5)(A), by striking  
7 “subsection (k)(4)” and inserting “subsection  
8 (k)(5)”; and

9 (E) in subsection (k)—

10 (i) by redesignating paragraphs (1)  
11 through (5) as paragraphs (2) through (6),  
12 respectively;

13 (ii) by inserting before paragraph (2)  
14 (as so redesignated) the following:

15 “(1) DEFINITIONS.—In this subsection:

16 “(A) METROPOLITAN PLANNING ORGANI-  
17 ZATION.—The term ‘metropolitan planning or-  
18 ganization’ means a metropolitan planning or-  
19 ganization described in clause (i) or (ii) of para-  
20 graph (7)(B).

21 “(B) SCENARIO ANALYSIS.—The term ‘sce-  
22 nario analysis’ means the use of a planning tool  
23 that—

24 “(i) develops a range of scenarios rep-  
25 resenting various combinations of transpor-

1           tation and land use strategies, and esti-  
2           mates of how each of those scenarios would  
3           perform in meeting the greenhouse gas  
4           emission reduction targets based on anal-  
5           ysis of various forces (such as health,  
6           transportation, economic or environmental  
7           factors, and land use) that affect growth;

8           “(ii) may include features such as—

9                   “(I) the involvement of the gen-  
10                  eral public, key stakeholders, and  
11                  elected officials on a broad scale;

12                  “(II) the creation of an oppor-  
13                  tunity for those participants to edu-  
14                  cate each other as to growth trends  
15                  and trade-offs, as a means to incor-  
16                  porate values and feedback into future  
17                  plans; and

18                  “(III) the use of continuing ef-  
19                  forts and ongoing processes; and

20           “(iii) may include key elements such  
21           as—

22                   “(I) identification of the consid-  
23                  erations shaping planning decisions  
24                  and outcomes;

1                   “(II) determination of patterns  
2                   of interaction;

3                   “(III) creation of scenarios for  
4                   discussion purposes;

5                   “(IV) analysis of implications;

6                   “(V) evaluation of scenarios; and

7                   “(VI) use of monitoring indica-  
8                   tors.”; and

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

11                  “(7) TRANSPORTATION GREENHOUSE GAS RE-  
12                  DUCTION EFFORTS.—

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

20                  “(B) ELIGIBLE ORGANIZATIONS.—

21                  “(i) MPOS WITHIN TMAS.—All provi-  
22                  sions and requirements of this section, in-  
23                  cluding the requirements for transpor-  
24                  tation greenhouse gas reduction efforts,  
25                  shall apply to metropolitan planning orga-

1 nizations that also serve as transportation  
2 management areas.

3 “(ii) OTHER MPOS.—A metropolitan  
4 planning organization that does not serve  
5 as a transportation management area—

6 “(I) may develop transportation  
7 greenhouse gas emission reduction  
8 targets and strategies to meet those  
9 targets; and

10 “(II) if those targets and strate-  
11 gies are developed, shall be subject to  
12 all applicable provisions and require-  
13 ments of this section and the Amer-  
14 ican Power Act and amendments  
15 made by that Act, including require-  
16 ments of the transportation green-  
17 house gas reduction efforts.

18 “(C) ESTABLISHMENT OF TARGETS AND  
19 CRITERIA.—

20 “(i) IN GENERAL.—Not later than 2  
21 years after the promulgation of the final  
22 regulations required under section 803 of  
23 the Clean Air Act, each metropolitan plan-  
24 ning organization that also serves as a  
25 transportation management area shall de-

1           velop surface transportation-related green-  
2           house gas emission reduction targets, as  
3           well as strategies to meet those targets, in  
4           consultation with State air agencies and  
5           Indian tribes as part of the metropolitan  
6           transportation planning process under this  
7           section.

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

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

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                   and travel demand models and related  
7                   methodologies established in the final  
8                   regulations required under section  
9                   **【803】** of the Clean 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, and include, pursuant to the  
23                  requirements of the transportation  
24                  planning process under this section,  
25                  transportation investment and man-

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

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

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

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

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

1 muting, flexible work schedules,  
2 and satellite work centers;

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

12 “(ff) intercity passenger rail  
13 improvements;

14 “(gg) high-speed rail im-  
15 provements and programs;

16 “(hh) intercity bus improve-  
17 ments;

18 “(ii) freight rail improve-  
19 ments;

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



1                   “(kk) public facilities for  
2                   supplying electricity to electric or  
3                   plug-in hybrid-electric vehicles;  
4                   and

5                   “(ll) any other effort that  
6                   demonstrates progress in reduc-  
7                   ing transportation-related green-  
8                   house gas emissions in each met-  
9                   ropolitan planning organization  
10                  under this subsection.

11                  “(D) REVIEW AND APPROVAL.—Not later  
12                  than 180 days after the date of submission of  
13                  a plan 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 met-  
18                  ropolitan planning organization meets the  
19                  requirements of subparagraph (C) if—

20                  “(I) the Secretary finds that a  
21                  metropolitan planning organization  
22                  has developed, submitted, and pub-  
23                  lished the plan of the metropolitan  
24                  planning organization pursuant to this  
25                  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 (6).”.

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

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

24                  (i) by striking “minimizing” and in-  
25                  serting “reducing”; and

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

5 (B) in subsection (h)(1)(E)—

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

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

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

16 (C) in subsection (i)—

17 (i) in paragraph (4)(A)—

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

20 (II) by inserting “transportation,  
21 public transportation, air quality, and  
22 housing, and shall consult, as appro-  
23 priate, with State and local agencies  
24 and Indian tribes responsible for”  
25 after “responsible for” and

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

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

11 (D) in subsection (k)—

12 (i) by redesignating paragraphs (1)  
13 through (5) as paragraphs (2) through (6),  
14 respectively;

15 (ii) by inserting before paragraph (2)  
16 (as so redesignated) the following:

17 “(1) DEFINITION OF METROPOLITAN PLANNING  
18 ORGANIZATION.—In this subsection, the term ‘met-  
19 ropolitan planning organization’ means a metropoli-  
20 tan planning organization described in clause (i) or  
21 (ii) of paragraph (7)(B).”; and

22 (iii) by adding at the end the fol-  
23 lowing:

24 “(7) TRANSPORTATION GREENHOUSE GAS RE-  
25 DUCION EFFORTS.—

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

8           “(B) ELIGIBLE ORGANIZATIONS.—

9           “(i) IN GENERAL.—The requirements  
10          of the transportation greenhouse gas re-  
11          duction efforts shall apply only to metro-  
12          politan planning organizations within a  
13          transportation management area.

14          “(ii) DEVELOPMENT OF PLAN.—A  
15          metropolitan planning organization that  
16          does not serve as a transportation manage-  
17          ment area—

18                 “(I) may develop transportation  
19                 greenhouse gas emission reduction  
20                 targets and strategies to meet those  
21                 targets; and

22                 “(II) if those targets and strate-  
23                 gies are developed, shall be subject to  
24                 all provisions and requirements of this  
25                 section, including requirements of the

1                   transportation greenhouse gas reduc-  
2                   tion efforts.

3                   “(C) ESTABLISHMENT OF TARGETS AND  
4                   CRITERIA.—

5                   “(i) IN GENERAL.—Not later than 2  
6                   years after the promulgation of the final  
7                   regulations required under section 803 of  
8                   the Clean Air Act, each metropolitan plan-  
9                   ning organization shall develop surface  
10                  transportation-related greenhouse gas  
11                  emission reduction targets, as well as  
12                  strategies to meet those targets, in con-  
13                  sultation with State air agencies and In-  
14                  dian tribes as part of the metropolitan  
15                  transportation planning process under this  
16                  section.

17                  “(ii) MULTIPLE DESIGNATIONS.—If  
18                  more than 1 metropolitan planning organi-  
19                  zation has been designated within a metro-  
20                  politan area, each metropolitan planning  
21                  organization shall coordinate with other  
22                  metropolitan planning organizations in the  
23                  same metropolitan area to develop the tar-  
24                  gets and strategies described in clause (i).

1 “(iii) MINIMUM REQUIREMENTS.—

2 Each metropolitan transportation plan de-  
3 veloped by a metropolitan planning organi-  
4 zation under clause (i) shall, within the  
5 plan, demonstrate progress in stabilizing  
6 and reducing transportation-related green-  
7 house gas emissions so as to contribute to  
8 the achievement of State targets pursuant  
9 to section 135(f)(9) of title 23.

10 “(iv) REQUIREMENTS FOR TARGETS  
11 AND STRATEGIES.—The targets and strat-  
12 egies developed under this subparagraph  
13 shall, at a minimum—

14 “(I) be based on the emission  
15 models and related methodologies es-  
16 tablished in the final regulations re-  
17 quired under section 803 of the Clean  
18 Air Act;

19 “(II) inventory all sources of sur-  
20 face transportation-related greenhouse  
21 gas emissions;

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

1                   “(IV) be integrated and con-  
2                   sistent with regional transportation  
3                   plans and transportation improvement  
4                   programs; and

5                   “(V) be selected through scenario  
6                   analysis (as defined in section  
7                   134(k)(1) of title 23), and include,  
8                   pursuant to the requirements of the  
9                   transportation planning process under  
10                  this section, transportation investment  
11                  and management strategies that re-  
12                  duce greenhouse gas emissions from  
13                  the transportation sector over the life  
14                  of the plan, such as—

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

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

24                   “(cc) implementation of zon-  
25                   ing and other land use regula-



1 tions and plans to support infill,  
2 transit-oriented development, re-  
3 development, or mixed use devel-  
4 opment;

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

13 “(ee) surface transportation  
14 system operation improvements,  
15 including intelligent transpor-  
16 tation systems or other oper-  
17 ational improvements to reduce  
18 long-term greenhouse gas emis-  
19 sions through reduced congestion  
20 and improved system manage-  
21 ment;

22 “(ff) intercity passenger rail  
23 improvements;

24 “(gg) high-speed rail im-  
25 provements and programs;

1                   “(hh) intercity bus improve-  
2                   ments;

3                   “(ii) freight rail improve-  
4                   ments;

5                   “(jj) use of materials or  
6                   equipment associated with the  
7                   construction or maintenance of  
8                   transportation projects that re-  
9                   duce greenhouse gas emissions;

10                  “(kk) public facilities for  
11                  supplying electricity to electric or  
12                  plug-in hybrid-electric vehicles;  
13                  and

14                  “(ll) any other effort that  
15                  demonstrates progress in reduc-  
16                  ing transportation-related green-  
17                  house gas emissions in each met-  
18                  ropolitan planning organization  
19                  under this subsection.

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

23                  “(i) the Secretary and the Adminis-  
24                  trator shall review the plan; and

1                   “(ii) the Secretary shall make a deter-  
2                   mination that the plan submitted by a met-  
3                   ropolitan planning organization meets the  
4                   requirements of subparagraph (C) if—

5                   “(I) the Secretary finds that a  
6                   metropolitan planning organization  
7                   has developed, submitted, and pub-  
8                   lished the plan of the metropolitan  
9                   planning organization pursuant to this  
10                  section;

11                  “(II) the Secretary, in consulta-  
12                  tion with the Administrator, deter-  
13                  mines that the plan is likely to achieve  
14                  the targets established by the metro-  
15                  politan planning organization under  
16                  this subsection; and

17                  “(III) the development of the  
18                  plan complies with the minimum re-  
19                  quirements established under clauses  
20                  (iii) and (iv) of subparagraph (C).

21                  “(E) CERTIFICATION.—

22                  “(i) IN GENERAL.—Only metropolitan  
23                  planning organizations that meet the re-  
24                  quirements of subparagraph (C) shall be

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

3 “(ii) FAILURE TO COMPLY.—Failure  
4 to comply with the requirements under  
5 subparagraph (C) shall not impact certifi-  
6 cation standards under paragraph (6).”.

7 (c) STATES.—

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

10 (A) in subsection (d)(1)(E)—

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

16 (ii) by inserting “and public health”  
17 after “quality of life”; and

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

21 (B) in subsection (f)—

22 (i) in paragraph (2)(D)(i)—

23 (I) by striking “, as appropriate,  
24 in consultation” and inserting “in co-  
25 operation”;

1 (II) by inserting “State and local  
2 agencies and Indian tribes responsible  
3 for transportation, public transpor-  
4 tation, air quality, and housing and in  
5 consultation with” before “State, trib-  
6 al”; and

7 (III) by inserting “public  
8 health,” after “conservation,”;

9 (ii) in paragraph (3)(B)(iii), by insert-  
10 ing “and through the website of the State,  
11 including emission reduction targets and  
12 strategies developed under paragraph (9)  
13 and an analysis of the anticipated effects  
14 of the targets and strategies” after “World  
15 Wide Web”; and

16 (iii) by adding at the end the fol-  
17 lowing:

18 “(9) TRANSPORTATION GREENHOUSE GAS RE-  
19 DUCATION EFFORTS.—

20 “(A) IN GENERAL.—Within a State, the  
21 transportation planning process under this sec-  
22 tion, shall address transportation-related green-  
23 house gas emissions by including emission re-  
24 duction targets and strategies to meet those  
25 targets.

1                   “(B) ESTABLISHMENT OF TARGETS AND  
2                   CRITERIA.—

3                   “(i) IN GENERAL.—Not later than 2  
4                   years after the promulgation of the final  
5                   regulations required under section 803 of  
6                   the Clean Air Act, each State shall develop  
7                   surface transportation-related greenhouse  
8                   gas emission reduction targets, as well as  
9                   strategies to meet those targets, in con-  
10                  sultation with State air agencies and In-  
11                  dian tribes as part of the transportation  
12                  planning process under this section.

13                  “(ii) MINIMUM REQUIREMENTS.—  
14                  Each transportation plan developed by a  
15                  State under clause (i) shall, within the  
16                  plan, demonstrate progress in stabilizing  
17                  and reducing transportation-related green-  
18                  house gas emissions in the State so as to  
19                  contribute to the achievement of national  
20                  goals pursuant to section 803(a)(1) of the  
21                  Clean Air Act.

22                  “(iii) REQUIREMENTS FOR TARGETS  
23                  AND STRATEGIES.—The targets and strat-  
24                  egies developed under this subparagraph  
25                  shall, at a minimum—

1                   “(I) be based on the emission  
2 models and related methodologies es-  
3 tablished in the final regulations re-  
4 quired under section 803 of the Clean  
5 Air Act;

6                   “(II) inventory all sources of sur-  
7 face transportation-related greenhouse  
8 gas emissions;

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

13                   “(IV) be integrated and con-  
14 sistent with statewide transportation  
15 plans and statewide transportation  
16 improvement programs; and

17                   “(V) be selected through scenario  
18 analysis (as defined in section  
19 134(k)(1)), and include, pursuant to  
20 the requirements of the transportation  
21 planning process under this section,  
22 transportation investment and man-  
23 agement strategies that reduce green-  
24 house gas emissions from the trans-

1                   portation sector over the life of the  
2                   plan, such as—

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

8                   “(bb) efforts to increase  
9                   walking, bicycling, and other  
10                  forms of nonmotorized transpor-  
11                  tation;

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

18                  “(dd) travel demand man-  
19                  agement programs (including  
20                  carpool, vanpool, or car-share  
21                  projects), transportation pricing  
22                  measures, parking policies, and  
23                  programs to promote telecom-  
24                  muting, flexible work schedules,  
25                  and satellite work centers;



- 1                   “(ee) surface transportation  
2                   system operation improvements,  
3                   including intelligent transpor-  
4                   tation systems or other oper-  
5                   ational improvements to reduce  
6                   congestion and improve system  
7                   management;
- 8                   “(ff) intercity passenger rail  
9                   improvements;
- 10                   “(gg) high-speed rail im-  
11                   provements and programs;
- 12                   “(hh) intercity bus improve-  
13                   ments;
- 14                   “(ii) freight rail improve-  
15                   ments;
- 16                   “(jj) use of materials or  
17                   equipment associated with the  
18                   construction or maintenance of  
19                   transportation projects that re-  
20                   duce greenhouse gas emissions;
- 21                   “(kk) public facilities for  
22                   supplying electricity to electric or  
23                   plug-in hybrid-electric vehicles;  
24                   and

1                   “(ll) any other effort that  
2                   demonstrates progress in reduc-  
3                   ing transportation-related green-  
4                   house gas emissions.

5                   “(C) COORDINATION AND CONSULTATION  
6                   WITH PUBLIC AGENCIES.—Transportation  
7                   greenhouse gas targets and plans pursuant to  
8                   this section shall be developed—

9                   “(i) in coordination with—

10                   “(I) all metropolitan planning or-  
11                   ganizations covered by this section  
12                   within the State; and

13                   “(II) transportation and air qual-  
14                   ity agencies within the State;

15                   “(ii) in consultation with representa-  
16                   tives of State and local housing, economic  
17                   development, and land use agencies; and

18                   “(iii) in consultation with Indian  
19                   tribes contiguous to the State.

20                   “(D) ENFORCEMENT.—Not later than 180  
21                   days after the date of submission of a plan  
22                   under this section—

23                   “(i) the Secretary and the Adminis-  
24                   trator shall review the plan; and

1           “(ii) the Secretary shall make a deter-  
2           mination that the plan submitted by a  
3           State meets the requirements of subpara-  
4           graph (B) if—

5                   “(I) the Secretary finds that a  
6                   State has developed, submitted, and  
7                   published the plan pursuant to this  
8                   section;

9                   “(II) the Secretary, in consulta-  
10                  tion with the Administrator, deter-  
11                  mines that the plan is likely to achieve  
12                  the targets established by the State  
13                  under this subsection; and

14                  “(III) the development of the  
15                  plan complies with the minimum re-  
16                  quirements established under clauses  
17                  (ii) and (iii) of subparagraph (B).

18           “(E) PLANNING FINDING.—

19                   “(i) IN GENERAL.—Only States that  
20                   meet the requirements of subparagraph  
21                   (B) shall be eligible to receive performance  
22                   grants under section 113(c).

23                   “(ii) FAILURE TO COMPLY.—Failure  
24                   to comply with the requirements under



1 consultation with” before “State, trib-  
2 al”; and

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

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

12 (iii) by adding at the end the fol-  
13 lowing:

14 “(9) TRANSPORTATION GREENHOUSE GAS RE-  
15 Duction EFFORTS.—

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

22 “(B) ESTABLISHMENT OF TARGETS AND  
23 CRITERIA.—

24 “(i) IN GENERAL.—Not later than 2  
25 years after the promulgation of the final

1 regulations required under section 803 of  
2 the Clean Air Act, each State shall develop  
3 surface transportation-related greenhouse  
4 gas emission reduction targets, as well as  
5 strategies to meet those targets, in con-  
6 sultation with State air agencies and In-  
7 dian tribes as part of the transportation  
8 planning process under this section.

9 “(ii) MINIMUM REQUIREMENTS.—  
10 Each transportation plan developed by a  
11 State under clause (i) shall, within the  
12 plan, demonstrate progress in stabilizing  
13 and reducing transportation-related green-  
14 house gas emissions in the State so as to  
15 contribute to the achievement of national  
16 targets pursuant to section 803(a)(1) of  
17 the Clean Air Act.

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

22 “(I) be based on the emission  
23 models and related methodologies es-  
24 tablished in the final regulations re-

1                   required under section 803 of the Clean  
2                   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 statewide transportation  
12                  plans and statewide transportation  
13                  improvement programs; and

14                  “(V) be selected through scenario  
15                  analysis (as defined in section  
16                  134(k)(1) of title 23), and include,  
17                  pursuant to the requirements of the  
18                  transportation planning process under  
19                  this section, transportation investment  
20                  and management strategies that re-  
21                  duce greenhouse gas emissions from  
22                  the transportation sector over the life  
23                  of the plan, such as—

24                  “(aa) efforts to increase  
25                  public transportation ridership,

1 including through service im-  
2 provements, capacity expansions,  
3 and access enhancement;

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

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

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

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



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1                   ational improvements to reduce  
2                   congestion and improve system  
3                   management;

4                   “(ff) intercity passenger rail  
5                   improvements;

6                   “(gg) high-speed rail im-  
7                   provements and programs;

8                   “(hh) intercity bus improve-  
9                   ments;

10                  “(ii) freight rail improve-  
11                  ments;

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

17                  “(kk) public facilities for  
18                  supplying electricity to electric or  
19                  plug-in hybrid-electric vehicles;  
20                  and

21                  “(ll) any other effort that  
22                  demonstrates progress in reduc-  
23                  ing transportation-related green-  
24                  house gas emissions.

1                   “(C) COORDINATION AND CONSULTATION  
2 WITH PUBLIC AGENCIES.—Transportation  
3 greenhouse gas targets and plans pursuant to  
4 this section shall be developed—

5                   “(i) in coordination with—

6                   “(I) all metropolitan planning or-  
7 ganizations covered by this section  
8 within the State; and

9                   “(II) transportation and air qual-  
10 ity agencies within the State;

11                   “(ii) in consultation with representa-  
12 tives of State and local housing, economic  
13 development, and land use agencies; and

14                   “(iii) in consultation with Indian  
15 tribes contiguous to the State.

16                   “(D) ENFORCEMENT.—Not later than 180  
17 days after the date of submission of a plan  
18 under this section—

19                   “(i) the Secretary and the Adminis-  
20 trator shall review the plan; and

21                   “(ii) the Secretary shall make a deter-  
22 mination that the plan submitted by a  
23 State meets the requirements of subpara-  
24 graph (B) if—

1                   “(I) the Secretary finds that a  
2                   State has developed, submitted, and  
3                   published the plan pursuant to this  
4                   section;

5                   “(II) the Secretary, in consulta-  
6                   tion with the Administrator, deter-  
7                   mines that the plan is likely to achieve  
8                   the targets established by the State  
9                   under this subsection; and

10                   “(III) the development of the  
11                   plan complies with the minimum re-  
12                   quirements established under clauses  
13                   (ii) and (iii) of subparagraph (B).

14                   “(E) PLANNING FINDING.—

15                   “(i) IN GENERAL.—Only States that  
16                   meet the requirements of subparagraph  
17                   (B) shall be eligible to receive performance  
18                   grants under section 113(c).

19                   “(ii) FAILURE TO COMPLY.—Failure  
20                   to comply with the requirements under  
21                   subparagraph (B) shall not impact the  
22                   planning finding under subsection (g)(7).”.

23                   (d) APPLICABILITY.—Section 304 of the Clean Air  
24                   Act (42 U.S.C. 7604) shall not apply to the planning pro-

1 visions of this section or any amendment made by this  
2 section.

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

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

7 (2) provides or transfers authority over land  
8 use to any other entity.

9 **SEC. 1712. INVESTING IN TRANSPORTATION GREENHOUSE**  
10 **GAS EMISSION REDUCTION PROGRAMS.**

11 (a) IN GENERAL.—The Secretary of Transportation  
12 (referred to in this section as the “Secretary”) shall dis-  
13 tribute allowances allocated pursuant to section 781(f)(3)  
14 of the Clean Air Act to States and metropolitan planning  
15 organizations to carry out the purposes of this section for  
16 each fiscal year, including—

17 (1) supporting the development and updating of  
18 transportation greenhouse gas reduction targets and  
19 strategies; and

20 (2) providing financial assistance to implement  
21 plans approved pursuant to—

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

24 (B) sections 5303(k)(7) and 5304(f)(9) of  
25 title 49, United States Code.

1 (b) ALLOCATION FOR PLANNING.—

2 (1) IN GENERAL.—Subject to paragraph (2),  
3 the Secretary shall distribute not more than 10 per-  
4 cent of the allowances available to carry out this sec-  
5 tion for a fiscal year for metropolitan planning orga-  
6 nizations to develop and update transportation  
7 plans, including targets and strategies for green-  
8 house gas emission reduction under—

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

11 (B) sections 5303(k)(7) and 5304(f)(9) of  
12 title 49, United States Code.

13 (2) ELIGIBLE ORGANIZATIONS.—The Secretary  
14 shall distribute the allowances available under para-  
15 graph (1) to metropolitan planning organizations (as  
16 defined in section 134(k)(1) of title 23, United  
17 States Code) in the proportion that—

18 (A) the population within such a metropoli-  
19 tan planning organization; bears to

20 (B) the total population of all such metro-  
21 politan planning organizations.

22 (c) PERFORMANCE AWARDS.—

23 (1) IN GENERAL.—After distributing allowances  
24 pursuant to subsection (b)(1), and subject to sub-  
25 section (h), the Secretary shall distribute the re-

1       mainder of the allowances made available to carry  
2       out this section to provide support to States and  
3       metropolitan planning organizations.

4           (2) CRITERIA.—In making distributions under  
5       this subsection, the Secretary, in consultation with  
6       the Administrator, shall develop criteria for making  
7       the distribution, taking into consideration, with re-  
8       spect to areas to be covered by the distributions—

9           (A) the quantity of total greenhouse gas  
10       emissions to be reduced as a result of imple-  
11       mentation of a plan, within a covered area, as  
12       determined by methods established under sec-  
13       tion 831(a) of the Clean Air Act;

14           (B) the quantity of total greenhouse gas  
15       emissions to be reduced per capita as a result  
16       of the implementation of a plan, within the cov-  
17       ered area, as determined by methods estab-  
18       lished under section 831(a) of the Clean Air  
19       Act;

20           (C) the cost-effectiveness of reducing  
21       greenhouse gas emissions during the life of the  
22       plan;

23           (D) progress toward achieving emission re-  
24       ductions target established under—

1 (i) sections 134(k)(6) and 135(f)(9) of  
2 title 23, United States Code; and

3 (ii) sections 5303(k)(7) and  
4 5304(f)(9) of title 49, United States Code;

5 (E) reductions in greenhouse gas emissions  
6 previously achieved by States and metropolitan  
7 planning organizations during the 5-year period  
8 beginning on the date of enactment of this Act;

9 (F) plans that increase transportation op-  
10 tions and mobility, particularly for low-income  
11 individuals, minorities, the elderly, households  
12 without motor vehicles, cost-burdened house-  
13 holds, and the disabled; and

14 (G) other factors, including innovative ap-  
15 proaches, minimization of costs, and consider-  
16 ation of economic development, revenue genera-  
17 tion, consumer fuel cost-savings, and other eco-  
18 nomic, environmental, and health benefits, as  
19 the Secretary determines to be appropriate.

20 (d) REQUIREMENT FOR REDUCED EMISSIONS.—Al-  
21 lowances received under subsection (c) may be used only  
22 to fund strategies that demonstrate a reduction in green-  
23 house gas emissions that is sustainable over the life of the  
24 applicable transportation plan.

1 (e) COST-SHARING.—The Federal share of the costs  
2 of a project receiving Federal financial assistance under  
3 this section shall be 80 percent.

4 (f) COMPLIANCE WITH APPLICABLE LAWS.—

5 (1) IN GENERAL.—Subject to paragraph (2), a  
6 project receiving allowances under this section shall  
7 comply with all applicable Federal laws (including  
8 regulations), including applicable requirements of ti-  
9 tles 23 and 49, United States Code.

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

12 (3) DETERMINATION OF APPLICABLE MODAL  
13 REQUIREMENTS.—The Secretary shall—

14 (A) have the discretion to designate the  
15 specific modal requirements that shall apply to  
16 a project; and

17 (B) be guided by the predominant modal  
18 characteristics of the project in the event that  
19 a project has cross-modal application.

20 (g) ADDITIONAL REQUIREMENTS.—

21 (1) IN GENERAL.—As a condition of the receipt  
22 of allowances under this section, the interests of  
23 public transportation employees affected by the as-  
24 sistance shall be protected under arrangements that  
25 the Secretary of Labor determines—



1 (A) to be fair and equitable; and

2 (B) to provide benefits equal to the bene-  
3 fits established under section 5333(b) of title  
4 49, United States Code.

5 (h) MISCELLANEOUS.—

6 (1) ROAD-USE AND CONGESTION PRICING  
7 MEASURES.—All projects supported by allowances  
8 made available under this section shall be eligible to  
9 receive amounts collected through road-use and con-  
10 gestion pricing measures.

11 (2) LIMITATIONS.—The Administrator may not  
12 approve any transportation plan for a project that  
13 would be inconsistent with existing design, procure-  
14 ment, and construction guidelines established by the  
15 Department of Transportation.

16 (3) TRANSFERS.—With the approval of the Sec-  
17 retary, recipients of allowances under this section  
18 may enter into agreements providing for the transfer  
19 of allowances or allowance value to private transpor-  
20 tation providers or ineligible public entities (such as  
21 local governments, air quality agencies, zoning com-  
22 missions, special districts, and transit agencies) that  
23 have statutory responsibility or authority for actions  
24 necessary to implement strategies pursuant to—

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

3 (B) sections 5303(k)(7) and 5304(f)(9) of  
4 title 49, United States Code.

5 **PART III—HIGHWAY TRUST FUND**

6 **SEC. 1721. AUGMENTING THE HIGHWAY TRUST FUND.**

7 Part G of title VII of the Clean Air Act (as amended  
8 by section 3102) is amended by inserting after section 784  
9 the following:

10 **“SEC. 785. HIGHWAY TRUST FUND.**

11 “Emission allowances allocated pursuant to section  
12 781(f) to the Highway Trust Fund shall be used to pro-  
13 mote the safety, effectiveness, and efficiency of transpor-  
14 tation in the United States through measures that are  
15 consistent with transportation efficiency planning under  
16 section 803 and other relevant provisions of law.”.

17 **Subtitle F—Clean Energy Research**  
18 **and Development**

19 **SEC. 1801. CLEAN ENERGY TECHNOLOGY RESEARCH AND**  
20 **DEVELOPMENT.**

21 (a) PURPOSE.—The purpose of this section is to pro-  
22 vide significant continuing support for research and devel-  
23 opment activities that—

1           (1) enhance the economic, energy, and environ-  
2           mental security of the United States through the de-  
3           velopment of energy technologies that result in—

4                   (A) reductions of imports of energy from  
5           foreign sources;

6                   (B) reductions of energy-related pollution,  
7           including greenhouse gas emissions; or

8                   (C) improvements in the energy efficiency  
9           of 1 or more economic sectors; and

10          (2) promote United States leadership in devel-  
11          oping and deploying advanced energy technologies.

12          (b) DEFINITIONS.—In this section:

13               (1) ALLOWANCE.—The term “allowance”  
14               means an emission allowance established under sec-  
15               tion 721 of the Clean Air Act.

16               (2) ARPA—E.—The term “ARPA—E” means  
17               the Advanced Research Projects Agency—Energy  
18               established by section 5012(b) of the America COM-  
19               PETES Act (42 U.S.C. 16538(b)).

20               (3) CLEAN ENERGY TECHNOLOGY.—The term  
21               “clean energy technology” means a technology  
22               that—

23                   (A) produces energy from solar, wind, geo-  
24           thermal, biomass, tidal, wave, ocean, or other

1 renewable energy resources, or from nuclear en-  
2 ergy;

3 (B) more efficiently transmits, distributes,  
4 or stores energy or reduces energy emissions or  
5 other pollution;

6 (C) enhances energy efficiency for build-  
7 ings or industry or in a manufacturing process;

8 (D) enables the development of a Smart  
9 Grid described in section 1301 of the Energy  
10 Independence and Security Act of 2007 (42  
11 U.S.C. 17381), including integration of renew-  
12 able energy resources and distributed genera-  
13 tion, demand response, demand-side manage-  
14 ment, and systems analysis;

15 (E) produces an advanced or sustainable  
16 material with an energy or energy efficiency ap-  
17 plication;

18 (F) enhances water security through im-  
19 proved water management, conservation, dis-  
20 tribution, or end use applications; or

21 (G) improves energy efficiency for trans-  
22 portation, including electric vehicles.

23 (4) VINTAGE YEAR.—The term “vintage year”  
24 has the meaning given the term in section 700 of the  
25 Clean Air Act.

1 (c) DISTRIBUTION OF ALLOWANCES FOR CLEAN EN-  
2 ERGY TECHNOLOGY.—

3 (1) IN GENERAL.—Not later than September  
4 30, 2012, and each calendar year thereafter through  
5 calendar year 2049, the Secretary shall distribute al-  
6 lowances allocated for the following vintage year  
7 under section 781(c)(4) of the Clean Air Act.

8 (2) DISTRIBUTION.—Allowances described in  
9 paragraph (1) shall be distributed on a competitive  
10 basis to institutions of higher education, companies,  
11 research foundations, trade and industry research  
12 collaborations, or consortia of such entities, or other  
13 appropriate research and development entities to  
14 promote the development and deployment of clean  
15 energy technology, taking into account the goals of  
16 ARPA—E.

17 (d) RESPONSIBILITIES OF SECRETARY.—The Sec-  
18 retary shall be responsible for—

19 (1) assessing the success of programs carried  
20 out under this section; and

21 (2) terminating programs carried out under this  
22 section that are not achieving the goals of the pro-  
23 grams.

24 (e) SUPPLEMENT NOT SUPPLANT.—Assistance pro-  
25 vided under this section shall be used to supplement, and

1 not to supplant, any other Federal resources available to  
2 carry out activities described in this section.

3       **TITLE II—GREENHOUSE GAS**  
4           **POLLUTION REDUCTION**  
5       **Subtitle A—Reducing Greenhouse**  
6           **Gas Pollution**

7       **SEC. 2001. REDUCING GREENHOUSE GAS POLLUTION.**

8           The Clean Air Act (42 U.S.C. 7401 et seq.) is amend-  
9 ed by adding at the end the following:

10       **“TITLE VII—GREENHOUSE GAS**  
11           **POLLUTION REDUCTION AND**  
12           **INVESTMENT PROGRAM**

13           **“PART A—GREENHOUSE GAS POLLUTION**  
14                   **REDUCTION TARGETS**

15       **“SEC. 701. FINDINGS.**

16           “Congress finds that—

17                   “(1) climate change poses a significant threat  
18           to the national security, economy, public health and  
19           welfare, and environment of the United States, as  
20           well as of other countries;

21                   “(2) reviews of scientific studies, including by  
22           the National Academy of Sciences and the Intergov-  
23           ernmental Panel on Climate Change, demonstrate  
24           that climate change is the result of the combined an-

1 thropogenic greenhouse gas emissions from numer-  
2 ous sources of all types and sizes;

3 “(3) each increment of emission, when com-  
4 bined with other emissions, causes or contributes  
5 materially to the acceleration and extent of climate  
6 change and the adverse effects of climate change for  
7 the lifetime of the gas in the atmosphere;

8 “(4) accordingly, controlling emissions in small  
9 as well as large quantities is essential to prevent,  
10 slow the pace of, reduce the threats from, and miti-  
11 gate climate change and the adverse effects of cli-  
12 mate change;

13 “(5) because greenhouse gas emissions induce  
14 climate change, greenhouse gas emissions cause or  
15 contribute to injuries to persons in the United  
16 States, including—

17 “(A) adverse health effects, such as disease  
18 and loss of life;

19 “(B) displacement of human populations;

20 “(C) damage to property and other inter-  
21 ests relating to ocean levels, acidification, and  
22 ice changes;

23 “(D) severe weather and seasonal changes;

24 “(E) disruption, costs, and losses to busi-  
25 ness, trade, employment, farms, subsistence,

1 aesthetic enjoyment of the environment, recre-  
2 ation, culture, and tourism;

3 “(F) damage to plants, forests, land, and  
4 waters;

5 “(G) harm to wildlife and habitat;

6 “(H) scarcity of water and the decreased  
7 abundance of other natural resources;

8 “(I) worsening of tropospheric air pollu-  
9 tion;

10 “(J) substantial threats of similar damage;  
11 and

12 “(K) other harm;

13 “(6) the fact that many of those effects and  
14 risks of future effects of climate change are widely  
15 shared does not minimize the adverse effects indi-  
16 vidual persons have suffered, will suffer, and are at  
17 risk of suffering because of climate change;

18 “(7) the fact that some of the adverse and po-  
19 tentially catastrophic effects of climate change are at  
20 risk of occurring and not a certainty does not negate  
21 the harm persons suffer from actions that increase  
22 the likelihood, extent, and severity of such future im-  
23 pacts;



1           “(8) countries of the world look to the United  
2 States for leadership in addressing the threat of and  
3 harm from climate change;

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 climate  
7 change; and

8           “(10) climate change and related adverse ef-  
9 fects are occurring and are likely to continue and in-  
10 crease in magnitude, and to do so at a greater and  
11 more harmful rate, unless this title is fully imple-  
12 mented and enforced in an expeditious manner.

13 **“SEC. 702. ECONOMY-WIDE REDUCTION GOALS.**

14           “The goals of this title, and the American Power Act  
15 (and the amendments made by that Act), are to reduce  
16 steadily the quantity of United States greenhouse gas  
17 emissions such that—

18           “(1) in 2013, the quantity of United States  
19 greenhouse gas emissions does not exceed 95.25 per-  
20 cent 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 83 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 promulgated  
11 under section 730 shall limit and reduce annually the  
12 greenhouse gas emissions of capped sources each calendar  
13 year beginning in 2013 such that—

14           “(1) in 2013, the quantity of greenhouse gas  
15 emissions from capped sources does not exceed  
16 95.25 percent of the quantity of greenhouse gas  
17 emissions from such sources in 2005;

18           “(2) in 2020, the quantity of greenhouse gas  
19 emissions from capped sources does not exceed 83  
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.—In this section, the term  
7 ‘greenhouse gas emissions from such sources in 2005’  
8 means emissions to which section 722 would have applied  
9 if the requirements of this title for the specified year had  
10 been in effect for 2005.

11 **“SEC. 704. SUPPLEMENTAL POLLUTION REDUCTIONS.**

12           “For the purposes of decreasing the likelihood of  
13 harmful climate change, preserving tropical forests, build-  
14 ing capacity to generate offset credits, and facilitating  
15 international action on climate change, funds made avail-  
16 able under section 5004 of the American Power Act may  
17 be used to achieve reductions of greenhouse gas emissions  
18 from deforestation in developing countries in accordance  
19 with section 5004 of that Act, to achieve greenhouse gas  
20 reductions that are in addition to the reductions required  
21 under this title and title VIII.

22 **“SEC. 705. REVIEW AND PROGRAM RECOMMENDATIONS.**

23           “(a) IN GENERAL.—Not later than July 1, 2013, and  
24 every 4 years thereafter, the Administrator, in consulta-

1 tion with appropriate Federal agencies, shall submit to  
2 Congress a report that includes—

3 “(1) an analysis of key findings based on up-  
4 to-date scientific information and data relevant to  
5 global climate change;

6 “(2) an analysis of capabilities to monitor and  
7 verify greenhouse gas reductions on a worldwide  
8 basis, including for the United States, as required  
9 under the American Power Act (and the amend-  
10 ments made by that Act);

11 “(3) an analysis of the status of worldwide  
12 greenhouse gas reduction efforts, including imple-  
13 mentation of the American Power Act and other  
14 policies, both domestic and international, for—

15 “(A) reducing greenhouse gas emissions;

16 “(B) preventing dangerous atmospheric  
17 concentrations of greenhouse gases;

18 “(C) preventing significant irreversible  
19 consequences of climate change; and

20 “(D) reducing vulnerability to the impacts  
21 of climate change; and

22 “(4) an analysis, to be conducted by the Sec-  
23 retary of Energy in accordance with subsection (f)  
24 and submitted to the Administrator for inclusion in  
25 each report under this subsection, of the techno-

1       logical feasibility of achieving additional reductions  
2       in greenhouse gas emissions.

3       “(b) EXCEPTION.—Subsection (a)(3) shall not apply  
4       to the first report submitted under subsection (a).

5       “(c) LATEST SCIENTIFIC INFORMATION.—The anal-  
6       ysis required under subsection (a)(1) shall—

7               “(1) address existing scientific information and  
8       reports, considering, to the maximum extent prac-  
9       ticable—

10               “(A) the most recent assessment report of  
11       the Intergovernmental Panel on Climate  
12       Change;

13               “(B) reports by—

14                       “(i) the United States Global Change  
15       Research Program;

16                       “(ii) the Natural Resources Climate  
17       Change Adaptation Panel established  
18       under section 6003(a) of the American  
19       Power Act; and

20                       “(iii) Federal agencies; and

21               “(C) the global temperature data assess-  
22       ment of the European Union;

23       “(2) review trends and projections for—

24               “(A) global and, for countries that emit  
25       relatively large quantities of greenhouse gases,

1 country-specific annual emissions of greenhouse  
2 gases, and (to the maximum extent practicable)  
3 cumulative greenhouse gas emissions produced  
4 between 1850 and the present, including—

5 “(i) global cumulative emissions of an-  
6 thropogenic greenhouse gases;

7 “(ii) global annual emissions of an-  
8 thropogenic greenhouse gases; and

9 “(iii) by country, annual total, annual  
10 per capita, and cumulative anthropogenic  
11 emissions of greenhouse gases for the top  
12 30 emitting nations;

13 “(B) significant changes, both globally and  
14 by region, in annual net nonanthropogenic  
15 greenhouse gas emissions from natural sources,  
16 including permafrost, forests, or oceans;

17 “(C) global atmospheric concentrations of  
18 greenhouse gases, expressed in annual con-  
19 centration units as well as carbon dioxide  
20 equivalents based on 100-year global warming  
21 potentials;

22 “(D) major climate forcing factors, such as  
23 aerosols;

1           “(E) global average temperature, expressed  
2           as seasonal and annual averages in land, ocean,  
3           and land-plus-ocean averages; and

4           “(F) sea level rise;

5           “(3) assess the current and potential impacts of  
6           global climate change on—

7           “(A) human populations, including impacts  
8           on public health, economic livelihoods, subsist-  
9           ence, tribal culture, human infrastructure, and  
10          displacement or permanent relocation due to  
11          flooding, severe weather, extended drought, ero-  
12          sion, or other ecosystem changes;

13          “(B) freshwater systems, including water  
14          resources for human consumption and agri-  
15          culture and natural and managed ecosystems,  
16          flood and drought risks, and relative humidity;

17          “(C) the carbon cycle, including impacts  
18          related to the thawing of permafrost, the fre-  
19          quency and intensity of wildfire, and terrestrial  
20          and ocean carbon sinks;

21          “(D) ecosystems and animal and plant  
22          populations, including impacts on species abun-  
23          dance, phenology, and distribution;

24          “(E) oceans and ocean ecosystems, includ-  
25          ing effects on sea level, ocean acidity, ocean

1 temperatures, coral reefs, ocean circulation,  
2 fisheries, and other indicators of ocean eco-  
3 system health;

4 “(F) the cryosphere, including effects on  
5 ice sheet mass balance, mountain glacier mass  
6 balance, and sea-ice extent and volume;

7 “(G) changes in the intensity, frequency,  
8 or distribution of severe weather events, includ-  
9 ing precipitation, tropical cyclones, tornadoes,  
10 and severe heat waves;

11 “(H) agriculture and forest systems; and

12 “(I) any other indicators the Administrator  
13 considers to be appropriate;

14 “(4) summarize any significant socioeconomic  
15 impacts of climate change in the United States, in-  
16 cluding the territories of the United States, drawing  
17 on work by Federal agencies and the academic lit-  
18 erature, including impacts on—

19 “(A) public health;

20 “(B) economic livelihoods, subsistence, and  
21 tribal culture;

22 “(C) displacement or permanent relocation  
23 due to flooding, severe weather, extended  
24 drought, or other ecosystem changes;



1           “(D) human infrastructure, including  
2 coastal infrastructure vulnerability to extreme  
3 events and sea level rise, river floodplain infra-  
4 structure, and sewer and water management  
5 systems;

6           “(E) agriculture and forests, including ef-  
7 fects on potential growing season, distribution,  
8 and yield;

9           “(F) water resources for human consump-  
10 tion, agriculture and natural and managed eco-  
11 systems, flood and drought risks, and relative  
12 humidity;

13           “(G) energy supply and use; and

14           “(H) transportation;

15           “(5) in assessing risks and impacts, use a risk  
16 management framework, including both qualitative  
17 and quantitative measures, to assess the observed  
18 and projected impacts of current and future climate  
19 change, accounting for—

20           “(A) both monetized and nonmonetized  
21 losses;

22           “(B) potential nonlinear, abrupt, or essen-  
23 tially irreversible changes in the climate system;

24           “(C) potential nonlinear increases in the  
25 cost of impacts;

1                   “(D) potential low-probability, high impact  
2                   events; and

3                   “(E) whether impacts are transitory or es-  
4                   sentially permanent; and

5                   “(6) based on the findings of the Administrator  
6                   under this section, as well as assessments made by  
7                   the Intergovernmental Panel on Climate Change, the  
8                   United States Global Change Research program,  
9                   and other relevant scientific entities—

10                   “(A) describe increased risks to natural  
11                   systems and society that would result from an  
12                   increase in global average temperature that is  
13                   3.6 degrees Fahrenheit (2 degrees Celsius)  
14                   above the preindustrial average or an increase  
15                   in atmospheric greenhouse gas concentrations  
16                   above 450 parts per million carbon dioxide  
17                   equivalent; and

18                   “(B) identify and assess—

19                   “(i) significant residual risks not  
20                   avoided by the thresholds described in sub-  
21                   paragraph (A);

22                   “(ii) alternative thresholds or targets  
23                   that may more effectively limit the risks  
24                   identified pursuant to clause (i); and

1                   “(iii) thresholds above those described  
2                   in subparagraph (A) that significantly in-  
3                   crease the risk of certain impacts or render  
4                   the impacts essentially permanent.

5           “(d) STATUS OF MONITORING AND VERIFICATION  
6 CAPABILITIES TO EVALUATE GREENHOUSE GAS REDUC-  
7 TION EFFORTS.—The analysis required under subsection  
8 (a)(2) shall evaluate the capabilities of the monitoring, re-  
9 porting, and verification systems used to quantify progress  
10 in achieving reduction goals in greenhouse gas emissions,  
11 both globally and in the United States (as described in  
12 section 702), including—

13                   “(1) quantification of emissions and emission  
14                   reductions by entities participating in the pollution  
15                   reduction and investment program under this title;

16                   “(2) quantification of emissions and emission  
17                   reductions by entities participating in the offset pro-  
18                   gram under this title;

19                   “(3) quantification of emission and emission re-  
20                   ductions by entities regulated by performance stand-  
21                   ards;

22                   “(4) quantification of aggregate net emissions  
23                   and emission reductions by the United States; and

1           “(5) quantification of global changes in net  
2           emissions and in sources and sinks of greenhouse  
3           gases.

4           “(e) STATUS OF GREENHOUSE GAS REDUCTION EF-  
5           FORTS.—The analysis required under subsection (a)(3)  
6           shall address—

7           “(1) whether the program under this title is  
8           achieving sufficient greenhouse gas emission reduc-  
9           tions to meet the emission reduction goals described  
10          in section 702, taking into account the use of off-  
11          sets; and

12          “(2) whether United States actions, taking into  
13          account international actions, commitments, and  
14          trends, and considering the range of plausible emis-  
15          sion scenarios, are sufficient to avoid—

16                 “(A) atmospheric greenhouse gas con-  
17                 centrations above 450 parts per million carbon  
18                 dioxide equivalent;

19                 “(B) a global average surface temperature  
20                 that is 3.6 degrees Fahrenheit (2 degrees Cel-  
21                 sius) above the preindustrial average, or such  
22                 other temperature thresholds as the Adminis-  
23                 trator considers to be appropriate; and

1           “(C) other temperature or greenhouse gas  
2           thresholds identified pursuant to subsection  
3           (c)(6)(B).

4           “(f) TECHNOLOGICAL INFORMATION.—The analysis  
5           required under subsection (a)(4) shall—

6           “(1) review existing technological information  
7           and reports, including the most recent reports by the  
8           Department of Energy, the United States Global  
9           Change Research Program, the Intergovernmental  
10          Panel on Climate Change, and the International En-  
11          ergy Agency, and any other relevant information on  
12          technologies or practices that reduce or limit green-  
13          house gas emissions;

14          “(2) include the participation of technical ex-  
15          perts from relevant private industry sectors;

16          “(3) review the current and future projected de-  
17          ployment of technologies and practices in the United  
18          States that reduce or limit greenhouse gas emis-  
19          sions, including—

20                  “(A) technologies for capture and seques-  
21                  tration of greenhouse gases;

22                  “(B) technologies to improve energy effi-  
23                  ciency;

24                  “(C) low- or zero-greenhouse gas emitting  
25                  energy technologies;

1           “(D) low- or zero-greenhouse gas emitting  
2           fuels;

3           “(E) biological sequestration practices and  
4           technologies; and

5           “(F) any other technologies the Secretary  
6           determines to be relevant; and

7           “(4) review and compare the emission reduction  
8           potential, commercial viability, market penetration,  
9           investment trends, and deployment of the tech-  
10          nologies described in paragraph (3), including—

11           “(A) the need for additional research and  
12           development, including publicly funded research  
13           and development;

14           “(B) the extent of commercial deployment,  
15           including, if appropriate, a comparison of the  
16           cost and level of deployment of conventional  
17           fossil fuel-fired energy technologies and devices;  
18           and

19           “(C) an evaluation of any substantial tech-  
20           nological, legal, or market-based barriers to  
21           commercial deployment.

22          “(g) RECOMMENDATIONS.—

23           “(1) LATEST SCIENTIFIC INFORMATION.—  
24          Based on the analysis described in subsection (a)(1),

1 each report under subsection (a) shall identify ac-  
2 tions that could be taken—

3 “(A) to improve the characterization of  
4 changes in the earth-climate system and im-  
5 pacts of global climate change;

6 “(B) to better inform decisionmaking and  
7 actions relating to global climate change;

8 “(C) to mitigate risks to natural and social  
9 systems; and

10 “(D) to design policies to better account  
11 for climate risks.

12 “(2) MONITORING, REPORTING AND  
13 VERIFICATION.—Based on the analysis described in  
14 subsection (a)(2), each report under subsection (a)  
15 shall—

16 “(A) identify key gaps in measurement, re-  
17 porting, and verification capabilities; and

18 “(B) make recommendations to improve  
19 the accuracy and reliability of those capabilities.

20 “(3) STATUS OF GREENHOUSE GAS REDUCTION  
21 EFFORTS.—Based on the analysis described in sub-  
22 section (a)(3), taking into account international ac-  
23 tions, commitments, and trends, and considering the  
24 range of plausible emission scenarios, each report  
25 under subsection (a) shall identify—

1           “(A) the quantity of additional reductions  
2 required to meet the emission reduction goals of  
3 section 702;

4           “(B) the quantity of additional reductions  
5 in global greenhouse gas emissions needed to  
6 avoid the concentration and temperature  
7 thresholds identified in subsection (e); and

8           “(C) potential strategies and approaches  
9 for achieving additional reductions.

10       “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated to carry out this section  
12 such sums as are necessary.

13       **“PART B—DESIGNATION AND REGISTRATION OF  
14 GREENHOUSE GASES**

15       **“SEC. 711. DESIGNATION OF GREENHOUSE GASES.**

16       “(a) INITIAL LIST OF GREENHOUSE GASES.—The  
17 Administrator shall designate the following as greenhouse  
18 gases:

19           “(1) Carbon dioxide.

20           “(2) Methane.

21           “(3) Nitrous oxide.

22           “(4) Sulfur hexafluoride.

23           “(5) Hydrofluorocarbons from a chemical man-  
24 ufacturing process at a stationary source.



1           “(6) Any perfluorocarbon that is an anthropo-  
2           genic gas 1 metric ton of which makes the same or  
3           greater contribution to global warming over 100  
4           years as 1 metric ton of carbon dioxide.

5           “(7) Nitrogen trifluoride.

6           “(b) DETERMINATION ON INITIATIVE OF ADMINIS-  
7           TRATOR.—The Administrator shall, by rule—

8           “(1) determine whether 1 metric ton of any an-  
9           thropogenic gas not listed in subsection (a) makes  
10          the same or greater contribution to global warming  
11          over 100 years as 1 metric ton of carbon dioxide;

12          “(2) determine the carbon dioxide equivalent  
13          value for each gas with respect to which the Admin-  
14          istrator makes an affirmative determination under  
15          paragraph (1);

16          “(3) for each gas with respect to which the Ad-  
17          ministrator makes an affirmative determination  
18          under paragraph (1) and that is used as a substitute  
19          for a class I or class II substance under title VI, de-  
20          termine the extent to which to regulate that gas  
21          under section 619 and specify appropriate compli-  
22          ance obligations under section 619;

23          “(4) designate as a greenhouse gas for purposes  
24          of this title each gas for which the Administrator  
25          makes an affirmative determination under para-

1 graph (1), to the extent that the gas is not regulated  
2 under section 619; and

3 “(5) specify the appropriate compliance obliga-  
4 tions under this title for each gas designated as a  
5 greenhouse gas under paragraph (4).

6 “(c) PETITIONS TO DESIGNATE A GREENHOUSE  
7 GAS.—

8 “(1) IN GENERAL.—Any person may petition  
9 the Administrator to designate as a greenhouse gas  
10 any anthropogenic gas 1 metric ton of which makes  
11 the same or greater contribution to global warming  
12 over 100 years as 1 metric ton of carbon dioxide.

13 “(2) CONTENTS OF PETITION.—

14 “(A) IN GENERAL.—The petitioner shall  
15 provide sufficient data, as specified by rule by  
16 the Administrator, to demonstrate that the gas  
17 is likely to be a greenhouse gas and is likely to  
18 be produced, imported, used, or emitted in the  
19 United States.

20 “(B) ADDITIONAL INFORMATION.—To the  
21 maximum extent practicable, the petitioner  
22 shall also identify producers, importers, dis-  
23 tributors, users, and emitters of the gas in the  
24 United States.

1           “(3) REVIEW AND ACTION BY THE ADMINIS-  
2           TRATOR.—Not later than 90 days after the date of  
3           receipt of a petition under paragraph (1), the Ad-  
4           ministrator shall—

5                   “(A) determine whether the petition is  
6           complete; and

7                   “(B) notify the petitioner and the public of  
8           the determination.

9           “(4) ADDITIONAL INFORMATION.—The Admin-  
10          istrator may require producers, importers, distribu-  
11          tors, users, or emitters of a gas that is the subject  
12          of a petition to provide information on the contribu-  
13          tion of the gas to global warming over 100 years as  
14          compared to that made by 1 metric ton of carbon di-  
15          oxide.

16          “(5) TREATMENT OF PETITION.—For any sub-  
17          stance used as a substitute for a class I or class II  
18          substance under title VI, the Administrator may—

19                   “(A) elect to treat a petition under this  
20          subsection as a petition to list the substance as  
21          a class II, group II substance under section  
22          619; and

23                   “(B) require the petition to be amended to  
24          address listing criteria promulgated under that  
25          section.

1           “(6) DETERMINATION.—Not later than 2 years  
2 after the date of receipt of a complete petition, the  
3 Administrator shall, after notice and an opportunity  
4 for comment—

5           “(A) issue and publish in the Federal Reg-  
6 ister—

7           “(i) a determination that 1 metric ton  
8 of the gas does not make a contribution to  
9 global warming over 100 years that is  
10 equal to or greater than that made by 1  
11 metric ton of carbon dioxide; and

12           “(ii) an explanation of the decision; or

13           “(B)(i) determine that 1 metric ton of the  
14 gas makes a contribution to global warming  
15 over 100 years that is equal to or greater than  
16 that made by 1 metric ton of carbon dioxide;  
17 and

18           “(ii) take the actions described in sub-  
19 section (b) with respect to the gas.

20           “(7) GROUNDS FOR DENIAL.—The Adminis-  
21 trator may not deny a petition under this subsection  
22 solely on the basis of inadequate Environmental Pro-  
23 tection Agency resources or time for review.

24           “(d) MANUFACTURING AND EMISSION NOTICES.—

25           “(1) NOTICE REQUIREMENT.—

1           “(A) IN GENERAL.—Effective beginning on  
2           the date that is 2 years after the date of enact-  
3           ment of this title, no person may manufacture  
4           or introduce into interstate commerce a  
5           fluorinated gas, or emit in a calendar year a  
6           significant quantity, as determined by the Ad-  
7           ministrator (which in no case shall be less than  
8            $\frac{1}{2}$  ton of the fluorinated gas), of any  
9           fluorinated gas that is generated as a byproduct  
10          during the production or use of another  
11          fluorinated gas, unless—

12                   “(i) the gas is designated as a green-  
13                   house gas under this section or is an  
14                   ozone-depleting substance listed as a class  
15                   I or class II substance under title VI;

16                   “(ii) the Administrator has deter-  
17                   mined that 1 metric ton of the gas does  
18                   not make a contribution to global warming  
19                   that is equal to or greater than that made  
20                   by 1 metric ton of carbon dioxide; or

21                   “(iii) the person manufacturing or im-  
22                   porting the gas for distribution into inter-  
23                   state commerce, or emitting the gas, has  
24                   submitted to the Administrator, at least 90  
25                   days before the start of the manufacture,

1 introduction into commerce, or emission, a  
2 notice of the manufacture, introduction  
3 into commerce, or emission of the gas by  
4 the person, and the Administrator has not  
5 determined that notice or a substantially  
6 similar notice is incomplete.

7 “(B) ALTERNATIVE COMPLIANCE.—For a  
8 gas that is a substitute for a class I or class II  
9 substance under title VI and either has been  
10 listed as acceptable for use under section 612  
11 or is subject to evaluation under section 612,  
12 the Administrator may accept the notice and in-  
13 formation provided pursuant to that section as  
14 fulfilling the obligation under subparagraph  
15 (A)(iii).

16 “(2) REVIEW AND ACTION BY THE ADMINIS-  
17 TRATOR.—

18 “(A) COMPLETENESS.—Not later than 90  
19 days after the date of receipt of notice under  
20 subparagraph (A)(iii) or (B) of paragraph (1),  
21 the Administrator shall determine whether the  
22 notice is complete.

23 “(B) DETERMINATION.—If the Adminis-  
24 trator determines that the notice is complete,  
25 the Administrator shall, after public notice and

1 an opportunity for comment, not later than 1  
2 year after the date of receipt of the notice—

3 “(i) issue and publish in the Federal  
4 Register a determination that 1 metric ton  
5 of the gas does not make a contribution to  
6 global warming over 100 years that is  
7 equal to or greater than that made by 1  
8 metric ton of carbon dioxide, including an  
9 explanation of the decision; or

10 “(ii) determine that 1 metric ton of  
11 the gas makes a contribution to global  
12 warming over 100 years that is equal to or  
13 greater than that made by 1 metric ton of  
14 carbon dioxide, and take the actions de-  
15 scribed in subsection (b) with respect to  
16 the gas.

17 “(e) REGULATIONS.—

18 “(1) IN GENERAL.—Not later than 1 year after  
19 the date of enactment of this title, the Administrator  
20 shall promulgate regulations to carry out this sec-  
21 tion.

22 “(2) CONTENT.—The regulations shall in-  
23 clude—

24 “(A) requirements for the contents of a pe-  
25 tition submitted under subsection (c);

1                   “(B) requirements for the contents of a  
2                   notice required under subsection (d); and

3                   “(C) methods and standards for evaluating  
4                   the carbon dioxide equivalent value of a gas.

5                   “(f) GASES REGULATED UNDER TITLE VI.—The  
6 Administrator shall not designate a gas as a greenhouse  
7 gas under this section to the extent that the gas is regu-  
8 lated under title VI.

9                   “(g) SAVINGS CLAUSE.—Nothing in this section re-  
10 lieves any person from complying with section 612.

11                   **“SEC. 712. CARBON DIOXIDE EQUIVALENT VALUE OF**  
12                   **GREENHOUSE GASES.**

13                   “(a) MEASURE OF QUANTITY OF GREENHOUSE  
14 GASES.—Any provision of this Act that refers to a quan-  
15 tity or percentage of a quantity of greenhouse gases shall  
16 mean the quantity or percentage of the greenhouse gases  
17 expressed in carbon dioxide equivalents.

18                   “(b) INITIAL VALUE.—Except as provided by the Ad-  
19 ministrator under this section or section 711—

20                   “(1) the carbon dioxide equivalent value of  
21 greenhouse gases for purposes of this Act shall be as  
22 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



**“ 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>
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
HFC-236fa	9,810
HFC-4310mcc	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.—

1           “(1) IN GENERAL.—Not later than February 1,  
2           2017, and (except as provided in paragraph (3)) not  
3           less than every 5 years thereafter, the Administrator  
4           shall—

5                   “(A) review and, if appropriate, revise the  
6           carbon dioxide equivalent values established  
7           under this section or section 711(c)(2), based  
8           on a determination of the number of metric  
9           tons of carbon dioxide that makes the same  
10          contribution to global warming over 100 years  
11          as 1 metric ton of each greenhouse gas; and

12                   “(B) publish in the Federal Register the  
13          results of that review and any revisions.

14           “(2) EFFECTIVE DATE.—A revised determina-  
15          tion published in the Federal Register under para-  
16          graph (1)(B) shall take effect for greenhouse gas  
17          emissions starting on January 1 of the first calendar  
18          year starting at least 9 months after the date on  
19          which the revised determination was published.

20           “(3) DECREASED FREQUENCY OF REVIEW.—  
21          The Administrator may decrease the frequency of re-  
22          view and revision under paragraph (1) if the Admin-  
23          istrator determines that the decrease is appropriate  
24          in order to synchronize the review and revision with  
25          any similar review process carried out pursuant to

1 the United Nations Framework Convention on Cli-  
2 mate Change, done at New York on May 9, 1992,  
3 or to an agreement negotiated under that conven-  
4 tion, except that in no event shall the Administrator  
5 carry out such review and revision any less fre-  
6 quently than every 10 years.

7 “(d) **METHODOLOGY.**—In setting carbon dioxide  
8 equivalent values for purposes of this section or section  
9 711, the Administrator shall take into account publica-  
10 tions by the Intergovernmental Panel on Climate Change  
11 or a successor organization under the auspices of the  
12 United Nations Environmental Programme and the World  
13 Meteorological Organization.

14 **“SEC. 713. GREENHOUSE GAS REGISTRY.**

15 “(a) **DEFINITIONS.**—In this section:

16 “(1) **CLIMATE REGISTRY.**—The term ‘Climate  
17 Registry’ means the greenhouse gas emission reg-  
18 istry jointly established and managed by more than  
19 40 States and Indian tribes in 2007 to collect high-  
20 quality greenhouse gas emission data from facilities,  
21 corporations, and other organizations to support var-  
22 ious greenhouse gas emission reporting and reduc-  
23 tion policies for the member States and Indian  
24 tribes.

1           “(2) REPORTING ENTITY.—The term ‘reporting  
2           entity’ means—

3                   “(A) a covered entity;

4                   “(B) an entity that—

5                           “(i) would be a covered entity if the  
6                           entity had emitted, produced, imported, or  
7                           delivered in 2008 or any subsequent year  
8                           more than the applicable threshold level in  
9                           the definition of a covered entity; and

10                           “(ii) has emitted, produced, imported,  
11                           or delivered in 2008 or any subsequent  
12                           year more than the applicable threshold  
13                           level described in the definition of a cov-  
14                           ered entity, except that the Administrator  
15                           shall, by rule, lower the applicable thresh-  
16                           old for 1 or more categories of covered en-  
17                           tities if the Administrator determines that  
18                           the lower threshold would serve to achieve  
19                           the purposes of this title or title VIII;

20                           “(C) any other entity that emits a green-  
21                           house gas, or produces, imports, manufactures,  
22                           or delivers material the use of which results or  
23                           may result in greenhouse gas emissions, if the  
24                           Administrator determines that reporting under

1           this section by the entity will help achieve the  
2           purposes of this title and title VIII;

3           “(D) any vehicle fleet with emissions of  
4           25,000 tons or more of carbon dioxide equiva-  
5           lent on an annual basis, if the Administrator  
6           determines that the inclusion of the fleet will  
7           help achieve the purposes of this title or title  
8           VIII;

9           “(E) any entity that sells or delivers elec-  
10          tricity to an energy-intensive facility of any size  
11          in an industrial sector that meets energy or  
12          greenhouse gas intensity criteria established by  
13          the Administrator or to a refiner that receives  
14          allowances pursuant to section 781(b)(3); or

15          “(F) any stationary source that produces,  
16          and any entity that (or group of 2 or more af-  
17          filiated entities that, in the aggregate) imports,  
18          for sale or distribution in commerce in 2008 or  
19          any subsequent year, petroleum-based or coal-  
20          based liquid fuel, biofuels, or natural gas liquid,  
21          the combustion of which would emit more than  
22          25,000 tons of carbon dioxide equivalent, as de-  
23          termined by the Administrator.

24          “(b) REGULATIONS.—

1           “(1) IN GENERAL.—Not later than 18 months  
2 after the date of enactment of this title, the Admin-  
3 istrator shall revise the greenhouse gas reporting  
4 regulations established under this Act as needed to  
5 ensure that a Federal greenhouse gas registry, at  
6 minimum—

7           “(A) requires reporting entities to submit  
8 to the Administrator data on—

9           “(i) greenhouse gas emissions in the  
10 United States;

11           “(ii) the production and manufacture  
12 in the United States, importation into the  
13 United States, and, at the discretion of the  
14 Administrator, exportation from the  
15 United States, of fuels and industrial gases  
16 the uses of which result or may result in  
17 greenhouse gas emissions;

18           “(iii) deliveries in the United States of  
19 natural gas, and any other gas meeting the  
20 specifications for commingling with natural  
21 gas for purposes of delivery, the combus-  
22 tion of which result or may result in green-  
23 house gas emissions; and

24           “(iv) the capture and sequestration of  
25 greenhouse gases;

1           “(B) requires covered entities and, if ap-  
2           propriate, other reporting entities to submit to  
3           the Administrator data sufficient to ensure  
4           compliance with or implementation of the re-  
5           quirements of this title, including information  
6           on biomass-related emissions as necessary to as-  
7           sess compliance with section 722(b);

8           “(C) requires reporting of electricity sold  
9           or delivered to industrial sources in energy-in-  
10          tensive industries or to refiners, including the  
11          quantity of electricity purchased in units to be  
12          determined by the Administrator;

13          “(D) ensures the completeness, consist-  
14          ency, transparency, accuracy, precision, and re-  
15          liability of the data;

16          “(E) takes 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) takes into account the latest scientific  
24          research;

1           “(G) requires that, for covered entities  
2 with respect to greenhouse gas emissions for  
3 which compliance must be demonstrated under  
4 section 722 and, to the extent determined to be  
5 appropriate by the Administrator, for covered  
6 entities with respect to other greenhouse gas  
7 emissions and for other reporting entities, sub-  
8 mitted data are based on—

9           “(i) continuous monitoring systems  
10 for fuel flow or emissions, such as contin-  
11 uous emission monitoring systems;

12           “(ii) alternative systems that are dem-  
13 onstrated to provide data with the same  
14 precision, reliability, accessibility, and  
15 timeliness, or, to the extent the Adminis-  
16 trator determines is appropriate for report-  
17 ing small quantities of emissions, the same  
18 precision, reliability, and accessibility and  
19 similar timeliness, as data provided by con-  
20 tinuous monitoring systems for fuel flow or  
21 emissions; or

22           “(iii) alternative methodologies that  
23 are demonstrated to provide data with pre-  
24 cision, reliability, accessibility, and timeli-  
25 ness or, to the extent the Administrator



1 determines is appropriate for reporting  
2 small quantities of emissions, precision, re-  
3 liability, and accessibility, as similar as is  
4 technically feasible to that of data gen-  
5 erally provided by continuous monitoring  
6 systems for fuel flow or emissions, if the  
7 Administrator determines that, with re-  
8 spect to a reporting entity, there is no con-  
9 tinuous monitoring system or alternative  
10 system described in clause (i) or (ii) that  
11 is technically feasible;

12 “(H) requires that the Administrator, in  
13 determining the extent to which the require-  
14 ment to use systems or methodologies in ac-  
15 cordance with subparagraph (G) is appropriate  
16 for reporting entities other than covered entities  
17 or for greenhouse gas emissions for which com-  
18 pliance is not required to be demonstrated  
19 under section 722, consider the cost of using  
20 those systems and methodologies, and of using  
21 other systems and methodologies that are avail-  
22 able and suitable, for quantifying the emissions  
23 involved in light of the purposes of this title, in-  
24 cluding the goal of collecting consistent entity-  
25 wide data;

1           “(I) includes methods for minimizing dou-  
2           ble reporting and avoiding irreconcilable double  
3           reporting of greenhouse gas emissions;

4           “(J) establishes measurement protocols for  
5           carbon capture and sequestration systems;

6           “(K) requires that reporting entities pro-  
7           vide the data required under this paragraph in  
8           reports submitted electronically to the Adminis-  
9           trator, in such form and containing such infor-  
10          mation as may be required by the Adminis-  
11          trator;

12          “(L) includes requirements for keeping  
13          records supporting or related to, and protocols  
14          for auditing, submitted data;

15          “(M) establishes consistent policies for cal-  
16          culating carbon content and greenhouse gas  
17          emissions for each type of fossil fuel with re-  
18          spect to which reporting is required;

19          “(N) subsequent to implementation of poli-  
20          cies developed under subparagraph (M), pro-  
21          vides for immediate dissemination, to States,  
22          Indian tribes, and the public, including on the  
23          Internet, of all data reported under this section  
24          as soon as practicable after electronic audit by  
25          the Administrator and any resulting correction

1 of data, except that data shall not be dissemi-  
2 nated under this subparagraph if—

3 “(i) nondissemination of the data is  
4 vital to the national security of the United  
5 States, as determined by the President; or

6 “(ii) the data is confidential business  
7 information that cannot be derived from  
8 information that is otherwise publicly  
9 available and disclosure of which would  
10 likely cause substantial harm to the com-  
11 petitive position of the person from which  
12 the information was obtained, except  
13 that—

14 “(I) data relating to greenhouse  
15 gas emissions, including any upstream  
16 supply or verification data from re-  
17 porting entities, shall not be consid-  
18 ered to be confidential business infor-  
19 mation; and

20 “(II) data that is confidential  
21 business information shall be provided  
22 to a State or Indian tribe within the  
23 jurisdiction of which the reporting en-  
24 tity 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 the information to dis-  
12                  close the information to the State  
13                  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                  Administrator that the use and  
20                  disclosure by the State or Indian  
21                  tribe, as applicable, of the infor-  
22                  mation will be governed by State  
23                  or tribal law and procedures that  
24                  will provide adequate protection

1 to the interests of affected busi-  
2 nesses;

3 “(O) prescribes 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 to be appropriate,

1 with an estimate of such levels assum-  
2 ing the covered entity is emitting, pro-  
3 ducing, importing, manufacturing, or  
4 delivering at a maximum potential  
5 level during the period, in order to en-  
6 sure that the levels are not under-  
7 reported and to create a strong incen-  
8 tive for meeting data monitoring and  
9 reporting requirements; and

10 “(ii) for covered entities with respect  
11 to greenhouse gas emissions for which  
12 compliance is not required to be dem-  
13 onstrated under section 722 does not apply  
14 and for other reporting entities, with a rea-  
15 sonable estimate of the emission, produc-  
16 tion, importation, manufacture, or delivery  
17 levels that may have occurred during the  
18 period for which data are missing;

19 “(P) requires the designation of a des-  
20 ignated representative for each reporting entity;

21 “(Q) requires an appropriate certification,  
22 by the designated representative for the report-  
23 ing entity, of accurate and complete accounting  
24 of greenhouse gas emissions, as determined by  
25 the Administrator; and

1           “(R) includes 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.—

12           “(i) IN GENERAL.—For a base period  
13           of calendar years 2007 through 2010, each  
14           reporting entity shall submit annual data  
15           required under this section to the Adminis-  
16           trator not later than March 31, 2011.

17           “(ii) WAIVER OR MODIFICATION.—  
18           The Administrator may waive or modify  
19           reporting requirements for calendar years  
20           2007 through 2010 for reporting entities  
21           or categories of reporting entities to the  
22           extent that the Administrator determines  
23           that the reporting entities did not keep  
24           data or records necessary to meet report-  
25           ing requirements.

1                   “(iii) ENERGY CONSUMPTION AND  
2                   PRODUCTION.—The Administrator may, in  
3                   addition to or in lieu of the requirements  
4                   under clause (i), collect information on en-  
5                   ergy consumption and production.

6                   “(B) SUBSEQUENT CALENDAR YEARS.—  
7                   For calendar year 2011 and each subsequent  
8                   calendar year, each reporting entity shall sub-  
9                   mit quarterly data required under this section  
10                  to the Administrator not later than 60 days  
11                  after the end of the applicable quarter, unless  
12                  the data is already being reported to the Ad-  
13                  ministrator on an earlier timeframe for another  
14                  program.

15                  “(3) WAIVER OF REPORTING REQUIREMENTS.—  
16                  The Administrator may waive reporting require-  
17                  ments under this section for specific entities to the  
18                  extent that the Administrator determines that suffi-  
19                  cient and equally or more reliable verified and timely  
20                  data are available to the Administrator and the pub-  
21                  lic on the Internet under other mandatory statutory  
22                  requirements.

23                  “(4) ALTERNATIVE THRESHOLD.—The Admin-  
24                  istrator may, by rule, establish applicability thresh-  
25                  olds for reporting under this section using alter-



1 native metrics and levels, if the metrics and levels  
2 are easier to administer and cover the same size and  
3 type of sources as the threshold established under  
4 this section.

5 “(c) INTERRELATIONSHIP WITH OTHER SYSTEMS.—

6 “(1) IN GENERAL.—In developing the regula-  
7 tions promulgated under subsection (b), the Admin-  
8 istrator shall take into account the work done by the  
9 Climate Registry and other mandatory State or  
10 multistate programs.

11 “(2) DIFFERENCES.—The regulations shall in-  
12 clude an explanation of any major differences in ap-  
13 proach between the system established under the  
14 regulations and the registries and programs.

15 **“SEC. 714. PERFLUOROCARBON AND OTHER**  
16 **NONHYDROFLUOROCARBON FLUORINATED**  
17 **SUBSTANCE PRODUCTION REGULATION.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) BEST ACHIEVABLE PERFORMANCE STAND-  
20 ARD.—The term ‘best achievable performance stand-  
21 ard’ means a limitation on total emissions based on  
22 the maximum degree of reduction of fluorinated  
23 gases that are greenhouse gases subject to regula-  
24 tion under this Act emitted during the production of  
25 nonhydrofluorocarbon fluorinated substances at cov-

1       ered entities that the Administrator, taking into ac-  
2       count energy, environmental, economic impacts, and  
3       other costs, determines to be achievable for covered  
4       entities through application of production process  
5       optimization and available methods, control tech-  
6       nologies or systems, and management techniques or  
7       practices.

8               “(2) NONHYDROFLUOROCARBON FLUORINATED  
9       SUBSTANCE.—The term ‘nonhydrofluorocarbon  
10       fluorinated substance’ means a substance included  
11       on the list published under subsection (d) that—

12                       “(A) is not listed as a class I or class II  
13       substance under title VI; and

14                       “(B) is not—

15                               “(i) sulfur hexafluoride; or

16                               “(ii) nitrogen trifluoride.

17       “(b) DETERMINATION BY ADMINISTRATOR.—

18               “(1) IN GENERAL.—Not later than 1 year after  
19       the date of enactment of this title, the Administrator  
20       shall determine, based on the criteria described in  
21       paragraph (2), whether fluorinated gases that are  
22       greenhouse gases emitted during the production of  
23       nonhydrofluorocarbon fluorinated substances should  
24       be regulated in accordance with—

25                       “(A) subsection (c); or

1                   “(B) the applicable requirements of section  
2                   722 relating to emissions of greenhouse gases  
3                   during fluorinated substance production at cov-  
4                   ered entities.

5                   “(2) CRITERIA FOR DETERMINATION.—In mak-  
6                   ing the determination under paragraph (1), the Ad-  
7                   ministrator shall take into consideration—

8                   “(A) whether an equivalent or greater level  
9                   of total emission reductions could be achieved  
10                  under subsection (c), as compared to the emis-  
11                  sion reductions that would be achieved under  
12                  the applicable requirements of section 722 re-  
13                  lating to emissions of greenhouse gases during  
14                  fluorinated substance production at covered en-  
15                  tities; and

16                  “(B) such other criteria as the Adminis-  
17                  trator determines to be appropriate.

18                  “(c) GREENHOUSE GAS EMISSIONS FROM  
19                  NONHYDROFLUOROCARBON FLUORINATED SUBSTANCE  
20                  PRODUCTION.—

21                  “(1) IN GENERAL.—If the Administrator makes  
22                  the determination described in subsection (b)(1)(A),  
23                  not later than 18 months after the date of enact-  
24                  ment of this title, the Administrator shall promul-  
25                  gate regulations applicable to covered entities that

1       require fluorinated gases that are greenhouse gases  
2       emitted during the production of  
3       nonhydrofluorocarbon fluorinated substances at  
4       those covered entities to meet the best achievable  
5       performance standard.

6               “(2) BEST ACHIEVABLE PERFORMANCE STAND-  
7       ARD REVIEW.—The Administrator shall, at the dis-  
8       cretion of the Administrator—

9               “(A) not later than 2 years after the date  
10       of establishment of a best achievable perform-  
11       ance standard, and every 2 years thereafter—

12               “(i) review the best achievable per-  
13       formance standard; and

14               “(ii) as necessary, establish a more  
15       stringent best achievable performance  
16       standard that reduces emissions, to the  
17       maximum extent practicable, in accordance  
18       with the economy-wide reduction goals de-  
19       scribed in section 702; or

20               “(B) not later than 2 years after the date  
21       of establishment of a best achievable perform-  
22       ance standard, and every 10 years thereafter,  
23       establish a 10-year schedule under which each  
24       applicable covered entity shall incrementally im-  
25       plement a more stringent best achievable per-

1           formance standard that reduces, to the max-  
2           imum extent practicable, emissions in accord-  
3           ance with the economy-wide reduction goals de-  
4           scribed in section 702.

5           “(3) EXCLUSIVITY.—If the Administrator  
6           makes the determination described in subsection  
7           (b)(1)(A), the requirements of this subsection relat-  
8           ing to control of emissions of fluorinated gases that  
9           are greenhouse gases during the production of  
10          nonhydrofluorocarbon fluorinated substances shall  
11          apply in lieu of the requirements of section 722 re-  
12          lating to emissions of fluorinated gases that are  
13          greenhouse gases during fluorinated substance pro-  
14          duction at covered entities.

15          “(d) LIST OF NONHYDROFLUOROCARBON  
16          FLUORINATED SUBSTANCES.—

17               “(1) INITIAL LIST.—If the Administrator  
18               makes the determination described in subsection  
19               (b)(1)(A), not later than 2 years after the date of  
20               enactment of this title, the Administrator shall pub-  
21               lish a list of nonhydrofluorocarbon fluorinated sub-  
22               stances subject to regulation under this section.

23               “(2) ADDITIONS TO LIST.—The Administrator  
24               may include on the list published under paragraph

1 (1) any substance that meets the requirements de-  
2 scribed in subsection (a)(2).

3 **“PART C—PROGRAM RULES**

4 **“SEC. 721. EMISSION ALLOWANCES.**

5 “(a) IN GENERAL.—The Administrator shall estab-  
6 lish a separate quantity of emission allowances for each  
7 calendar year starting in 2013, in the quantities pre-  
8 scribed under subsection (e).

9 “(b) IDENTIFICATION NUMBERS.—The Adminis-  
10 trator shall assign to each emission allowance established  
11 under subsection (a) a unique identification number that  
12 includes the vintage year for that emission allowance.

13 “(c) LEGAL STATUS.—

14 “(1) IN GENERAL.—An allowance or an offset  
15 credit established by the Administrator under this  
16 title shall not constitute a property right.

17 “(2) TERMINATION OR LIMITATION.—Nothing  
18 in this Act or any other provision of law limits or  
19 alters the authority of the United States, including  
20 the Administrator acting pursuant to statutory au-  
21 thority, to terminate or limit allowances or offset  
22 credits.

23 “(3) OTHER PROVISIONS UNAFFECTED.—Ex-  
24 cept as otherwise specified in this Act, nothing in  
25 this Act relating to allowances or offset credits af-

1 affects the application of any other provision of law to  
2 a covered entity, or the responsibility for a covered  
3 entity to comply with any such provision of law.

4 “(d) SAVINGS PROVISIONS.—Nothing in this part—

5 “(1) requires a change of any kind in any State  
6 or tribal law regulating electric utility rates and  
7 charges, affects any State or tribal law regarding  
8 such State or tribal regulation, or limits State or  
9 tribal regulation (including any prudency review)  
10 under such a State or tribal law;

11 “(2) modifies the Federal Power Act (16 U.S.C.  
12 791a et seq.) or affects the authority of the Federal  
13 Energy Regulatory Commission under that Act; or

14 “(3) interferes with or impairs any program for  
15 competitive bidding for power supply in a State in  
16 which the program is established.

17 “(e) ALLOWANCES FOR EACH CALENDAR YEAR.—

18 “(1) IN GENERAL.—Except as provided in para-  
19 graph (2), the number of emission allowances estab-  
20 lished by the Administrator under subsection (a) for  
21 each calendar year shall be as provided in the [fol-  
22 lowing table]:

<b>“Calendar Year</b>	<b>Emission Allow- ances (MtCO<sub>2</sub>e)</b>
2013 .....	4,722
2014 .....	4,635
2015 .....	4,548
2016 .....	5,524
2017 .....	5,417







1                   2005, expressed in tons of carbon di-  
2                   oxide equivalent;

3                   “(II) the percent of United  
4                   States greenhouse gas emissions in  
5                   2005, expressed in tons of carbon di-  
6                   oxide equivalent, that would have been  
7                   subject to section 722 if the require-  
8                   ments of this title for the given cal-  
9                   endar year had been in effect in 2005;  
10                  and

11                  “(III) the percentage specified  
12                  for that calendar year in section  
13                  703(a), or determined under clause  
14                  (ii).

15                  “(ii) TARGETS.—In applying the por-  
16                  tion of the formula in clause (i)(III), for  
17                  calendar years for which a percentage is  
18                  not listed in section 703(a), the Adminis-  
19                  trator shall use a uniform annual decline  
20                  in the quantity of emissions between the  
21                  years that are specified.

22                  “(iii) CARBON DIOXIDE EQUIVALENT  
23                  VALUE.—If the Administrator adjusts  
24                  under this paragraph the number of emis-  
25                  sion allowances established pursuant to

1 paragraph (1), the Administrator shall use  
2 the carbon dioxide equivalent values estab-  
3 lished pursuant to part B.

4 “(iv) LIMITATION ON ADJUSTMENT  
5 TIMING.—Once a calendar year has start-  
6 ed, the Administrator may not adjust the  
7 number of emission allowances to be estab-  
8 lished for that calendar year.

9 “(C) LIMITATION ON ADJUSTMENT AU-  
10 THORITY.—The Administrator may adjust  
11 under this paragraph the number of emission  
12 allowances to be established pursuant to para-  
13 graph (1) only twice, with the second adjust-  
14 ment made not later than the date by which  
15 Administrator establishes allowances for 2016,  
16 as necessary to reflect the most complete and  
17 accurate information available by that time.

18 “(f) COMPENSATORY ALLOWANCE.—

19 “(1) DEFINITIONS.—In this subsection:

20 “(A) CONVERSIONARY USE.—The term  
21 ‘conversionary use’ means the conversion during  
22 research or manufacturing of a fluorinated gas  
23 into another greenhouse gas or set of gases  
24 with a lower carbon dioxide equivalent value.

1                   “(B) DESTRUCTION.—The term ‘destruc-  
2                   tion’ means the conversion of a greenhouse gas  
3                   by thermal, chemical, or other means to another  
4                   gas or set of gases with little or no carbon diox-  
5                   ide equivalent value.

6                   “(C) NONEMISSIVE USE.—The term  
7                   ‘nonemissive use’ means the use of fossil fuel as  
8                   a feedstock in an industrial or manufacturing  
9                   process to the extent that—

10                   “(i) greenhouse gases are not emitted  
11                   from the process; and

12                   “(ii) the products of the process are  
13                   not intended for use as, or to be contained  
14                   in, a fuel.

15                   “(2) ESTABLISHMENT.—The regulations pro-  
16                   mulgated under section 730 shall provide for the es-  
17                   tablishment and distribution of compensatory allow-  
18                   ances for—

19                   “(A) the destruction, in 2013 or later, of  
20                   fluorinated gases that are greenhouse gases if—

21                   “(i) allowances or offset credits were  
22                   retired for the production or importation of  
23                   the gases; and

24                   “(ii) the gases are not required to be  
25                   destroyed under any other provision of law;

1           “(B) the nonemissive use, in 2013 or later,  
2 of petroleum-based or coal-based liquid or gas-  
3 eous fuel, petroleum coke, natural gas liquid, or  
4 natural gas as a feedstock, if allowances or off-  
5 set credits were retired for the greenhouse  
6 gases that would have been emitted from the  
7 combustion of any of those feedstocks; and

8           “(C) the conversionary use, in 2013 or  
9 later, of fluorinated gases in a manufacturing  
10 process, including semiconductor research or  
11 manufacturing, if allowances or offset credits  
12 were retired for the production or importation  
13 of the gas.

14           “(3) ESTABLISHMENT AND DISTRIBUTION.—

15           “(A) IN GENERAL.—Not later than 90  
16 days after the end of each calendar year, the  
17 Administrator shall establish and distribute to  
18 the entity taking the actions described in sub-  
19 paragraph (A), (B), or (C) of paragraph (2) a  
20 quantity of compensatory allowances equivalent  
21 to the number of tons of carbon dioxide equiva-  
22 lent of avoided emissions achieved through the  
23 actions.

24           “(B) QUANTITY.—In establishing the  
25 quantity of compensatory allowances, the Ad-

1            administrator shall take into account the carbon  
2            dioxide equivalent value of any greenhouse gas  
3            resulting from the action described in subpara-  
4            graph (A).

5            “(C) 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            “(D) IDENTIFICATION NUMBERS.—The  
10           Administrator shall assign to each compen-  
11           satory allowance established under subpara-  
12           graph (A) a unique identification number.

13           “(4) FEEDSTOCK EMISSION STUDY.—

14           “(A) IN GENERAL.—The Administrator  
15           may conduct a study to determine the extent to  
16           which petroleum-based or coal-based liquid or  
17           gaseous fuel, petroleum coke, natural gas liquid,  
18           or natural gas are used as feedstocks in manu-  
19           facturing processes to produce products and the  
20           greenhouse gas emissions resulting from such  
21           uses, including from the disposal of such prod-  
22           ucts.

23           “(B) REDUCTION OF COMPENSATORY AL-  
24           LOWANCES.—If, as a result of such a study, the  
25           Administrator determines that the use and dis-

1           posal of the products results in substantial  
2           emissions of greenhouse gases or the precursors  
3           of the gases and that the emissions have not  
4           been adequately addressed by requirements  
5           under this Act, the Administrator may, after  
6           notice and comment rulemaking, promulgate a  
7           regulation reducing compensatory allowances  
8           commensurately if doing so will not result in  
9           leakage.

10          “(g) EMISSIONS FROM INTERNATIONAL AVIATION.—

11           “(1) SENSE OF THE SENATE.—It is the sense  
12          of Senate that the United States should—

13           “(A) continue to actively promote, within  
14           the International Civil Aviation Organization,  
15           the development of a global framework for the  
16           regulation of greenhouse gas emissions from  
17           civil aircraft that recognizes the uniquely inter-  
18           national nature of the aviation sector and treats  
19           commercial aviation sectors in all countries fair-  
20           ly; and

21           “(B) work with foreign governments to-  
22           ward a global agreement that reconciles foreign  
23           carbon emission reduction programs to mini-  
24           mize duplicative measures and avoids unneces-  
25           sary complication for the aviation industry,

1 while still achieving measurable, reportable, and  
2 verifiable environmental objectives.

3 “(2) DEFINITIONS.—In this subsection:

4 “(A) ADMINISTRATORS.—The term ‘Ad-  
5 ministrators’ means the Administrators of the  
6 Environmental Protection Agency and the Fed-  
7 eral Aviation Administration.

8 “(B) AIR CARRIER; FOREIGN AIR CARRIER;  
9 FOREIGN AIR TRANSPORTATION.—The terms  
10 ‘air carrier’, ‘foreign air carrier’, and ‘foreign  
11 air transportation’ have the meanings given the  
12 terms in section 40102 of title 49, United  
13 States Code.

14 “(3) ESTABLISHMENT OF DISTRIBUTION PRO-  
15 GRAM.—The Administrator, in consultation with the  
16 Administrator of the Federal Aviation Administra-  
17 tion, may establish a program to distribute compen-  
18 satory allowances as appropriate for the greenhouse  
19 gas emissions of the fuel used for an air carrier or  
20 foreign air carrier engaged in foreign air transpor-  
21 tation, subject to the requirements of this sub-  
22 section.

23 “(4) CREDIT FOR CARRIERS ENGAGED IN FOR-  
24 EIGN AIR TRANSPORTATION.—Not later than 120  
25 days after the end of each of calendar years 2013



1 through 2050, the Administrators, in consultation  
2 with the Secretary of State, may jointly determine  
3 and distribute a quantity of compensatory allow-  
4 ances to any entity to the extent that the entity pur-  
5 chased fuel in the United States during the previous  
6 calendar year for the purpose of engaging in foreign  
7 air transportation that originates in the United  
8 States, if—

9 “(A) the Secretary of State, in consulta-  
10 tion with the Administrators, has determined  
11 that the foreign air transportation in question  
12 is covered by a foreign or international system  
13 designed to reduce greenhouse gas emissions;

14 “(B) allowances or offset credits were re-  
15 tired by the Administrator for the attributable  
16 greenhouse gas emissions of the fuel; and

17 “(C) the compensatory allowances would  
18 compensate, in whole or part, for the costs of  
19 complying with the foreign or international sys-  
20 tem.

21 “(5) DISTRIBUTION.—

22 “(A) SOURCE OF ALLOWANCES.—Compensatory allowances established under this sub-  
23 section shall not be emission allowances estab-  
24 lished under subsection (a).  
25

1           “(B) IDENTIFICATION NUMBERS.—The  
2 Administrator shall assign to each compen-  
3 satory allowance established under subpara-  
4 graph (A) a unique identification number.

5           “(6) STUDY ON IMPACTS OF INTERNATIONAL  
6 AVIATION AGREEMENT.—

7           “(A) IN GENERAL.—Not later than 2 years  
8 after the date of promulgation of regulations to  
9 carry out the program under paragraph (3),  
10 and biennially thereafter, the Administrators  
11 shall complete and submit to Congress a study  
12 of the extent to which Federal regulations are  
13 effectively and efficiently regulating the emis-  
14 sion of greenhouse gases by air carriers and  
15 foreign air carriers engaged in foreign air  
16 transportation that originates in the United  
17 States.

18           “(B) RECOMMENDATIONS.—The study  
19 shall include recommendations of the Adminis-  
20 trators, as appropriate, to address ways to en-  
21 hance the effectiveness and efficiency of the  
22 regulations, including whether any changes to  
23 the program established under this subsection  
24 should be made.

25           “(h) FLUORINATED GASES ASSESSMENT.—

1           “(1) IN GENERAL.—Not later than March 31,  
2           2014, the Administrator shall conduct and complete  
3           an assessment of the regulation of  
4           nonhydrofluorocarbon fluorinated gases under this  
5           title to determine whether the most appropriate  
6           point of regulation of those gases is at—

7                   “(A) the gas producer or importer level; or  
8                   “(B) the downstream source of the emis-  
9                   sions.

10           “(2) MODIFICATION OF DEFINITION.—If the  
11           Administrator determines, based on consideration of  
12           environmental effectiveness, cost-effectiveness, ad-  
13           ministrative feasibility, extent of coverage of emis-  
14           sions, and competitiveness considerations, that emis-  
15           sions of nonhydrofluorocarbon fluorinated gases can  
16           best be regulated by designating downstream emis-  
17           sion sources as covered entities with compliance obli-  
18           gations under section 722, the Administrator shall—

19                   “(A) after providing notice and an oppor-  
20                   tunity for comment, modify the definition of the  
21                   term ‘covered entity’ with respect to fluorinated  
22                   gases (other than hydrofluorocarbons) accord-  
23                   ingly; and

1           “(B) establish such requirements as are  
2           necessary to ensure compliance by the covered  
3           entities with this title.

4 **“SEC. 722. PROHIBITION OF EXCESS EMISSIONS.**

5           “(a) PROHIBITION.—

6           “(1) IN GENERAL.—Except as provided in sub-  
7           section (c), effective beginning January 1, 2013,  
8           each covered entity shall be prohibited from emitting  
9           greenhouse gases, and having attributable green-  
10          house gas emissions, in combination, in excess of the  
11          allowable emission level of the covered entity.

12          “(2) QUANTITY.—

13          “(A) IN GENERAL.—Except as provided in  
14          subparagraph (B), the allowable emission level  
15          of a covered entity for each calendar year shall  
16          be the number of emission allowances (or cred-  
17          its or other allowances as provided in subsection  
18          (d)) the covered entity holds as of 12:01 a.m.  
19          on April 1 (or a later date established by the  
20          Administrator under subsection (j)) of the fol-  
21          lowing calendar year.

22          “(B) EMISSIONS FROM REFINED PROD-  
23          UCTS.—Notwithstanding paragraph (2)(A), for  
24          a covered entity that is a refined product pro-  
25          vider, the allowable emissions level for each

1           quarter shall be equal to the number of emis-  
2           sion allowances the refined product provider  
3           purchases from the Administrator under section  
4           729 during the 30-day period beginning on the  
5           end of the quarter and the Administrator places  
6           in the account established for that covered enti-  
7           ty pursuant to section 790(f). The Adminis-  
8           trator shall determine the appropriate method-  
9           ology for any quarterly reconciliation after the  
10          30-day period.

11          “(b) DEMONSTRATING COMPLIANCE.—Except as  
12 otherwise provided in this section, the owner or operator  
13 of a covered entity shall not be considered to be in compli-  
14 ance with the prohibition under subsection (a) unless, as  
15 of 12:01 a.m. on April 1 (or a later date established by  
16 the Administrator under subsection (j)) of each calendar  
17 year starting in 2014, the owner or operator holds a quan-  
18 tity of emission allowances (or credits or other allowances  
19 as provided in subsection (d)) at least as great as the  
20 quantity calculated as follows:

21           “(1) ELECTRICITY SOURCES.—For a covered  
22          entity described in section 700(12)(A), 1 emission  
23          allowance for each ton of carbon dioxide equivalent  
24          of greenhouse gas that the covered entity emitted in  
25          the previous calendar year, excluding emissions re-

1 sulting from the combustion of renewable biomass or  
2 gas derived from renewable biomass.

3 “(2) REFINED PRODUCT PROVIDERS.—For a  
4 covered entity described in section 700(12)(B), 1  
5 emission allowance for each ton of carbon dioxide  
6 equivalent of greenhouse gas that would be emitted  
7 from the combustion of refined products for which  
8 the covered entity is responsible, and at the relevant  
9 point of regulation, assuming no capture and seques-  
10 tration of any greenhouse gas.

11 “(3) INDUSTRIAL GAS PRODUCERS AND IM-  
12 PORTERS.—For a covered entity described in section  
13 700(12)(C), 1 emission allowance for each ton of  
14 carbon dioxide equivalent of fossil fuel-based carbon  
15 dioxide, nitrous oxide, or any other fluorinated gas  
16 that is a greenhouse gas (except for nitrogen  
17 trifluoride), or any combination thereof, produced or  
18 imported by the covered entity during the previous  
19 calendar year for sale or distribution in interstate  
20 commerce.

21 “(4) NITROGEN TRIFLUORIDE SOURCES.—For  
22 a covered entity described in section 700(12)(D), 1  
23 emission allowance for each ton of carbon dioxide  
24 equivalent of nitrogen trifluoride that the covered  
25 entity emitted in the previous calendar year.

1           “(5) GEOLOGIC SEQUESTRATION SITES.—For a  
2 covered entity described in section 700(12)(E), 1  
3 emission allowance for each ton of carbon dioxide  
4 equivalent of greenhouse gas that the covered entity  
5 emitted in the previous calendar year.

6           “(6) INDUSTRIAL STATIONARY SOURCES.—For  
7 a covered entity described in subparagraph (F), (G),  
8 or (H) of section 700(12), 1 emission allowance for  
9 each ton of carbon dioxide equivalent of greenhouse  
10 gas that the covered entity emitted in the previous  
11 calendar year, excluding emissions resulting from—

12                   “(A) the combustion of renewable biomass  
13 or gas derived from renewable biomass; or

14                   “(B) the use of any fluorinated gas that is  
15 a greenhouse gas purchased for use at the cov-  
16 ered entity, except for nitrogen trifluoride.

17           “(7) INDUSTRIAL FOSSIL FUEL-FIRED COMBUS-  
18 TION DEVICES.—For a covered entity described in  
19 section 700(12)(I), 1 emission allowance for each  
20 ton of carbon dioxide equivalent of greenhouse gas  
21 that the devices emitted in the previous calendar  
22 year, excluding emissions resulting from the combus-  
23 tion of renewable biomass or gas derived from re-  
24 newable biomass.

1           “(8) NATURAL GAS LOCAL DISTRIBUTION COM-  
2 PANIES.—For a covered entity described in section  
3 700(12)(J), 1 emission allowance for each ton of  
4 carbon dioxide equivalent of greenhouse gas that  
5 would be emitted from the combustion of the natural  
6 gas, and any other gas meeting the specifications for  
7 commingling with natural gas for purposes of deliv-  
8 ery, that the covered entity delivered during the pre-  
9 vious calendar year to customers that are not cov-  
10 ered entities under subparagraph (A), (F), (G), (H),  
11 or (I) of section 700(12), assuming no capture and  
12 sequestration of that greenhouse gas.

13           “(9) R&D FACILITIES.—

14           “(A) IN GENERAL.—For a qualified R&D  
15 facility that emitted 25,000 tons per year or  
16 more carbon dioxide equivalent in the previous  
17 calendar year, 1 emission allowance for each  
18 ton of carbon dioxide equivalent of greenhouse  
19 gas that the qualified R&D facility emitted in  
20 the previous calendar year.

21           “(B) TREATMENT.—A qualified R&D facil-  
22 ity shall be treated as a separate covered entity  
23 solely for purposes of applying the requirements  
24 of this subsection.



1           “(10) ALGAE-BASED FUELS.—If carbon dioxide  
2           (or another greenhouse gas) generated by a covered  
3           entity is used as an input in the production of algae-  
4           based fuels, the Administrator shall ensure that  
5           emission allowances are required to be held either  
6           for the carbon dioxide generated by a covered entity  
7           used to grow the algae or for the portion of the car-  
8           bon dioxide emitted from combustion of the fuel pro-  
9           duced from the algae that is attributable to carbon  
10          dioxide generated by a covered entity, but not for  
11          both.

12          “(11) FUGITIVE EMISSIONS.—The greenhouse  
13          gas emissions to which paragraphs (1), (4), (6), and  
14          (7) apply shall not include fugitive greenhouse gas  
15          emissions, except to the extent the Administrator de-  
16          termines that data on the carbon dioxide equivalent  
17          value of greenhouse gas in the fugitive emissions can  
18          be provided with sufficient precision, reliability, ac-  
19          cessibility, and timeliness to ensure the integrity of  
20          emission allowances, the allowance tracking system,  
21          and the limits on emissions.

22          “(12) EXPORT EXEMPTION.—This section shall  
23          not apply to any petroleum-based or coal-based liq-  
24          uid fuel, natural gas liquid, fossil fuel-based carbon

1       dioxide, nitrous oxide, or fluorinated gas that is ex-  
2       ported for sale or use.

3               “(13) NATURAL GAS LIQUIDS.—

4                       “(A) IN GENERAL.—Notwithstanding sub-  
5       section (a), if the owner or operator of a cov-  
6       ered entity described in section 700(12)(B) that  
7       produces natural gas liquids does not take own-  
8       ership of the liquids, and is not responsible for  
9       the distribution or use of the liquids in com-  
10      merce, the owner of the liquids shall be respon-  
11      sible for compliance with this section, section  
12      723, and other applicable sections of this title  
13      with respect to the liquids.

14                      “(B) COMPLIANCE.—In the regulations  
15      promulgated under section 730, the Adminis-  
16      trator shall include such provisions with respect  
17      to the liquids as the Administrator determines  
18      are appropriate to determine and ensure com-  
19      pliance, and to penalize noncompliance.

20                      “(14) APPLICATION OF MULTIPLE PARA-  
21      GRAPHS.—For a covered entity to which more than  
22      1 of paragraphs (1) through (8) apply, all applicable  
23      paragraphs shall apply, except that not more than 1  
24      emission allowance shall be required for the same  
25      emission.

1           “(15) FRACTION OF TONS.—In applying para-  
2           graphs (1) through (9), any quantity of less than 1  
3           ton of carbon dioxide equivalent of emissions or at-  
4           tributable greenhouse gas emissions shall be treated  
5           as 1 ton of carbon dioxide equivalent.

6           “(c) PHASE-IN OF PROHIBITION.—

7           “(1) INDUSTRIAL STATIONARY SOURCES.—Ex-  
8           cept with respect to a covered entity described in  
9           section 700(12)(F)(viii), the prohibition under sub-  
10          section (a) shall first apply to a covered entity de-  
11          scribed in subparagraph (D), (F), (G), (H), or (I)  
12          of section 700(12), with respect to emissions occur-  
13          ring during calendar year 2016.

14          “(2) NATURAL GAS LOCAL DISTRIBUTION COM-  
15          PANIES.—The prohibition under subsection (a) shall  
16          first apply to a covered entity described in section  
17          700(12)(J) with respect to deliveries occurring dur-  
18          ing calendar year 2016.

19          “(d) ADDITIONAL METHODS.—In addition to using  
20          the method of compliance described in subsection (b), a  
21          covered entity may do the following:

22          “(1) OFFSET CREDITS.—

23                  “(A) CREDITS.—

24                          “(i) IN GENERAL.—Covered entities  
25                          collectively may, in accordance with this

1 paragraph, use offset credits to dem-  
2 onstrate compliance for up to a maximum  
3 of 2,000,000,000 tons of greenhouse gas  
4 emissions annually.

5 “(ii) DEMONSTRATION OF COMPLI-  
6 ANCE.—In any calendar year, a covered  
7 entity (other than a covered entity de-  
8 scribed in section 700(12)(B)) may dem-  
9 onstrate compliance by holding 1 domestic  
10 offset credit or 1.25 international offset  
11 credits in lieu of an emission allowance, ex-  
12 cept as provided in subparagraph (C), for  
13 up to the maximum number of tons of  
14 greenhouse gas emissions (including attrib-  
15 utable greenhouse gas emissions) described  
16 in subparagraph (B).

17 “(B) MAXIMUM NUMBER OF TONS OF  
18 GREENHOUSE GAS EMISSIONS.—

19 “(i) IN GENERAL.—Except as pro-  
20 vided in clause (ii), the regulations promul-  
21 gated under section 730 shall require the  
22 maximum number of tons of greenhouse  
23 gas emissions referred to in subparagraph  
24 (A) for which a covered entity (other than  
25 a covered entity described in section

1                   700(12)(B)) may use offset credits to dem-  
2                   onstrate compliance in a given calendar  
3                   year to be determined by—

4                   “(I) dividing—

5                       “(aa) the tons of carbon di-  
6                   oxide equivalent of greenhouse  
7                   gas emissions for which the cov-  
8                   ered entity demonstrated compli-  
9                   ance under this section in the  
10                  year before the preceding cal-  
11                  endar year, or would have been  
12                  required to demonstrate compli-  
13                  ance if the requirements of this  
14                  title for the given year had been  
15                  in effect for the year before the  
16                  preceding calendar year, which-  
17                  ever tonnage number is greater;  
18                  by

19                  “(bb) the sum of the tons of  
20                  carbon dioxide equivalent of  
21                  greenhouse gas emissions for  
22                  which all covered entities (other  
23                  than covered entities described in  
24                  section 700(12)(B)) dem-  
25                  onstrated compliance in the year

1 before the preceding calendar  
2 year, or would have been required  
3 to demonstrate compliance if the  
4 requirements of this title for the  
5 given year had been in effect for  
6 the year before the preceding cal-  
7 endar, whichever tonnage number  
8 is greater; and

9 “(II) multiplying the quotient ob-  
10 tained under subclause (I) by  
11 2,000,000,000.

12 “(ii) ADJUSTMENT FOR NEW EN-  
13 TRANTS.—In the regulations promulgated  
14 under section 730, the Administrator  
15 shall—

16 “(I) establish a maximum num-  
17 ber of tons of greenhouse gas emis-  
18 sions for which a covered entity that  
19 commences operation after 2012 may  
20 use offset credits to demonstrate com-  
21 pliance; and

22 “(II) adjust the calculation under  
23 clause (i) to ensure that offset credits  
24 may not be used to demonstrate com-  
25 pliance for more than 2,000,000,000

1                   tons of greenhouse gas emissions in  
2                   any given year.

3                   “(iii) APPORTIONMENT BETWEEN DO-  
4                   MESTIC AND INTERNATIONAL OFFSET  
5                   CREDITS.—

6                   “(I) IN GENERAL.—Except as  
7                   provided in subclause (II), no covered  
8                   entity may use international offset  
9                   credits to demonstrate compliance for  
10                  more than 25 percent of the max-  
11                  imum number of tons of greenhouse  
12                  gas emissions described in subpara-  
13                  graph (A) in any given year.

14                  “(II) ADJUSTMENT.—If the Ad-  
15                  ministrator determines that domestic  
16                  offset credits available for use in dem-  
17                  onstrating compliance in any calendar  
18                  year at domestic offset prices gen-  
19                  erally equal to or less than allowance  
20                  prices are likely to offset less than  
21                  1,500,000,000 tons of greenhouse gas  
22                  emissions, the Administrator shall in-  
23                  crease the percent of emissions for  
24                  which international offset credits may  
25                  be used to demonstrate compliance to

1 reflect the quantity that  
2 1,500,000,000 exceeds the number of  
3 domestic offset credits the Adminis-  
4 trator determines is available for that  
5 year, allowing covered entities collec-  
6 tively to use international offset cred-  
7 its to demonstrate compliance for up  
8 to a maximum of 1,000,000,000 tons  
9 of greenhouse gas emissions.

10 “(C) INTERNATIONAL OFFSET CREDITS.—  
11 Notwithstanding subparagraph (A), to dem-  
12 onstrate compliance prior to calendar year  
13 2018, a covered entity may use 1 international  
14 offset credit in lieu of an emission allowance up  
15 to the quantity permitted under this paragraph.

16 “(D) PRESIDENT’S RECOMMENDATION.—  
17 The President may make a recommendation to  
18 Congress as to whether the number  
19 2,000,000,000 specified in subparagraphs (A)  
20 and (B) should be increased or decreased.

21 “(2) INTERNATIONAL EMISSION ALLOW-  
22 ANCES.—To demonstrate compliance, a covered enti-  
23 ty may hold an international emission allowance in  
24 lieu of an emission allowance.



1           “(3) COMPENSATORY ALLOWANCES.—To dem-  
2           onstrate compliance, a covered entity may hold a  
3           compensatory allowance obtained under subsection  
4           (f) or (g) of section 721 in lieu of an emission allow-  
5           ance.

6           “(e) RETIREMENT OF ALLOWANCES AND CREDITS.—  
7           As soon as practicable after a deadline established for cov-  
8           ered entities to demonstrate compliance with this title, the  
9           Administrator shall retire the quantity of allowances or  
10          credits required to be held under this title.

11          “(f) ALTERNATIVE METRICS.—For categories of cov-  
12          ered entities described in subparagraph (C), (D), (G), (H),  
13          or (I) of section 700(12), the Administrator may, by rule,  
14          establish an applicability threshold for inclusion under  
15          those subparagraphs using an alternative metric and level,  
16          if the metric and level are easier to administer and cover  
17          the same size and type of sources as the threshold estab-  
18          lished under those subparagraphs.

19          “(g) THRESHOLD REVIEW.—

20                 “(1) IN GENERAL.—For each category of cov-  
21          ered entities described in subparagraph (B), (C),  
22          (D), (G), (H), or (I) of section 700(12), the Admin-  
23          istrator shall, in 2020 and once every 8 years there-  
24          after, review the carbon dioxide equivalent emission  
25          thresholds that are used to define covered entities.

1           “(2) LOWERING OF THRESHOLD.—The Admin-  
2           istrator may by rule lower the threshold described in  
3           paragraph (1) to not less than 10,000 tons of car-  
4           bon dioxide equivalent emissions after consideration  
5           of—

6                   “(A) emissions from covered entities in  
7                   each such category, and from other entities of  
8                   the same type that emit less than the threshold  
9                   quantity for the category (including emission  
10                  sources that commence operation after the date  
11                  of enactment of this title that are not covered  
12                  entities); and

13                   “(B) whether greater greenhouse gas emis-  
14                   sion reductions can be cost-effectively achieved  
15                   by lowering the applicable threshold.

16           “(3) COST EFFECTIVENESS.—In determining  
17           the cost effectiveness of potential reductions from  
18           lowering the threshold for covered entities, the Ad-  
19           ministrators shall consider alternative regulatory  
20           greenhouse gas programs, including setting stand-  
21           ards under other titles of this Act.

22           “(h) DESIGNATED REPRESENTATIVES.—The regula-  
23           tions promulgated under section 730 shall require that  
24           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 the re-  
9 quirements of this title, in preparing to meet the  
10 compliance obligations of this title.

11 “(2) USE OF MARKETS.—The program shall in-  
12 clude education with respect to using markets to ef-  
13 fectively achieve compliance to the extent appro-  
14 priate for the covered entity.

15 “(3) FAILURE TO RECEIVE INFORMATION.—A  
16 failure to receive information or assistance under  
17 this subsection may not be used as a defense against  
18 an allegation of any violation of this title.

19 “(j) ADJUSTMENT OF DEADLINE.—The Adminis-  
20 trator may, by rule, establish a deadline for demonstrating  
21 compliance, for a calendar year, that is later than the date  
22 provided in subsection (a), as necessary to ensure the  
23 availability of emission data, but in no event shall the  
24 deadline be later than June 1.

1       “(k) NOTICE REQUIREMENT FOR COVERED ENTI-  
2 TIES COMBUSTING NATURAL GAS OR REFINED PROD-  
3 UCTS.—

4               “(1) NATURAL GAS.—The owner or operator of  
5 a covered entity that takes delivery of natural gas  
6 from a natural gas local distribution company shall,  
7 not later than September 1 of each calendar year,  
8 notify the natural gas local distribution company in  
9 writing that the covered entity will qualify as a cov-  
10 ered entity under this title for that calendar year.

11               “(2) REFINED PRODUCTS.—The owner or oper-  
12 ator of a covered entity that purchases a refined  
13 product described in section 700(44)(A), except for  
14 petroleum coke, from a refined product provider  
15 shall, not later than September 1 of each calendar  
16 year, notify the refined product provider in writing  
17 that the covered entity will qualify as a covered enti-  
18 ty under this title for that calendar year.

19               “(l) COMPLIANCE OBLIGATION.—For purposes of  
20 this title, the year of a compliance obligation shall be the  
21 year in which compliance is determined, not the year in  
22 which the greenhouse gas emissions occur or the covered  
23 entity has attributable greenhouse gas emissions.

1 **“SEC. 723. PENALTY FOR NONCOMPLIANCE.**

2 “(a) ENFORCEMENT.—A violation of any prohibition  
3 of, requirement of, or regulation promulgated pursuant to  
4 this title shall be a violation of this Act. It shall be a viola-  
5 tion of this Act for a covered entity to emit greenhouse  
6 gases, and have attributable greenhouse gas emissions, in  
7 combination, in excess of the allowable emission level of  
8 the covered entity as provided in section 722(a). Each ton  
9 of carbon dioxide equivalent for which a covered entity  
10 fails to demonstrate compliance under section 722(b) shall  
11 be considered a separate violation.

12 “(b) EXCESS EMISSION PENALTY.—

13 “(1) IN GENERAL.—The owner or operator of  
14 any covered entity that fails for any year to comply,  
15 by the deadline described in subsection (a) or (j) of  
16 section 722, shall be liable for payment to the Ad-  
17 ministrator of an excess emission penalty in the  
18 amount described in paragraph (2).

19 “(2) AMOUNT.—The amount of an excess emis-  
20 sion penalty required to be paid under paragraph (1)  
21 shall be equal to the product obtained by multi-  
22 plying—

23 “(A) the tons of carbon dioxide equivalent  
24 of greenhouse gas emissions or attributable  
25 greenhouse gas emissions for which the owner  
26 or operator of a covered entity failed to dem-

1           onstrate compliance under section 722(b) by  
2           the deadline; by

3           “(B) twice the auction clearing price, from  
4           the last auction conducted under section 790  
5           prior to the missed deadline, for allowances  
6           with a vintage year identical to the calendar  
7           year of the missed deadline.

8           “(3) TIMING.—An excess emission penalty re-  
9           quired under this subsection shall be immediately  
10          due and payable to the Administrator, without de-  
11          mand, in accordance with regulations promulgated  
12          by the Administrator pursuant to section 730.

13          “(4) NO EFFECT ON LIABILITY.—An excess  
14          emission penalty due and payable by the owners or  
15          operators of a covered entity under this subsection  
16          shall not diminish the liability of the owners or oper-  
17          ators for any fine, penalty, or assessment against  
18          the owners or operators for the same violation under  
19          any other provision of this Act or any other law.

20          “(c) EXCESS EMISSION ALLOWANCES.—

21          “(1) IN GENERAL.—The owner or operator of a  
22          covered entity that fails to comply by the deadline  
23          described in subsection (a) or (j) of section 722 shall  
24          be liable to offset the excess combination of green-  
25          house gases emitted and attributable greenhouse gas

1 emissions of the covered entity by an equal quantity  
2 of emission allowances during the calendar year in  
3 which the failure to comply occurred, or such longer  
4 period as the Administrator may prescribe.

5 “(2) DEDUCTION OF EMISSION ALLOWANCES.—  
6 During the year in which the covered entity failed to  
7 comply or any year thereafter, the Administrator  
8 may deduct, from any allowances or offset credits  
9 held by the covered entity, the number of allowances  
10 or offset credits required under this subsection to  
11 offset the excess actual or attributable emissions of  
12 the covered entity.

13 **“SEC. 724. TRADING.**

14 “(a) PERMITTED TRANSACTIONS.—Except as other-  
15 wise provided in this title or the Commodity Exchange Act  
16 (7 U.S.C. 1 et seq.), the lawful holder of an emission al-  
17 lowance, compensatory allowance, or offset credit may,  
18 without restriction, sell, exchange, transfer, hold for com-  
19 pliance in accordance with section 722, or request that the  
20 Administrator retire the emission allowance, compensatory  
21 allowance, or offset credit.

22 “(b) EFFECTIVENESS OF ALLOWANCE TRANS-  
23 FERS.—No transfer of an allowance or offset credit shall  
24 be effective for purposes of this title until a certification  
25 of the transfer, signed by the designated representative of

1 the transferor, is received and recorded by the Adminis-  
2 trator in accordance with regulations promulgated under  
3 section 730.

4 “(c) ALLOWANCE TRACKING SYSTEM.—

5 “(1) IN GENERAL.—The regulations promul-  
6 gated under section 730 shall include a system for  
7 issuing, recording, holding, and tracking allowances  
8 and offset credits, including necessary procedures  
9 and requirements for an orderly and competitive  
10 functioning of the allowance and offset credit mar-  
11 kets.

12 “(2) PUBLICATION.—The regulations shall pro-  
13 vide for appropriate publication of the information in  
14 the system on the Internet.

15 **“SEC. 725. BANKING AND BORROWING.**

16 “(a) BANKING.—An emission allowance may be used  
17 to comply with section 722 or 723 for emissions, produc-  
18 tion, importation, manufacture, or deliveries in—

19 “(1) the vintage year for the allowance; or

20 “(2) any calendar year subsequent to the vin-  
21 tage year for the allowance.

22 “(b) EXPIRATION.—

23 “(1) REGULATIONS.—The Administrator may  
24 establish by regulation criteria and procedures for  
25 determining whether, and for implementing a deter-



1       mination that, the expiration of an allowance or off-  
2       set credit established or issued by the Administrator  
3       under this title, or expiration of the ability to use an  
4       international emission allowance to comply with sec-  
5       tion 722, is necessary to ensure the authenticity and  
6       integrity of allowances or offset credits or the allow-  
7       ance tracking system.

8               “(2) GENERAL RULE.—An allowance or offset  
9       credit established or issued by the Administrator  
10      under this title shall not expire unless the allowance  
11      or offset credit is—

12                   “(A) retired by the Administrator as re-  
13                   quired under this title; or

14                   “(B) determined to expire or to have ex-  
15                   pired by a specific date by the Administrator in  
16                   accordance with regulations promulgated under  
17                   paragraph (1).

18               “(3) INTERNATIONAL EMISSION ALLOW-  
19      ANCES.—The ability to use an international emission  
20      allowance to comply with section 722 shall not ex-  
21      pire unless—

22                   “(A) the international emission allowance  
23                   is retired by the Administrator as required by  
24                   this title; or

1           “(B) the ability to use the international  
2           emission allowance to meet the compliance obli-  
3           gation requirements is determined to expire or  
4           to have expired by a specific date by the Ad-  
5           ministrators in accordance with regulations pro-  
6           mulgated under paragraph (1).

7           “(c) BORROWING FUTURE VINTAGE YEAR ALLOW-  
8           ANCES.—

9           “(1) BORROWING WITHOUT INTEREST.—In ad-  
10          dition to the uses described in subsection (a), an  
11          emission allowance may be used to demonstrate com-  
12          pliance under section 722(a) or comply with section  
13          723 for emissions, production, importation, manu-  
14          facture, or deliveries in the calendar year imme-  
15          diately preceding the vintage year for the allowance.

16          “(2) BORROWING WITH INTEREST.—

17                 “(A) IN GENERAL.—A covered entity may  
18                 demonstrate compliance under section 722 in a  
19                 specific calendar year for up to 15 percent of  
20                 the combined emissions and attributable emis-  
21                 sions of the covered entity by holding emission  
22                 allowances with a vintage year 1 to 5 years  
23                 later than that calendar year.

24                 “(B) LIMITATIONS.—An emission allow-  
25                 ance borrowed pursuant to this paragraph shall

1 be an emission allowance that is established by  
2 the Administrator for a specific future calendar  
3 year under section 721(a) and that is held by  
4 the borrower.

5 “(C) PREPAYMENT OF INTEREST.—For  
6 each emission allowance that an owner or oper-  
7 ator of a covered entity borrows pursuant to  
8 this paragraph, the owner or operator shall, at  
9 the time the covered entity borrows the emis-  
10 sion allowance, hold for retirement by the Ad-  
11 ministrator, and the Administrator shall retire,  
12 a quantity of emission allowances that is equal  
13 to the product obtained by multiplying—

14 “(i) 0.08; by

15 “(ii) the number of years between the  
16 calendar year in which the emission allow-  
17 ance is being used to demonstrate compli-  
18 ance obligation and the vintage year of the  
19 emission allowance.

20 **“SEC. 726. COST CONTAINMENT RESERVE.**

21 “(a) ESTABLISHMENT.—

22 “(1) IN GENERAL.—To ensure market stability  
23 and the existence of a reserve of emission allowances  
24 to achieve the purposes of this title, the Adminis-  
25 trator shall establish, in accordance with this sub-

1 section, a reserve of emission allowances, to be  
2 known as the ‘Cost Containment Reserve’.

3 “(2) FILLING THE RESERVE.—

4 “(A) REQUIRED SIZE.—The Administrator  
5 shall deposit in the Cost Containment Reserve  
6 4,000,000,000 emission allowances.

7 “(B) SOURCES OF ALLOWANCES AND  
8 CREDITS.—As soon as practicable after the date  
9 of enactment of this title, the Administrator  
10 shall deposit in the Cost Containment Re-  
11 serve—

12 “(i) 1.5 percent of the total quantity  
13 of emission allowances established for each  
14 of calendar years 2013 through 2021  
15 under section 721(a);

16 “(ii) 2.5 percent of the total quantity  
17 of emission allowances established for each  
18 of calendar years 2022 through 2029  
19 under section 721(a);

20 “(iii) 5 percent of the total quantity  
21 of emission allowances established for each  
22 of calendar years 2030 through 2050  
23 under section 721(a); and

24 “(iv) each emission allowance allo-  
25 cated for auction under section 781 that is

1 not sold pursuant to section 790 prior to  
2 April 1 of the calendar year following its  
3 vintage year.

4 “(b) SALE OF RESERVE ALLOWANCES.—

5 “(1) IN GENERAL.—The Administrator shall  
6 offer for sale a quantity of Cost Containment Re-  
7 serve allowances described in paragraph (5) in ac-  
8 cordance with this subsection during 2014 and each  
9 year thereafter.

10 “(2) TIMING.—The Administrator shall make  
11 Cost Containment Reserve allowances available for  
12 sale to covered entities for the 90-day period ending  
13 on the date on which covered entities are required  
14 to demonstrate compliance under section 722.

15 “(3) PRICE.—The price of a Cost Containment  
16 Reserve allowance sold under this subsection shall  
17 be—

18 “(A) in 2013, \$25 (in constant 2009 dol-  
19 lars); and

20 “(B) in 2014 and each year thereafter, the  
21 price for the prior year increased by 5 percent  
22 plus the rate of inflation (as measured by the  
23 Consumer Price Index for all urban con-  
24 sumers).

1           “(4) ELIGIBLE PURCHASERS.—Any covered en-  
2           tity, except a covered entity described in section  
3           700(12)(B), may purchase Cost Containment Re-  
4           serve allowances offered for sale under this sub-  
5           section.

6           “(5) QUANTITY OF COST CONTAINMENT RE-  
7           SERVE ALLOWANCES AVAILABLE FOR PURCHASE.—A  
8           covered entity may purchase Cost Containment Re-  
9           serve allowances offered for sale under this section  
10          in an amount not to exceed 15 percent of the cov-  
11          ered entity’s combined greenhouse gas emission and  
12          attributable greenhouse gas emissions for which the  
13          covered entity must demonstrate compliance in the  
14          year in which the allowances are offered for sale.

15          “(c) REPLENISHMENT OF COST CONTAINMENT RE-  
16          SERVE.—

17                 “(1) RETURN OF UNSOLD COST CONTAINMENT  
18                 RESERVE ALLOWANCES.—As soon as practicable  
19                 after a sale of Cost Containment Reserve allowances  
20                 pursuant to subsection (b), the Administrator shall  
21                 deposit in the Cost Containment Reserve any Cost  
22                 Containment Reserve allowances that were made  
23                 available for sale, but not sold.

24                 “(2) OFFSET CREDITS.—

1           “(A) IN GENERAL.—The Administrator  
2 shall use the proceeds from the sale of Cost  
3 Containment Reserve allowances to purchase  
4 international offset credits issued for reduced  
5 deforestation activities pursuant to part E.

6           “(B) DOMESTIC OFFSET CREDITS.—The  
7 Administrator may use the proceeds from the  
8 sale of Cost Containment Reserve allowances to  
9 purchase domestic offset credits issued pursu-  
10 ant to section 738 only to the extent that inter-  
11 national offset credits are unavailable to meet  
12 the requirements of subparagraph (A).

13           “(C) CONVERSION OF OFFSET CREDITS TO  
14 ALLOWANCES.—The Administrator shall—

15                   “(i) retire the offset credits described  
16 in subparagraphs (A) and (B); and

17                   “(ii) establish a number of emission  
18 allowances equal to 80 percent of the num-  
19 ber of international offset credits so retired  
20 and 100 percent for domestic offset credits  
21 so retired.

22           “(D) ADDITIONAL TREATMENT OF ALLOW-  
23 ANCES.—Emission allowances established under  
24 this paragraph shall be in addition to those es-  
25 tablished under section 721.

1           “(E) DEPOSIT INTO THE RESERVE.—The  
2 Administrator shall deposit emission allowances  
3 established under subparagraph (C) in the Cost  
4 Containment Reserve, except that the total  
5 number of allowances in the Reserve shall not  
6 exceed the amount set forth in subsection  
7 (a)(2)(A).

8           “(3) EXCESS CONVERTED ALLOWANCES.—With  
9 respect to any allowances established under para-  
10 graph (2)(C) that are not immediately needed to  
11 maintain the Cost Containment Reserve at the size  
12 set forth in subsection (a)(2)(A), the Administrator  
13 shall—

14           “(A) except as provided in subparagraph  
15 (B), assign a vintage year to the emission al-  
16 lowance, which shall be not earlier than the  
17 year in which the allowance is established under  
18 paragraph (2); and

19           “(B) to the extent any such allowances  
20 cannot be assigned a vintage year because of  
21 the limitation under paragraph (4), retire the  
22 allowances.

23           “(4) LIMITATION.—In no case may the Admin-  
24 istrator assign under paragraph (3)(A) more emis-  
25 sion allowances to a vintage year than the number



1 of emission allowances from that vintage year that  
2 were placed in the Cost Containment Reserve under  
3 subsection (a)(2)(B).

4 “(d) USE OF PURCHASED COST CONTAINMENT RE-  
5 SERVE ALLOWANCES.—A covered entity may use a Cost  
6 Containment Reserve allowance purchased under this sec-  
7 tion only during the year in which the Cost Containment  
8 Reserve allowance was sold.

9 “(e) LIMITATIONS.—

10 “(1) PROHIBITION OF BANKING.—No covered  
11 entity may purchase a Cost Containment Reserve al-  
12 lowance for a compliance period in which the covered  
13 entity also adds to the cumulative allowance bank of  
14 the entity.

15 “(2) PROHIBITION OF SALE.—No covered entity  
16 may purchase a Cost Containment Reserve allow-  
17 ance within **[90 days]** of selling an allowance or off-  
18 set credit.

19 **“SEC. 727. PERMITS.**

20 “(a) PERMIT PROGRAM.—

21 “(1) IN GENERAL.—For stationary sources sub-  
22 ject to title V that are covered entities, this title  
23 shall be implemented by permits issued to covered  
24 entities (and enforced) in accordance with title V, as  
25 modified by this title.

1           “(2) PERMIT REQUIREMENT.—Any such permit  
2 issued by the Administrator, or by a State with an  
3 approved permit program, shall require the owner or  
4 operator of a covered entity to hold allowances or  
5 offset credits in a quantity that is at least equal to  
6 the total annual quantity of carbon dioxide equiva-  
7 lents for the combined greenhouse gas emissions and  
8 attributable greenhouse gas emissions of the covered  
9 entity to which section 722 applies.

10           “(3) ADMINISTRATION.—No such permit shall  
11 be issued that is inconsistent with this title and title  
12 V, as applicable.

13           “(4) ALLOWANCES OR OFFSET CREDITS.—  
14 Nothing in this section regarding compliance plans  
15 or in title V affects allowances or offset credits.

16           “(5) PLANNING REQUIREMENTS.—Submission  
17 of a statement by the owner or operator, or the des-  
18 ignated representative of the owners and operators,  
19 of a covered entity that the owners and operators  
20 will hold allowances or offset credits for the com-  
21 bined emissions and attributable greenhouse gas  
22 emissions of the covered entity to which section 722  
23 applies shall be considered to meet the proposed and  
24 approved planning requirements of title V.

1           “(6) RECORDATION.—Recordation by the Ad-  
2           ministrators of transfers of emission allowances shall  
3           amend automatically all applicable proposed or ap-  
4           proved permit applications, compliance plans, and  
5           permits.

6           “(b) MULTIPLE OWNERS.—

7           “(1) IN GENERAL.—No permit shall be issued  
8           under this section and no allowances or offset credits  
9           shall be distributed under this title to a covered enti-  
10          ty or any other person until the designated rep-  
11          resentative of the owners or operators of the covered  
12          entity has filed a certificate of representation with  
13          regard to matters under this title, including the  
14          holding and distribution of allowances, offset credits,  
15          and the proceeds of transactions involving emission  
16          allowances.

17          “(2) MULTIPLE HOLDERS.—If there are mul-  
18          tiple holders of a legal or equitable title to, or a  
19          leasehold interest in, a covered entity or other entity,  
20          or if a utility or industrial customer purchases power  
21          under a long-term power purchase contract from an  
22          independent power production facility that is a cov-  
23          ered entity, the certificate shall state—

24                  “(A) that allowances, offset credits, and  
25                  the proceeds of transactions involving emission

1 allowances shall be considered to be held or dis-  
2 tributed in proportion to the legal, equitable,  
3 leasehold, or contractual reservation or entitle-  
4 ment of each holder; or

5 “(B) if the multiple holders have expressly  
6 provided for a different distribution of allow-  
7 ances or offset credits by contract, that emis-  
8 sion allowances, offset credits, and the proceeds  
9 of transactions involving emission allowances  
10 shall be considered to be held or distributed in  
11 accordance with the contract.

12 “(3) PASSIVE LESSORS.—A passive lessor, or a  
13 person who has an equitable interest through such  
14 a lessor, rental payments of which are not based, ei-  
15 ther directly or indirectly, on the revenues or income  
16 from the covered entity or other entity shall not be  
17 considered to be a holder of a legal, equitable, lease-  
18 hold, or contractual interest for the purpose of hold-  
19 ing or distributing emission allowances or offset  
20 credits as provided in this subsection, during the  
21 term of the leasehold or thereafter, unless expressly  
22 provided for in the leasehold agreement.

23 “(4) SINGLE PERSON.—Except as otherwise  
24 provided in this subsection, if all legal or equitable  
25 title to or interest in a covered entity, or other enti-

1       ty, is held by a single person, the certificate shall  
2       state that all emission allowances received by the  
3       covered entity are considered to be held for that per-  
4       son.

5       “(c) PROHIBITION.—

6               “(1) IN GENERAL.—It shall be unlawful for any  
7       person to operate any stationary source subject to  
8       this section except in compliance with the terms and  
9       requirements of a permit issued by the Adminis-  
10      trator or a State or Indian tribe with an approved  
11      permit program in accordance with this section.

12              “(2) COMPLIANCE.—For purposes of this sub-  
13      section, compliance, as provided in section 504(f),  
14      with a permit issued under title V that complies with  
15      this title for covered entities shall be considered to  
16      be compliance with this subsection and section  
17      502(a).

18              “(d) RELIABILITY.—Nothing in this section or title  
19      V requires termination of operations of a stationary source  
20      that is a covered entity for failure to have an approved  
21      permit, or compliance plan, that is consistent with the re-  
22      quirements of paragraphs (2) and (5) of subsection (a)  
23      concerning the holding of allowances or offset credits, ex-  
24      cept that any such covered entity may be subject to the  
25      applicable enforcement provisions of section 113.

1 “(e) REGULATIONS.—

2 “(1) IN GENERAL.—The Administrator shall  
3 promulgate regulations to carry out this section.

4 “(2) STATE REVISED PERMIT PROGRAMS.—To  
5 provide for permits required under this section, each  
6 State or Indian tribe with an approved permit pro-  
7 gram with a jurisdiction in which 1 or more sta-  
8 tionary sources that are covered entities are located  
9 shall submit, in accordance with this section and  
10 title V, revised permit programs for approval.

11 **“SEC. 728. INTERNATIONAL EMISSION ALLOWANCES.**

12 “(a) QUALIFYING PROGRAMS.—The Administrator,  
13 in consultation with the Secretary of State, may by rule  
14 designate an international climate change program as a  
15 qualifying international program if—

16 “(1) the program is run by a national or supra-  
17 national foreign government, and imposes a manda-  
18 tory absolute tonnage limit on greenhouse gas emis-  
19 sions from 1 or more foreign countries, or from 1 or  
20 more economic sectors in the 1 or more countries;  
21 and

22 “(2) the program is at least as stringent as the  
23 program established by this title, including provi-  
24 sions to ensure at least comparable monitoring, com-

1       pliance, enforcement, quality of offsets, and restric-  
2       tions on the use of offsets.

3       “(b) DISQUALIFIED ALLOWANCES.—An international  
4       emission allowance may not be held under section  
5       722(d)(1)(C) if the international emission allowance is in  
6       the nature of an offset instrument or allowance awarded  
7       based on the achievement of greenhouse gas emission re-  
8       ductions or avoidance, or greenhouse gas sequestration,  
9       that is not subject to the mandatory absolute tonnage lim-  
10      its referred to in subsection (a)(1).

11      “(c) RETIREMENT.—

12           “(1) ENTITY CERTIFICATION.—The owner or  
13      operator of an entity that holds an international  
14      emission allowance under section 722(d)(1)(C) shall  
15      certify to the Administrator that the international  
16      emission allowance has not previously been used to  
17      comply with any foreign, international, or domestic  
18      greenhouse gas regulatory program.

19           “(2) COORDINATION WITH FOREIGN AND  
20      INTERNATIONAL REGULATORY ENTITIES.—The Ad-  
21      ministrator, in consultation with the Secretary of  
22      State, shall seek, by whatever means appropriate  
23      (including agreements and technical cooperation on  
24      allowance tracking), to ensure that—

1           “(A) any applicable foreign, international,  
2           and domestic regulatory entities—

3                   “(i) are notified of the use, for pur-  
4                   poses of compliance with this title, of any  
5                   international emission allowance; and

6                   “(ii) provide for the disqualification of  
7                   the international emission allowance for  
8                   any subsequent use under the relevant for-  
9                   eign, international, or domestic greenhouse  
10                  gas regulatory program, regardless of  
11                  whether the use is a sale, exchange, or  
12                  submission to satisfy a compliance obliga-  
13                  tion.

14                  “(B) once an international emission allow-  
15                  ance has been disqualified or otherwise used for  
16                  purposes of compliance with this title or an  
17                  international program, the international emis-  
18                  sion allowance shall be disqualified from any  
19                  further use under this title.

20                  “(d) USE LIMITATIONS.—The Administrator may, by  
21                  rule, consistent with the purposes of the American Power  
22                  Act and the amendments made by that Act, impose a limit  
23                  on the quantity of international emission allowances that  
24                  a covered entity may use to demonstrate compliance pur-  
25                  suant to section 722.



1 **“SEC. 729. COMPLIANCE FOR TRANSPORTATION FUELS**  
2 **AND REFINED PETROLEUM PRODUCTS.**

3 “(a) IN GENERAL.—Each refined product provider  
4 shall pay an amount to the Administrator, as determined  
5 in accordance with this section, to demonstrate compliance  
6 with section 722 with respect to refined products.

7 “(b) SET PRICE.—

8 “(1) IN GENERAL.—Not later than 30 days be-  
9 fore the start of the first quarter of 2013 and each  
10 quarter thereafter, the Administrator shall announce  
11 the price to be paid for allowances used by refined  
12 product providers to demonstrate compliance for re-  
13 fined products for the quarter.

14 “(2) AMOUNT.—

15 “(A) IN GENERAL.—The price established  
16 under paragraph (1) shall be equal to the auc-  
17 tion clearing price at the most recent auction  
18 conducted under section 790 for allowances  
19 for—

20 “(i) a vintage year that is identical to  
21 the calendar year of the quarter; or

22 “(ii) if no allowances of that vintage  
23 were sold, allowances for the preceding vin-  
24 tage year.

25 “(B) MULTIPLE AUCTIONS.—If the Ad-  
26 ministrator conducts auctions more than once a

1           quarter, the Administrator shall use the vol-  
2           ume-weighted average of the auction clearing  
3           prices for auctions conducted under section 790  
4           during the 90-day period before the Adminis-  
5           trator announces the set price.

6           “(c) PAYMENT.—

7           “(1) AMOUNT.—During the 30-day period be-  
8           ginning at the end of each quarter, each refined  
9           product provider shall purchase allowances from al-  
10          lowances set aside by the Administrator pursuant to  
11          section 790(f) at the price established under sub-  
12          section (b) by transferring to the Administrator an  
13          amount that is equal to the product obtained by  
14          multiplying—

15               “(A) the price for that quarter; and

16               “(B) the attributable greenhouse gas emis-  
17          sions of the refined product for which the re-  
18          fined product provider is required to dem-  
19          onstrate compliance for that quarter.

20          “(2) PLACEMENT IN ACCOUNT.—If the Admin-  
21          istrator receives a payment for the purchase of al-  
22          lowances under this section, the Administrator shall  
23          place the purchased allowances in the account of the  
24          refined product provider making the payment to

1 demonstrate compliance for refined products for the  
2 relevant quarter.

3 “(d) USE OF ALLOWANCES.—

4 “(1) IN GENERAL.—Allowances purchased  
5 under subsection (c) shall only be used by the re-  
6 fined product provider purchasing the allowances to  
7 demonstrate compliance with section 722 for attrib-  
8 utable greenhouse gas emissions in the quarter pre-  
9 ceding the purchase.

10 “(2) PROHIBITIONS.—Allowances purchased  
11 under subsection (c) may not be traded, sold,  
12 banked, or borrowed.

13 “(3) COMPLIANCE.—Any refined product pro-  
14 vider that complies with this section by providing the  
15 requisite payment to the Administrator shall be con-  
16 sidered in compliance with section 722.

17 “(e) AVAILABILITY OF ALLOWANCES.—

18 “(1) IN GENERAL.—The Administrator shall set  
19 aside and make available to a refined product pro-  
20 vider for purchase as many allowances in a quarter  
21 as are needed to demonstrate compliance for that  
22 quarter.

23 “(2) ADEQUATE SUPPLY.—The Administrator  
24 shall ensure that an adequate supply of allowances  
25 is set aside under section 790(f) to carry out this

1 section, including allowances necessary for any an-  
2 nual reconciliation. .

3 “(3) SUBSEQUENT AVAILABILITY.—

4 “(A) STUDY.—Not later than January 1,  
5 2033, the Administrator, in consultation with  
6 the Secretary of Energy, shall conduct a study  
7 to assess the method required under this sec-  
8 tion for demonstrating compliance with respect  
9 to attributable greenhouse gas emissions of re-  
10 fined products, and potential alternatives to the  
11 method, with respect to effectiveness, efficiency,  
12 fairness, and impact on the emission reduction  
13 limitations contained in section 703.

14 “(B) INITIAL REVIEW.—Not later than  
15 January 1, 2034, based on the study and other  
16 available information, the Administrator, in  
17 consultation with the Secretary of Energy, shall  
18 issue, by rule—

19 “(i) a determination, including a  
20 statement of basis, that the method con-  
21 tinues to be appropriate; or

22 “(ii) a revision of the regulations  
23 under section 730 to provide for a more  
24 appropriate method of demonstrating com-  
25 pliance for refined products.

1           “(C) SUBSEQUENT REVIEWS.—If the Ad-  
2           ministrator determines that no modification of  
3           the method prescribed under this section is nec-  
4           essary under subparagraph (B), not later than  
5           5 years after the date of the determination and  
6           every 5 years thereafter, the Administrator, in  
7           consultation with the Secretary of Energy, shall  
8           review and, as appropriate, revise the method  
9           established under this section in accordance  
10          with subparagraph (B).

11          “(f) UNSOLD ALLOWANCES.—Allowances set aside  
12          for purchase by refined product providers that are not  
13          purchased by the end of the quarter for which the allow-  
14          ances were set aside shall be offered for sale at auction  
15          in the following quarter.

16          “(g) EMISSION FACTORS FOR COVERED FUELS.—As  
17          part of the regulations under section 730, the Adminis-  
18          trator shall establish the average metric tons of carbon  
19          dioxide equivalent that results from the combustion of  
20          each category of covered fuels.

21          “(h) EMISSIVE NATURAL GAS LIQUID.—As part of  
22          the regulations under section 730, the Administrator  
23          shall—

24                  “(1) determine whether, on average, at least  
25                  99.5 percent of annual greenhouse gas emissions

1 from the emissive use of natural gas liquids in the  
2 United States are covered by regulation under sec-  
3 tion 722, including the use of natural gas liquid for  
4 producing other types of refined product or for com-  
5 bustion at covered entities; and

6 “(2) include other natural gas liquids in the  
7 regulatory definition of emissive natural gas liquids  
8 as necessary to ensure the coverage described in  
9 paragraph (1).

10 **“SEC. 730. REGULATIONS.**

11 “(a) IN GENERAL.—Except as otherwise provided in  
12 this title, not later than 2 years after the date of enact-  
13 ment of this title, the Administrator shall promulgate reg-  
14 ulations to carry out this title.

15 “(b) CONSULTATION.—In developing regulations to  
16 implement the greenhouse gas pollution and reduction in-  
17 vestment program under this title, and in the implementa-  
18 tion of that program, the Administrator shall consult with  
19 the States in the Regional Greenhouse Gas Initiative, the  
20 Western Climate Initiative, and the Mid-West Governors  
21 Accord, and representatives of other States.

22 **“PART D—OFFSET CREDIT PROGRAM FOR**  
23 **DOMESTIC EMISSION REDUCTIONS**

24 **“SEC. 731. DEFINITIONS.**

25 “In this part:

1           “(1) ACADEMY.—The term ‘Academy’ means  
2 the National Academy of Sciences.

3           “(2) ADVISORY COMMITTEE.—The term ‘Advi-  
4 sory Committee’ means the Greenhouse Gas Emis-  
5 sion Reduction and Sequestration Advisory Com-  
6 mittee established under section 732(a)(1).

7           “(3) APPROPRIATE OFFICIAL.—The term ‘ap-  
8 propriate official’ means—

9                   “(A) the Secretary, with respect to any do-  
10 mestic agriculture or forestry offset project; and

11                   “(B) the Administrator, with respect to all  
12 other offset projects.

13           “(4) EMISSION REDUCTION.—The term ‘emis-  
14 sion reduction’ means the reduction, avoidance, de-  
15 struction, or sequestration of greenhouse gas emis-  
16 sions.

17           “(5) SECRETARY.—The term ‘Secretary’ means  
18 the Secretary of Agriculture.

19 **“SEC. 732. ADVISORY COMMITTEE.**

20           “(a) ESTABLISHMENT.—

21                   “(1) ADVISORY COMMITTEE.—Not later than  
22 60 days after the date of enactment of this Act, the  
23 Secretary and the Administrator shall jointly estab-  
24 lish an advisory committee, to be known as the  
25 ‘Greenhouse Gas Emission Reduction and Seques-

1       tration Advisory Committee’, to provide scientific  
2       and technical advice on the establishment and imple-  
3       mentation of the offset project program under this  
4       part with respect to offset projects under the juris-  
5       diction of the Secretary and the Administrator.

6               “(2) AUTHORITY.—In establishing and working  
7       with the Advisory Committee, the Administrator and  
8       the Secretary shall use the authority under this sec-  
9       tion and existing authority under, as appropriate—

10               “(A) this Act;

11               “(B) the Federal Advisory Committee Act  
12       (5 U.S.C. App.); and

13               “(C) section 1245 of the Food Security  
14       Act of 1985 (16 U.S.C. 3845).

15       “(b) MEMBERSHIP.—

16               “(1) IN GENERAL.—The Advisory Committee  
17       shall be composed of not less than 9 and not more  
18       than 15 individuals with relevant education, train-  
19       ing, and experience, selected jointly by the Secretary  
20       and the Administrator, who shall be—

21               “(A) identified by the Academy;

22               “(B) representative of land grant univer-  
23       sities, academia, business, nongovernmental or-  
24       ganizations, and Federal, State, and local gov-  
25       ernment; or



1           “(C) experts with background and experi-  
2           ence in agriculture or forestry.

3           “(2) REQUIREMENT.—Not more than  $\frac{1}{3}$  of the  
4           members of the Advisory Committee may be current  
5           officers or employees (including contractors) of any  
6           Federal agency.

7           “(3) TERM.—A member—

8           “(A) shall be appointed to the Advisory  
9           Committee for a term of 3 years (except for ini-  
10          tial terms for which members may be appointed  
11          for a term of 4 or 5 years to allow staggering);  
12          and

13          “(B) may be reappointed for 1 additional  
14          3-year term (which may directly follow a first  
15          term), at the discretion of the Secretary and  
16          the Administrator.

17          “(4) VACANCIES.—A vacancy on the Advisory  
18          Committee—

19          “(A) shall not affect the powers of the Ad-  
20          visory Committee; and

21          “(B) shall be filled in the same manner as  
22          the original appointment was made.

23          “(5) INITIAL MEETING.—Not later than 30  
24          days after the date on which all members of the Ad-  
25          visory Committee have been appointed, the Advisory

1       Committee shall hold the initial meeting of the Advi-  
2       sory Committee.

3           “(6) MEETINGS.—The Advisory Committee  
4       shall meet at the call of the Chairperson, with the  
5       approval of the designated Federal officer.

6           “(7) QUORUM.—A majority of the members of  
7       the Advisory Committee shall constitute a quorum,  
8       but a lesser number of members may hold hearings.

9           “(8) CHAIRPERSON.—The Secretary and the  
10      Administrator shall jointly select a Chairperson of  
11      the Advisory Committee from among the members of  
12      the Advisory Committee.

13          “(c) EXPERTISE.—On approval of the Secretary and  
14      the Administrator, the Advisory Committee may seek out-  
15      side expertise, as necessary, and form subcommittees or  
16      workgroups for any purpose consistent with this section.

17          “(d) DUTIES.—

18           “(1) REPORTS ON OFFSET PROJECT TYPES.—

19           “(A) IN GENERAL.—Not later than 180  
20      days after the date on which the Advisory Com-  
21      mittee is established, the Advisory Committee  
22      shall submit to the Secretary and the Adminis-  
23      trator and make available to the public a report  
24      containing recommendations regarding the  
25      types of offset projects that should be consid-

1           ered to be eligible to generate offset credits  
2           under this part, and relevant scientific data re-  
3           garding emission reduction practices for those  
4           project types.

5           “(B) FACTORS.—In developing the rec-  
6           ommendations described in subparagraph (A),  
7           the Advisory Committee shall take into account  
8           for each type of offset project—

9                   “(i) the extent to which, as of the  
10                  date of submission of the report, the  
11                  project or activity type—

12                           “(I) is required by law; or

13                           “(II) represents business-as-usual  
14                          practices for the relevant sector or fa-  
15                          cility type;

16                          “(ii) the availability of data for use in  
17                          developing baselines for determining emis-  
18                          sion reductions;

19                          “(iii) the potential for accurate quan-  
20                          tification of net emission reductions;

21                          “(iv) any corresponding environmental  
22                          benefits or disadvantages; and

23                          “(v) the potential supply of emission  
24                          reductions available.

1           “(C) PROJECT TYPES FOR CONSIDER-  
2           ATION.—In determining which types of projects  
3           or activities to recommend under subparagraph  
4           (A), the Advisory Committee shall consider, at  
5           a minimum, the project types that are listed  
6           under section 734.

7           “(D) METHODOLOGIES.—For each rec-  
8           ommended offset project type, the Advisory  
9           Committee shall make recommendations regard-  
10          ing 1 or more aspects of methodologies for use  
11          with any project of that type.

12          “(2) REPORTS ON EMISSION REDUCTION IN-  
13          TEGRITY.—

14               “(A) IN GENERAL.—Not later than 240  
15               days after the date on which the Advisory Com-  
16               mittee is established, and periodically there-  
17               after, using the best available scientific, tech-  
18               nical, and other relevant information, the Advi-  
19               sory Committee shall jointly provide to the Sec-  
20               retary and the Administrator and make avail-  
21               able to the public a report containing priority  
22               recommendations on how to ensure the emission  
23               reduction integrity of the offset projects under  
24               this part, including with regard to—

1                   “(i) quantifying credits for net emis-  
2                   sion reductions resulting from offset  
3                   projects;

4                   “(ii) determining additionality, includ-  
5                   ing—

6                                 “(I) the application of standards  
7                                 that are specific to each project type;  
8                                 and

9                                 “(II) the use of methodologies  
10                                that account for business-as-usual  
11                                practices for an industry or facility  
12                                type;

13                   “(iii) accounting for economic and  
14                   emission leakage associated with project  
15                   activities, including the application of sec-  
16                   tor-specific leakage factors in order to re-  
17                   flect net changes in emissions and seques-  
18                   tration resulting from the project;

19                   “(iv) accounting for uncertainty and  
20                   application of uncertainty factors;

21                   “(v) methods to measure, verify, and  
22                   otherwise ensure project results with suffi-  
23                   cient scientific integrity to meet the objec-  
24                   tives of the program;

1           “(vi) establishing appropriate insur-  
2           ance requirements, buffer reserves, or  
3           other options to address the risk of rever-  
4           sals by project type and conditions;

5           “(vii) minimizing administrative costs  
6           and burdens on project representatives;  
7           and

8           “(viii) meeting any other criteria the  
9           Advisory Committee recommends be ap-  
10          plied to ensure that projects meet the over-  
11          all objectives of this part.

12          “(B) RESPONSE.—

13           “(i) IN GENERAL.—Not later than  
14           120 days after the date of receipt of a re-  
15           port under subparagraph (A), the Sec-  
16           retary and the Administrator shall jointly  
17           make available to the public a response to  
18           the report.

19           “(ii) REGULATORY RESPONSE.—The  
20           Secretary and Administrator—

21           “(I) may respond to the initial  
22           report under subparagraph (A) in pro-  
23           mulgating regulations under section  
24           733; and

1                   “(II) to the extent the proposed  
2                   or final regulations differ from rec-  
3                   ommendations of the Advisory Com-  
4                   mittee, shall provide an explanation  
5                   for the difference.

6                   “(C) PROPOSED METHODOLOGIES.—The  
7                   Advisory Committee shall, to the maximum ex-  
8                   tent practicable, submit comments on proposed  
9                   methodologies and standards under section 735  
10                  during the periods provided by the appropriate  
11                  official for public comment on the proposals.

12                  “(D) SCIENTIFIC REVIEW OF OFFSET PRO-  
13                  GRAM.—

14                  “(i) IN GENERAL.—Not later than  
15                  January 1, 2017, and at 5-year intervals  
16                  thereafter, the Advisory Committee shall  
17                  submit to the Administrator and Secretary  
18                  and make available to the public an anal-  
19                  ysis of relevant scientific and technical in-  
20                  formation related to this part.

21                  “(ii) REQUIREMENTS.—The Advisory  
22                  Committee shall—

23                  “(I) review approved and poten-  
24                  tial methodologies, scientific studies,  
25                  offset project monitoring, offset

1 project verification reports, and audits  
2 related to this part;

3 “(II) evaluate the net emissions  
4 effects of implemented offset projects;  
5 and

6 “(III) recommend changes to off-  
7 set methodologies, protocols, or  
8 project types, or to the overall offset  
9 program under this part—

10 “(aa) to ensure that offset  
11 credits issued by the Adminis-  
12 trator do not compromise the in-  
13 tegrity of the annual greenhouse  
14 gas emission limitations estab-  
15 lished under section 703; and

16 “(bb) to avoid or minimize  
17 adverse effects to human health  
18 or the environment.

19 “(e) POWERS.—

20 “(1) HEARINGS.—The Advisory Committee  
21 may, with the consent of the Secretary and the Ad-  
22 ministrator, hold such hearings, meet and act at  
23 such times and places, take such testimony, and re-  
24 ceive such evidence as the Advisory Committee con-  
25 siders appropriate to carry out this section.



1           “(2) INFORMATION FROM FEDERAL AGEN-  
2 CIES.—

3           “(A) IN GENERAL.—The Advisory Com-  
4 mittee may secure directly from a Federal agen-  
5 cy such information as the Advisory Committee  
6 considers necessary to carry out this section.

7           “(B) PROVISION OF INFORMATION.—On  
8 request of the Chairperson of the Advisory  
9 Committee, the head of the agency shall provide  
10 the information to the Advisory Committee.

11           “(3) POSTAL SERVICES.—The Advisory Com-  
12 mittee may use the United States mails in the same  
13 manner and under the same conditions as other  
14 agencies of the Federal Government.

15           “(f) ADVISORY COMMITTEE PERSONNEL MAT-  
16 TERS.—

17           “(1) COMPENSATION OF MEMBERS.—

18           “(A) NON-FEDERAL EMPLOYEES.—A  
19 member of the Advisory Committee who is not  
20 an officer or employee of the Federal Govern-  
21 ment shall be compensated at a rate equal to  
22 the daily equivalent of the annual rate of basic  
23 pay prescribed for level IV of the Executive  
24 Schedule under section 5315 of title 5, United  
25 States Code, for each day (including travel

1           time) during which the member is engaged in  
2           the performance of the duties of the Advisory  
3           Committee.

4           “(B) FEDERAL EMPLOYEES.—A member  
5           of the Advisory Committee who is an officer or  
6           employee of the Federal Government shall serve  
7           without compensation in addition to the com-  
8           pensation received for the services of the mem-  
9           ber as an officer or employee of the Federal  
10          Government.

11          “(2) TRAVEL EXPENSES.—A member of the  
12          Advisory Committee shall be allowed travel expenses,  
13          including per diem in lieu of subsistence, at rates  
14          authorized for an employee of an agency under sub-  
15          chapter I of chapter 57 of title 5, United States  
16          Code, while away from the home or regular place of  
17          business of the member in the performance of the  
18          duties of the Advisory Committee.

19      **“SEC. 733. ESTABLISHMENT OF DOMESTIC OFFSETS PRO-**  
20                              **GRAM.**

21          “(a) PROGRAM.—

22              “(1) ESTABLISHMENT.—

23                  “(A) IN GENERAL.—Not later than 18  
24                  months after the date of enactment of this Act,  
25                  the Administrator and the Secretary shall, in



1                   program under this part in a timely man-  
2                   ner.

3                   “(2) EMISSION REDUCTION INTEGRITY; RULE-  
4                   MAKING.—In carrying out the program under this  
5                   section, the Administrator and the Secretary shall  
6                   protect the emission reduction integrity of the pro-  
7                   gram under this part and—

8                   “(A) minimize, to the maximum extent  
9                   practicable, burdens on offset project represent-  
10                  atives;

11                  “(B) prioritize rulemaking for activities  
12                  that present the fewest technical challenges and  
13                  greatest certainty of reducing net greenhouse  
14                  gas emissions or atmospheric concentrations,  
15                  considering the recommendations of—

16                  “(i) the Advisory Committee sub-  
17                  mitted under section 732;

18                  “(ii) the Department of the Interior;

19                  “(iii) the Secretary of Commerce, with  
20                  respect to any coastal, ocean or marine off-  
21                  set project;

22                  “(iv) the Office of Science and Tech-  
23                  nology Policy; and

24                  “(v) other Federal agencies;

1           “(C) ensure that consistent requirements  
2           and procedures apply to offset project types  
3           under the jurisdiction of the Administrator and  
4           the Secretary; and

5           “(D) avoid or minimize, to the maximum  
6           extent practicable, adverse effects on human  
7           health or the environment resulting from the  
8           implementation of offset projects under this  
9           part.

10       “(b) REGISTRY.—

11           “(1) IN GENERAL.—Not later than 1 year after  
12           the date of enactment of this Act, the Administrator,  
13           in consultation with the Secretary and the heads of  
14           other appropriate Federal agencies, shall establish a  
15           registry (or expand an established emission allow-  
16           ance registry) for use in issuing and recording cred-  
17           its approved and issued under this part.

18           “(2) CONSISTENCY.—To the maximum extent  
19           practicable, the registry under this subsection shall  
20           be consistent with relevant standards and guidelines  
21           adopted by qualifying programs under section 728  
22           and international bodies under section 756.

23       “(c) DEPARTMENT OF AGRICULTURE ROLE.—In ad-  
24       dition to the duties described in subsection (a) and section  
25       1245 of the Food Security Act of 1985 (16 U.S.C. 3845),

1 the Secretary shall, with respect to offset projects relating  
2 to emission reductions from domestic agriculture and for-  
3 estry—

4           “(1) gather inventory data on carbon stocks  
5 and fluxes to inform rulemaking with respect to the  
6 agricultural and forestry sectors;

7           “(2) administer as the lead agency the duties  
8 prescribed under sections 734, 735, 736, and 739  
9 for agricultural and forestry offset projects, in con-  
10 sultation and coordination with other relevant agen-  
11 cies;

12           “(3) prepare the Forest Service, the Natural  
13 Resources Conservation Service, the Farm Service  
14 Agency, and other relevant entities to make available  
15 to landowners and offset project representatives car-  
16 bon sequestration data and other information on ag-  
17 ricultural and forest land that are necessary to as-  
18 sist landowners and project representatives in esti-  
19 mating carbon sequestration rates by land area or  
20 appropriate region, forest type, soil type, and other  
21 appropriate factors;

22           “(4) make available technical assistance to  
23 landowners undertaking activities for the generation  
24 and sale of offset credits derived from activities on  
25 the land of the landowners, including information

1 about working with aggregators and third-party  
2 verifiers pursuant to section 737;

3 “(5) take into consideration expanding existing  
4 training and accreditation programs of the Natural  
5 Resources Conservation Service for third-party tech-  
6 nical service providers to provide training and ac-  
7 creditation for third-party verifiers pursuant to sec-  
8 tion 737;

9 “(6) conduct, as appropriate, outreach, edu-  
10 cation, and training through the extension services  
11 of land-grant colleges and universities; and

12 “(7) promulgate such additional regulations as  
13 are necessary to carry out the functions of the Sec-  
14 retary under this part.

15 **“SEC. 734. ELIGIBLE PROJECTS.**

16 “(a) LIST OF ELIGIBLE PROJECT TYPES.—

17 “(1) IN GENERAL.—Each appropriate official  
18 shall establish and maintain a list of types of offset  
19 projects eligible to generate offset credits under this  
20 part.

21 “(2) DIFFERENCES.—If a list established under  
22 this section differs from the recommendations of the  
23 Advisory Committee, the appropriate official shall  
24 provide an explanation for the difference.

25 “(b) INITIAL LIST OF PROJECT TYPES.—

1           “(1) IN GENERAL.—Each appropriate official  
2 shall establish an initial list of eligible project types  
3 under subsection (a).

4           “(2) EMISSION REDUCTION ACTIVITIES.—The  
5 appropriate official shall include on the list required  
6 under this subsection, at a minimum, activities that  
7 provide emission reductions, including—

8                   “(A) methane collection at mines, landfills,  
9 and natural gas systems;

10                   “(B) projects involving fugitive emissions  
11 from the oil and gas sector that reduce green-  
12 house gas emissions that would otherwise have  
13 been flared or vented;

14                   “(C) nonlandfill projects that involve col-  
15 lection, combustion, or avoidance of emissions  
16 from organic waste streams that would have  
17 otherwise emitted methane into the atmosphere,  
18 including manure management, composting, or  
19 anaerobic digestion projects;

20                   “(D) projects involving afforestation or re-  
21 forestation of acreage not forested as of Janu-  
22 ary 1, 2009;

23                   “(E) forest management resulting in an in-  
24 crease in forest carbon stores, including har-  
25 vested wood products;



1           “(F) forest-based manufactured products;

2           “(G) projects that capture and geologically  
3 sequester uncapped greenhouse gas emissions  
4 with or without enhanced oil or methane recov-  
5 ery in active or depleted oil, carbon dioxide,  
6 natural gas reservoirs, or other geological for-  
7 mations;

8           “(H) recycling and waste minimization  
9 projects;

10          “(I) projects to abate the production of ni-  
11 trous oxide at stationary sources not subject to  
12 regulation under section 722;

13          “(J) projects for biochar production and  
14 use;

15          “(K) projects that destroy ozone-depleting  
16 substances that have been phased out of pro-  
17 duction, subject to the conditions specified in  
18 section 619(b)(9), based on the carbon dioxide  
19 equivalent value of the substance destroyed;

20          “(L) projects relating to agricultural,  
21 grassland, and rangeland sequestration and  
22 management practices, including—

23               “(i) altered tillage practices, including  
24 the avoided abandonment of conservation  
25 practices;

1           “(ii) winter cover cropping, contin-  
2           uous cropping, and other means to in-  
3           crease biomass returned to soil in lieu of  
4           planting followed by fallowing;

5           “(iii) the use of technology or prac-  
6           tices to improve the management of nitro-  
7           gen fertilizer use, including slow and con-  
8           trolled-release fertilizers (including ab-  
9           sorbed, coated, occluded, or reacted fer-  
10          tilizers) and stabilized nitrogen fertilizers  
11          (including urease, nitrification inhibitors,  
12          and nitrogen stabilizers) that are recog-  
13          nized by State regulators of fertilizers;

14          “(iv) reduction in methane emissions  
15          from rice cultivation;

16          “(v) reduction in carbon emissions  
17          from organically managed soils and farm-  
18          ing practices used on certified organic  
19          farms;

20          “(vi) reduction in greenhouse gas  
21          emissions due to changes in animal man-  
22          agement practices, including dietary modi-  
23          fications and pasture-based livestock sys-  
24          tems;

1                   “(vii) resource-conserving crop rota-  
2                   tions of at least 3 years; and

3                   “(viii) practices that will increase the  
4                   sequestration of carbon in soils on crop-  
5                   land, hayfields, native and planted grazing  
6                   land, grassland, or rangeland;

7                   “(M) projects for changes in carbon stocks  
8                   attributed to land management change, includ-  
9                   ing—

10                   “(i) improved management or restora-  
11                   tion of cropland, grassland, rangeland (in-  
12                   cluding grazing practices), and forest land;

13                   “(ii) avoided conversion that would  
14                   otherwise release carbon stocks;

15                   “(iii) reduced deforestation;

16                   “(iv) management and restoration of  
17                   peatland or wetland;

18                   “(v) urban tree-planting, landscaping,  
19                   greenway construction, and maintenance;

20                   “(vi) sequestration of greenhouse  
21                   gases through management of tree crops;

22                   “(vii) adaptation of plant traits or  
23                   new technologies that increase sequestra-  
24                   tion by forests; and

1                   “(viii) projects to restore or prevent  
2                   the conversion, loss, or degradation of  
3                   vegetated marine coastal habitats;

4                   “(N) projects that reduce greenhouse gas  
5                   emissions from manure and effluent, includ-  
6                   ing—

7                   “(i) waste aeration;

8                   “(ii) biogas capture and combustion;

9                   and

10                   “(iii) improved management or appli-  
11                   cation to agricultural land; and

12                   “(O) projects that reduce the intensity of  
13                   greenhouse gas emissions per unit of agricul-  
14                   tural production.

15                   “(c) MODIFICATIONS TO THE LISTS OF ELIGIBLE  
16                   TYPES OF OFFSET PROJECT.—

17                   “(1) ADDITIONS TO THE LIST.—

18                   “(A) IN GENERAL.—At any time, after  
19                   taking into consideration any relevant rec-  
20                   ommendations of the Advisory Committee, the  
21                   appropriate official may by regulation deter-  
22                   mine whether to add other types of projects,  
23                   pursuant to subsection (a), to the list of eligible  
24                   projects of the appropriate official under sub-  
25                   section (a).



1 project determines that the environ-  
2 mental harm resulting from the type  
3 of project exceeds the greenhouse gas  
4 emission reduction benefits of the  
5 project;

6 “(III) the project activity has be-  
7 come predominant, and would remain  
8 predominant even without the avail-  
9 ability of offset credits; or

10 “(IV) the project type does not  
11 generate emission reductions that  
12 meet the requirements of section 735.

13 “(3) PETITIONS FOR MODIFICATIONS.—

14 “(A) IN GENERAL.—Beginning 180 days  
15 after the date of enactment of this Act, any  
16 person may petition the appropriate official at  
17 any time to add or remove a type of project to  
18 a list described in subsection (a).

19 “(B) REQUIREMENTS.—

20 “(i) IN GENERAL.—A petition under  
21 subparagraph (A) shall include a showing  
22 by the petitioner that the type of project  
23 is, or is not, capable of generating emission  
24 reductions in accordance with section 735,

1 and other evidence adequate to support the  
2 petition.

3 “(ii) REBUTTABLE PRESUMPTION.—  
4 For purposes of petitions under this para-  
5 graph, there shall be a rebuttable presump-  
6 tion that the types of projects listed pursu-  
7 ant to subsection (b) are capable of gener-  
8 ating emission reductions in accordance  
9 with section 735.

10 “(C) RESPONSE.—Not later than 180 days  
11 after the date of receipt of a complete petition,  
12 the appropriate official shall respond in writing  
13 to the petition and explain the reasons for the  
14 decision of the appropriate official.

15 **“SEC. 735. REQUIREMENTS FOR OFFSET PROJECTS.**

16 “(a) METHODOLOGIES.—

17 “(1) ESTABLISHING METHODOLOGIES.—Not  
18 later than 18 months after the date of inclusion of  
19 a project type on an eligible list under section  
20 734(a), the appropriate official, in consultation with  
21 the Secretary or the Administrator, as appropriate,  
22 shall by regulation establish for that project type 1  
23 or more standardized methodologies (giving priority  
24 to projects with well-established methodologies) or  
25 performance standards to the extent methodologies

1 or performances standards can be established for the  
2 project type that meet the requirements of this sec-  
3 tion.

4 “(2) REQUIREMENTS FOR METHODOLOGIES.—  
5 For each offset project type, the methodologies or  
6 performance standards established under this section  
7 shall be capable of and used for—

8 “(A) determining the additionality of emis-  
9 sion reductions achieved by an offset project of  
10 that type to ensure, at a minimum, that any  
11 emission reduction is considered additional only  
12 to the extent that the emission reduction results  
13 from activities that—

14 “(i) are not required by or undertaken  
15 to comply with any law (including any reg-  
16 ulation, consent order, or consent agree-  
17 ment, but not including any contract);

18 “(ii) were not commenced prior to  
19 January 1, 2009, except for offset project  
20 activities described in section 740 that  
21 commenced after January 1, 2001, and  
22 were registered as of the date of enactment  
23 of this Act under an offset program with  
24 respect to which the Administrator and the  
25 Secretary have made an affirmative deter-



1                   mination under paragraph (2) or (3) of  
2                   section 740(a) or section 740(e); and

3                   “(iii) emit at levels below, or sequester  
4                   at levels above, the activity or emissions  
5                   baseline established under subparagraph  
6                   (B);

7                   “(B) establishing activity or emission base-  
8                   lines for offset projects of that type, which ac-  
9                   tivity or emissions baseline shall be established  
10                  by the appropriate official to reflect a conserv-  
11                  ative estimate of business-as-usual performance  
12                  or practices, taking into consideration any in-  
13                  centives created by other programs, for the rel-  
14                  evant type of activity such that the baseline  
15                  provides a science-based margin of safety to en-  
16                  sure the emission integrity of offsets calculated  
17                  in reference to the baseline, including (in the  
18                  case of a domestic agricultural or forestry offset  
19                  project) the establishment by the Secretary of a  
20                  temporal baseline for offset projects of that  
21                  type to establish a date after which offset cred-  
22                  its may be calculated with respect to the base-  
23                  line that may reflect a continuation of practices  
24                  in place prior to the adoption of the offset

1 project, to the extent consistent with this sec-  
2 tion;

3 “(C) determining the extent to which emis-  
4 sion reductions achieved by an offset project of  
5 that type exceed a relevant activity or emission  
6 baseline, including protocols for use in moni-  
7 toring and accounting for uncertainty;

8 “(D) accounting for and mitigating poten-  
9 tial greenhouse gas emission leakage, if any,  
10 from an offset project of that type, taking un-  
11 certainty into account; and

12 “(E) otherwise ensuring that offset credits  
13 provide for a reduction in net concentrations of  
14 greenhouse gases and are consistent with regu-  
15 lations under section 733(a).

16 “(b) ACCOUNTING FOR REVERSALS.—

17 “(1) ACCOUNTING.—

18 “(A) IN GENERAL.—For each type of se-  
19 questration project, the methodologies or stand-  
20 ards under this section shall include mecha-  
21 nisms to ensure that any sequestration with re-  
22 spect to which an offset credit is issued under  
23 this part results in a net increase in sequestra-  
24 tion, and that full and transparent account is  
25 taken of any actual or potential reversal of the

1           sequestration, with an adequate margin of safe-  
2           ty.

3           “(B) MINIMUM MECHANISMS.—At least 1  
4           of the following mechanisms shall be prescribed  
5           under this subsection to meet the requirements  
6           of this paragraph:

7                   “(i) An offsets reserve, pursuant to  
8                   paragraph (2).

9                   “(ii) Insurance that provides for pur-  
10                  chase and provision to the Administrator  
11                  for retirement of a quantity of offset cred-  
12                  its or emission allowances equal in number  
13                  to the tons of carbon dioxide equivalents of  
14                  greenhouse gas emissions released due to  
15                  reversal.

16                  “(iii) Another mechanism that satis-  
17                  fies the requirements of this part.

18           “(C) REPORTING.—The regulations under  
19           section 733 shall require reporting to the appro-  
20           priate official of any reversal with respect to an  
21           offset project for which offset credits have been  
22           issued under this part.

23           “(2) OFFSETS RESERVE.—

24                   “(A) REQUIREMENTS.—

1           “(i) IN GENERAL.—An offsets reserve  
2           referred to in paragraph (1)(B)(i) is a pro-  
3           gram under which, before issuance of off-  
4           set credits under this part, the Adminis-  
5           trator shall subtract and reserve from the  
6           quantity to be issued a quantity of offset  
7           credits based on the risk of reversal and  
8           continued viability of the reserve, as deter-  
9           mined by the Secretary with respect to off-  
10          set projects in the domestic agricultural  
11          and forestry sectors in conjunction with  
12          the Administrator.

13           “(ii) HOLDING AND REGISTERING OF  
14          CREDITS.—The Administrator shall—

15                   “(I) hold offset credits reserved  
16                   under clause (i) in the offsets reserve;  
17                   and

18                   “(II) register the holding of the  
19                   reserved offset credits in the registry  
20                   established under section 733(b).

21          “(B) PROJECT REVERSAL.—

22                   “(i) IN GENERAL.—If a reversal has  
23                   occurred with respect to an offset project  
24                   for which offset credits are reserved under  
25                   this paragraph, the Administrator shall re-

1           move offset credits from the offsets reserve  
2           and cancel the credits to fully account for  
3           the tons of carbon dioxide equivalent that  
4           are no longer sequestered.

5           “(ii) INTENTIONAL REVERSALS.—If  
6           the appropriate official determines that a  
7           reversal was intentional, the offset project  
8           representative for the relevant offset  
9           project shall place into the offsets reserve  
10          a quantity of offset credits, or combination  
11          of offset credits and emission allowances,  
12          equal in number to 150 percent of the  
13          number of reserve offset credits that were  
14          canceled due to the reversal pursuant to  
15          clause (i).

16          “(iii) UNINTENTIONAL REVERSALS.—  
17                 “(I) IN GENERAL.—Except as  
18                 provided in subclause (II), if the ap-  
19                 propriate official determines that a re-  
20                 versal was unintentional, the offset  
21                 project developer for the relevant off-  
22                 set project shall place into the offsets  
23                 reserve a quantity of offset credits, or  
24                 combination of offset credits and

1 emission allowances, equal to the less-  
2 er of—

3 “(aa) ½ the number of off-  
4 set credits that were reserved for  
5 the offset project; or

6 “(bb) ½ the number of re-  
7 serve offset credits that were can-  
8 celed due to the reversal under  
9 clause (i).

10 “(II) UNDUE HARDSHIP.—With  
11 respect to domestic agricultural and  
12 forestry projects, the Secretary may  
13 lower the quantity required under  
14 subclause (I) based on undue hardship  
15 in the event of a catastrophic occur-  
16 rence.

17 “(C) USE OF RESERVED OFFSET CRED-  
18 ITS.—Offset credits placed into the offsets re-  
19 serve under this paragraph may not be used to  
20 comply with section 722.

21 “(3) CARBON AGREEMENTS AND LAND USE  
22 FLEXIBILITY.—

23 “(A) APPLICABILITY.—

24 “(i) IN GENERAL.—For each type of  
25 agricultural or forestry sequestration

1 project with methodologies or standards  
2 under this section, the Secretary may pro-  
3 mulgate by regulation 1 or more mecha-  
4 nisms in addition to paragraphs (1) and  
5 (2) in order to ensure that activities of  
6 that type maintain the integrity of the  
7 overall greenhouse gas emission limitations  
8 established by section 703.

9 “(ii) MECHANISMS.—The mechanisms  
10 under this paragraph shall include—

11 “(I) a specific duration of the in-  
12 tended sequestration activity;

13 “(II) clear liability for accounting  
14 for and ensuring that the quantity of  
15 emission reductions achieved pursuant  
16 to an agreement under this paragraph  
17 is maintained;

18 “(III) sequential activities for  
19 maintaining the quantity of emission  
20 reductions achieved pursuant to an  
21 agreement under this paragraph;

22 “(IV) adequate monitoring and  
23 accounting systems to maintain the  
24 greenhouse gas emission limitations of  
25 this part;

400

1 “(V) carbon easements; or

2 “(VI) any other mechanism that  
3 meets the requirements of this sec-  
4 tion.

5 “(B) RESPONSIBILITY FOR ACCOUNT-  
6 ING.—To account for the termination of any  
7 offset agreement approved under section 736 or  
8 the termination of the sequestration activity,  
9 the Secretary may allow the agreement to as-  
10 sign liability to any party to the agreement for  
11 the purposes of accounting for and ensuring the  
12 quantity of emission reductions achieved pursu-  
13 ant to an agreement under this paragraph.

14 “(c) CREDITING PERIODS.—

15 “(1) IN GENERAL.—In accordance with this  
16 subsection, the appropriate official shall—

17 “(A) specify a crediting period; and

18 “(B) establish provisions for petitions for  
19 new crediting periods.

20 “(2) DURATION.—

21 “(A) IN GENERAL.—Except as provided in  
22 subparagraph (B), the crediting period shall be  
23 not less than 5 nor greater than 10 years.



1           “(B) FORESTRY PROJECTS.—The crediting  
2           period for a forestry offset project shall not ex-  
3           ceed 30 years.

4           “(3) ELIGIBILITY.—

5           “(A) IN GENERAL.—An offset project shall  
6           be eligible to generate offset credits under this  
7           part only during the crediting period of the off-  
8           set project.

9           “(B) REMAINING ELIGIBILITY.—Except as  
10          provided in paragraph (4), during a crediting  
11          period described in subparagraph (A), an offset  
12          project shall remain eligible to generate offset  
13          credits, subject to the methodologies and  
14          project type eligibility list that applied as of the  
15          date of project approval under section 736.

16          “(4) PETITION FOR NEW CREDITING PERIOD.—

17          “(A) IN GENERAL.—An offset project rep-  
18          resentative may petition for a new crediting pe-  
19          riod to commence after termination of a cred-  
20          iting period, subject to the methodologies and  
21          project type eligibility list in effect at the time  
22          at which the petition is submitted.

23          “(B) TIMING OF SUBMISSION.—A petition  
24          may not be submitted under this paragraph

1 more than 1 year before the end of the pending  
2 crediting period.

3 “(C) RESPONSE.—The appropriate official  
4 shall make a determination on the petition in  
5 accordance with section 736.

6 “(d) EMISSION REDUCTION INTEGRITY.—

7 “(1) IN GENERAL.—In establishing the require-  
8 ments under this section, the appropriate official  
9 shall apply conservative assumptions or methods to  
10 maximize the likelihood that the emission reduction  
11 integrity of greenhouse gas emission limitations es-  
12 tablished by section 703 are not compromised.

13 “(2) ADMINISTRATION.—For each methodology  
14 or standard proposed under this section, the appro-  
15 priate official shall—

16 “(A) conduct and make available for public  
17 comment an analysis of how the methodology or  
18 standard meets the requirements of this section,  
19 including considerations of alternative ap-  
20 proaches; and

21 “(B) include an updated analysis in the  
22 record of the final rule establishing the method-  
23 ology or standard.

24 “(e) PREEXISTING METHODOLOGIES.—In promul-  
25 gating requirements under this section, the Administrator

1 and the Secretary shall give due consideration to meth-  
2 odologies for offset projects existing as of the date of en-  
3 actment of this Act.

4 “(f) ADDITIONAL BENEFITS.—

5 “(1) IN GENERAL.—Nothing in this section pre-  
6 cludes an offset project from meeting the require-  
7 ments of this section, or from approval under section  
8 736, only because the relevant activity receives pay-  
9 ment for an ecological service other than emission  
10 reductions, including conservation program pay-  
11 ments.

12 “(2) PROCEDURES AND GUIDELINES.—The ap-  
13 propriate official shall develop procedures and guide-  
14 lines consistent with the requirements of this part  
15 for determining eligibility and accounting methodolo-  
16 gies for generating offset credits under this part for  
17 an activity that is receiving payment for other eco-  
18 logical services.

19 “(g) DATA COLLECTION.—The appropriate official  
20 shall collect such data as are necessary to assess a range  
21 of factors relevant to the performance and effects of any  
22 offset project type.

23 “(h) ENVIRONMENTAL CONSIDERATIONS.—In pro-  
24 mulgating regulations for offsets from land management-  
25 related offset projects listed under section 734, the Sec-

1   retary, in consultation with appropriate Federal agencies,  
2   shall require, to the maximum extent practicable and in  
3   a cost-effective manner, that offset projects support bio-  
4   logical diversity, including—

5           “(1) giving native species primary consideration  
6           in the projects;

7           “(2) prohibiting the use of federally-designated  
8           or State-designated noxious weeds;

9           “(3) prohibiting the use of a species listed by  
10          a regional or State invasive plant authority within  
11          the applicable region or State; and

12          “(4) prohibiting conversion from a forest, grass-  
13          land, scrubland, or wetland ecosystem dominated by  
14          native species to an ecosystem dominated by non-na-  
15          tive species to generate offsets, unless the conversion  
16          took place at least 10 years prior to the date of en-  
17          actment of this title.

18          “(i) AGGREGATION.—To facilitate the market partici-  
19          pation of owners of smaller agricultural and forest land  
20          holdings, the Secretary shall create rules and guidelines  
21          enabling the aggregation of emission reductions by dif-  
22          ferent landowners.

23   **“SEC. 736. APPROVAL OF OFFSET PROJECTS.**

24          “(a) PROJECT PETITION.—

1           “(1) IN GENERAL.—Not later than the date of  
2           submission of the first verification report for an off-  
3           set project under section 737, the offset project rep-  
4           resentative shall submit to the appropriate official a  
5           petition for approval of the offset project.

6           “(2) PETITION REQUIREMENTS.—The regula-  
7           tions promulgated under section 733 shall specify  
8           the required components of an offset project ap-  
9           proval petition submitted under this subsection, in-  
10          cluding—

11                   “(A) designation of an offset project rep-  
12                   resentative; and

13                   “(B) any other information necessary to  
14                   determine whether the offset project meets the  
15                   requirements and purposes of this part.

16          “(b) APPROVAL AND NOTIFICATION.—

17           “(1) IN GENERAL.—Not later than 30 days  
18           after receiving a complete approval petition under  
19           subsection (a), the appropriate official shall—

20                   “(A) determine whether to approve or deny  
21                   the petition and, in the case of an approved pe-  
22                   tition, estimate (to the maximum extent prac-  
23                   ticable) the quantity of emission reductions that  
24                   are expected to be achieved by the offset  
25                   project; and

1           “(B) notify the offset project representa-  
2           tive in writing of the determinations of the offi-  
3           cial and the reasons for the determinations.

4           “(2) RESUBMISSION.—After an offset project is  
5           approved, the offset project representative shall not  
6           be required to resubmit an approval petition during  
7           the crediting period of the offset project.

8           “(c) APPEAL.—The Administrator and Secretary  
9           shall establish procedures for appeal and review of deter-  
10          minations made under this section.

11          “(d) THIRD-PARTY REVIEW.—

12           “(1) IN GENERAL.—Except as provided in para-  
13           graph (2), the appropriate official may, by rule, pro-  
14           vide for accreditation of independent third parties to  
15           make recommendations to the appropriate official  
16           regarding petitions submitted under this section.

17           “(2) VERIFIERS.—A third party described in  
18           paragraph (1) may not serve as a verifier under sec-  
19           tion 737 for a project for which the third party is  
20           making recommendations.

21          “(e) VOLUNTARY PREAPPROVAL REVIEW.—

22           “(1) IN GENERAL.—The appropriate official  
23           may establish a voluntary preapproval review proce-  
24           dure to allow an offset project representative to re-

1       quest the appropriate official to conduct a prelimi-  
2       nary eligibility review for an offset project.

3           “(2) FINDINGS.—Any findings of a review de-  
4       scribed in paragraph (1) shall not be binding upon  
5       the appropriate official.

6           “(3) REQUIREMENTS.—The       voluntary  
7       preapproval review procedure shall require—

8           “(A) the offset project representative to  
9       submit such basic project information as the  
10      appropriate official requires to provide a mean-  
11      ingful review; and

12          “(B) a written response from the appro-  
13      priate official not later than 30 days after the  
14      date of receipt by the appropriate official of a  
15      request for review under this subsection.

16          “(f) AVAILABILITY OF INFORMATION.—When the ap-  
17      propriate official issues a written decision under this sec-  
18      tion, the appropriate official shall make publicly available  
19      the decision and the information relevant to making the  
20      decision except to the extent that the information would  
21      be exempt from public disclosure under section 552 of title  
22      5, United States Code.

23      **“SEC. 737. VERIFICATION OF OFFSET PROJECTS.**

24          “(a) IN GENERAL.—As part of the regulations pro-  
25      mulgated under section 733 , the Secretary and the Ad-

1 administrator shall establish requirements, including proto-  
2 cols, for verification of the quantity of greenhouse gas  
3 emission reductions that have resulted from an approved  
4 offset project.

5 “(b) VERIFICATION REPORTS.—

6 “(1) IN GENERAL.—The regulations described  
7 in subsection (a) shall require an offset project rep-  
8 resentative to submit to the appropriate official 1 or  
9 more reports, prepared by a third-party verifier ac-  
10 credited under subsection (d), providing such infor-  
11 mation as needed to determine the quantity of emis-  
12 sion reductions that have resulted from the offset  
13 project.

14 “(2) SCHEDULES AND REQUIREMENTS.—The  
15 regulations described in subsection (a) shall pre-  
16 scribe schedules for the submission of verification re-  
17 ports under paragraph (1) and specify the required  
18 components of a verification report, including—

19 “(A) the name and contact information for  
20 the offset project representative and third-party  
21 verifier for the offset project;

22 “(B) the quantity of emission reductions  
23 that have been achieved by the offset project;

24 “(C) the methodologies applicable to the  
25 offset project pursuant to section 735;



1           “(D) a certification that the project meets  
2           the applicable requirements;

3           “(E) a certification establishing that the  
4           conflict of interest requirements in the regula-  
5           tions promulgated under this part have been  
6           complied with; and

7           “(F) any other information necessary to  
8           achieve the purposes of this part.

9           “(c) DETERMINATION AND NOTIFICATION.—Not  
10          later than 90 days after receiving a complete verification  
11          report under subsection (b), the appropriate official  
12          shall—

13               “(1) make a determination of the quantity of  
14               emission reduction that has been achieved by the off-  
15               set project; and

16               “(2) notify the offset project representative in  
17               writing of that determination.

18           “(d) APPEALS.—The Administrator and Secretary  
19          shall establish procedures for appeal and review of deter-  
20          minations made under this section.

21           “(e) VERIFIER ACCREDITATION.—

22               “(1) IN GENERAL.—As part of the regulations  
23               promulgated under section 733, the appropriate offi-  
24               cials shall jointly establish a process and require-  
25               ments for periodic accreditation of third-party

1       verifiers to ensure that those verifiers are profes-  
2       sionally qualified and have no conflicts of interest  
3       with offset project representatives or other relevant  
4       parties.

5               “(2) STANDARDS.—

6                       “(A) AMERICAN NATIONAL STANDARDS IN-  
7                       STITUTE ACCREDITATION.—

8                               “(i) IN GENERAL.—The appropriate  
9                               officials may jointly accredit, or accept for  
10                              purposes of accreditation under this sub-  
11                             section, verifiers accredited under the  
12                             American National Standards Institute ac-  
13                             creditation program in accordance with  
14                             standard 14065 of the International Orga-  
15                             nization of Standards.

16                            “(ii) REQUIREMENT.—The appro-  
17                            priate officials shall accredit, or accept for  
18                            accreditation, verifiers under this subpara-  
19                            graph only if the appropriate official finds  
20                            that the American National Standards In-  
21                            stitute accreditation program provides suf-  
22                            ficient assurance that the requirements of  
23                            this part will be met.

24                            “(B) USDA AND EPA ACCREDITATION.—

25                            As part of the regulations promulgated under

1           the section 733, the appropriate officials may  
2           jointly establish accreditation standards for  
3           verifiers under this subsection, including related  
4           training and testing programs and require-  
5           ments.

6           “(3) PUBLIC ACCESSIBILITY.—Each verifier  
7           meeting the requirements for accreditation in ac-  
8           cordance with this subsection shall be listed in a  
9           publicly accessible database, which shall be main-  
10          tained and updated jointly by the appropriate offi-  
11          cials.

12          “(f) ADDITIONAL TECHNOLOGY.—The Administrator  
13          and the Secretary may use available resources of any Fed-  
14          eral agency, State agency, or other appropriate entity that  
15          coordinates or collects data from any appropriate tech-  
16          nology (including data imaging, remote sensing, light de-  
17          tection and ranging, or other satellite technologies) to  
18          verify emission reductions generated under this part.

19          “(g) AVAILABILITY OF INFORMATION.—When the ap-  
20          propriate official issues a written decision under this sec-  
21          tion, the appropriate office shall make publicly available  
22          the decision and the information relevant to making the  
23          decision except to the extent that the information would  
24          be exempt from public disclosure under section 552 of title  
25          5, United States Code.

1 **“SEC. 738. ISSUANCE OF OFFSET CREDITS.**

2 “(a) ISSUANCE OF OFFSET CREDITS.—For an offset  
3 project approved under section 736, the Administrator, in  
4 consultation with the Secretary with regards to domestic  
5 agricultural and forestry projects, shall issue 1 offset cred-  
6 it to an offset project representative for each ton of carbon  
7 dioxide equivalent in emission reductions from the offset  
8 project that the appropriate official has verified in accord-  
9 ance with the requirements under section 737, if the emis-  
10 sion reduction occurred after January 1, 2009.

11 “(b) TIMING.—Offset credits shall be issued under  
12 subsection (a) not later than 14 days after the date by  
13 which the Administrator makes, or on which the Adminis-  
14 trator receives notice of, the determination under section  
15 737.

16 “(c) REGISTRATION.—The Administrator, in con-  
17 sultation with the Secretary with regards to domestic agri-  
18 cultural and forestry projects, shall assign a unique serial  
19 number to and register each offset project and credit to  
20 be issued under this part.

21 **“SEC. 739. AUDITS AND REVIEWS.**

22 “(a) IN GENERAL.—The appropriate officials shall,  
23 on an ongoing basis, conduct random audits and reviews  
24 of offset projects in accordance with auditing protocols or  
25 guidelines jointly developed by the Administrator and the  
26 Secretary.

1           “(b) MINIMUM AUDITS AND REVIEWS.—For each fis-  
2 cal year, the appropriate officials shall conduct audits and  
3 reviews of, at minimum, a representative sample of offset  
4 projects with respect to geographical areas, verification  
5 standards and certified verifiers, and specific administra-  
6 tive processes of the offset program, giving priority to off-  
7 set projects in categories that generate relatively large  
8 quantities of credits or about which there is relatively less  
9 empirical data.

10           “(c) PUBLIC AVAILABILITY OF INFORMATION.—

11           “(1) IN GENERAL.—Subject to paragraph (2),  
12 the appropriate officials shall make the results of all  
13 audits and reviews conducted under this section  
14 available to the Advisory Committee and to the pub-  
15 lic.

16           “(2) PROTECTION OF INDIVIDUAL INFORMA-  
17 TION.—Results of audits of specific offset projects  
18 shall be disclosed only on an aggregated basis.

19           “(d) DELEGATION.—

20           “(1) IN GENERAL.—The appropriate official  
21 may delegate to a State or tribal government the re-  
22 sponsibility for conducting audits under this section  
23 if the appropriate official finds that—

24           “(A) the program proposed by the State or  
25 tribal government is consistent with the audit-

1           ing protocols or guidance described in sub-  
2           section (a); and

3                   “(B) the integrity of the offset program  
4           under this part will be maintained.

5                   “(2) AUDITS BY APPROPRIATE OFFICIAL.—  
6           Nothing in this subsection prevents an appropriate  
7           official from conducting any audit the appropriate  
8           official considers appropriate.

9   **“SEC. 740. EARLY OFFSET SUPPLY.**

10           “(a) DEFINITION OF QUALIFIED EARLY OFFSET  
11   PROGRAM.—In this section, the term ‘qualified early offset  
12   program’ means any regulatory or voluntary greenhouse  
13   gas emission offset program approved under subsection  
14   (b).

15           “(b) PROGRAM APPROVAL.—

16                   “(1) IN GENERAL.—The administrator of a reg-  
17           ulatory or voluntary greenhouse gas emission offset  
18           program may apply to the Administrator and the  
19           Secretary for approval as a qualified early offset  
20           program under this subsection.

21                   “(2) DETERMINATIONS.—The Administrator, in  
22           conjunction with the Secretary—

23                           “(A) shall—

24                                   “(i) not later than 90 days after the  
25                           date of enactment of this Act, establish a

1 process to receive applications for program  
2 approval under this subsection; and

3 “(ii) not later than 180 days after the  
4 date of receipt of any application for pro-  
5 gram approval under this subsection, make  
6 a determination on the application; and

7 “(B) may approve a program under this  
8 subsection on the initiative of the Administrator  
9 and the Secretary in the case of programs that,  
10 as determined by the Administrator and the  
11 Secretary, are not reasonably able to petition  
12 for approval under this subsection.

13 “(3) CRITERIA FOR APPROVAL.—The Adminis-  
14 trator, in conjunction with the Secretary, shall ap-  
15 prove as a qualified early offset program under this  
16 subsection any regulatory or voluntary greenhouse  
17 gas emission offset program that—

18 “(A) was established before January 1,  
19 2009;

20 “(B) has developed or approved offset  
21 project type standards, methodologies, and pro-  
22 tocols—

23 “(i) through a public consultation  
24 process or a public peer review process;

1                   “(ii) that require credited emission re-  
2                   ductions be measurable, additional,  
3                   verifiable, enforceable, and permanent; and

4                   “(iii) that have been made available to  
5                   the public;

6                   “(C) requires that all emission reductions  
7                   be verified by a State or tribal regulatory agen-  
8                   cy or an accredited third-party independent  
9                   verification entity;

10                  “(D) requires that all issued credits be  
11                  registered in a publicly accessible registry, with  
12                  individual serial numbers assigned for each ton  
13                  of carbon dioxide equivalent emission reduc-  
14                  tions;

15                  “(E) requires that offset project represent-  
16                  atives meet applicable financial assurance re-  
17                  quirements, as determined by the Adminis-  
18                  trator; and

19                  “(F) ensures that no credits are issued for  
20                  activities for which the administrator of the  
21                  program has funded, solicited, or served as a  
22                  fund administrator for the development of the  
23                  project or activity that caused the emission re-  
24                  duction.



1           “(4) LIMITED APPROVAL AND REVOCATION.—  
2           The Administrator, in conjunction with the Sec-  
3           retary, shall—

4                   “(A) determine that a regulatory or vol-  
5                   untary greenhouse gas emission offset program  
6                   is not a qualified early offset program with re-  
7                   spect to a particular project type if the stand-  
8                   ard, methodology, or protocol of the program  
9                   for that project type fails to ensure that credits  
10                  will be provided only for emission reductions  
11                  that are measurable, additional, verifiable, en-  
12                  forceable, and permanent; and

13                   “(B) revoke the approval of a qualified  
14                   early offset program under this subsection if  
15                   the program does not meet the criteria de-  
16                   scribed in paragraph (3).

17           “(c) OFFSET CREDITS.—Subject to subsections (d),  
18           (e), and (f), the Administrator, in conjunction with the  
19           Secretary, shall issue 1 offset credit for each ton of carbon  
20           dioxide equivalent in emission reductions achieved after  
21           January 1, 2004—

22                   “(1) under an offset project that commenced  
23                   after January 1, 2001;

24                   “(2) for which a credit was issued under a  
25                   qualified early offset program; and

1           “(3) for which the credit described in para-  
2           graph (2) is transferred to the Administrator.

3           “(d) INELIGIBLE CREDITS.—Subsection (c) shall not  
4           apply to offset credits that have expired or have been re-  
5           tired, canceled, or used for compliance under a program  
6           established under State, local, or tribal law (including a  
7           regulation).

8           “(e) LIMITATION.—Notwithstanding subsection  
9           (c)(1), offset credits shall be issued under this section only  
10          for a crediting period pursuant to section 735(c) that—

11           “(1) commences not later than the date on  
12          which the regulations for methodologies promulgated  
13          under this part take effect; and

14           “(2) does not exceed the shorter of—

15           “(A) 10 years; or

16           “(B) the established crediting period for  
17          the project (in accordance with the rules of the  
18          qualified early offset program).

19          “(f) PRECLUSION OF DOUBLE PAYMENT.—Emission  
20          reductions shall not receive credits under this section if  
21          the emission reductions—

22           “(1) occurred prior to January 1, 2009; and

23           “(2) were awarded payments pursuant to the  
24          authority of the Secretary under the carbon con-



1 “(iii) livestock production;

2 “(iv) food prices; and

3 “(v) the environment.

4 “(2) LIMITATIONS.—

5 “(A) IN GENERAL.—On completion of the  
6 assessment under this paragraph, if the Sec-  
7 retary determines that afforestation offsets  
8 projects are resulting in serious adverse effects  
9 on United States agriculture or the public inter-  
10 est, the Secretary may take action to limit new  
11 enrollments in offset programs under this Act  
12 in a manner that the Secretary determines is  
13 necessary to eliminate the adverse effects.

14 “(B) MECHANISMS.—Enrollments de-  
15 scribed in subparagraph (A) may be limited  
16 by—

17 “(i) restricting the total quantity of  
18 land that can be enrolled in afforestation  
19 offsets projects;

20 “(ii) limiting participation to owners  
21 of certain types of agricultural land (such  
22 as land that is classified as Land Capa-  
23 bility Class III or lower); or

24 “(iii) some other mechanism deter-  
25 mined to be appropriate by the Secretary.

1           “(C) EXCLUSIONS.—Restrictions under  
2           this paragraph shall not apply to entities al-  
3           ready participating in applicable programs, and  
4           pre-existing contracts may be renewed.

5           “(b) OFFSET PROGRAM REVIEW AND REVISION.—

6           “(1) IN GENERAL.—Not later than 5 years  
7           after the date of enactment of this title and at least  
8           once every 5 years thereafter, the Administrator, in  
9           consultation with the Secretary, shall review, based  
10          on new or updated information and taking into con-  
11          sideration the recommendations of the Advisory  
12          Committee—

13                  “(A) the list of eligible project types estab-  
14                  lished under section 734;

15                  “(B) the methodologies established, includ-  
16                  ing specific activity baselines, under section  
17                  735;

18                  “(C) the reversal requirements and mecha-  
19                  nisms established or prescribed under section  
20                  735;

21                  “(D) measures to improve the account-  
22                  ability of the offsets program; and

23                  “(E) any other requirements established  
24                  under this part to ensure the environmental in-  
25                  tegrity and effective operation of this part.

1           “(2) PROGRAM REVISION.—As part of the re-  
2 view conducted under this subsection, the Adminis-  
3 trator and Secretary shall promulgate any additions  
4 to or revisions of the provisions of the offset pro-  
5 gram as appropriate to meet the requirements of  
6 and achieve the purposes of this part.

7 **“SEC. 742. ADDITIONAL REGULATORY STANDARDS FOR**  
8 **EMISSION REDUCTIONS.**

9           “(a) IN GENERAL.—Nothing in this part authorizes  
10 the Administrator to promulgate any additional regulatory  
11 standards for emission reductions from any offset project  
12 or activity (including emission reductions from any non-  
13 fossil fuel agricultural source) approved under this part.

14           “(b) ALLOWANCE OR CREDIT OBLIGATIONS.—No  
15 person shall be required to hold allowances or credits for  
16 emissions resulting from the use of gas as an energy  
17 source if the gas is derived from a domestic methane offset  
18 project approved under this part.

19           “(c) RELATIONSHIP TO OTHER LAWS.—Notwith-  
20 standing any other provision of law, emissions that are  
21 limited under this part shall not, prior to January 1, 2020,  
22 be subject to any other limitation that is established under  
23 a Federal law enacted or applied for the purpose of regu-  
24 lating greenhouse gas emissions solely on the basis of the  
25 effect of those emissions on climate change.

1           **“PART E—OFFSET CREDIT PROGRAM FOR**  
2           **INTERNATIONAL EMISSION REDUCTIONS**

3   **“SEC. 751. DEFINITIONS.**

4           “In this part:

5                 “(1) **ADVISORY COMMITTEE.**—The term ‘Advi-  
6           sory Committee’ means the International Offsets In-  
7           tegrity Advisory Committee established under sec-  
8           tion 752(a)(1).

9                 “(2) **EMISSION REDUCTION.**—The term ‘emis-  
10          sion reduction’ means the reduction, avoidance, de-  
11          struction, or sequestration of greenhouse gas emis-  
12          sions.

13   **“SEC. 752. INTERNATIONAL OFFSETS INTEGRITY ADVISORY**  
14                 **COMMITTEE.**

15           “(a) **ESTABLISHMENT.**—

16                 “(1) **IN GENERAL.**—Not later than 60 days  
17          after the date of enactment of this title, the Admin-  
18          istrator shall establish an independent International  
19          Offsets Integrity Advisory Committee.

20                 “(2) **PURPOSE.**—The purpose of the Advisory  
21          Committee shall be to make recommendations to the  
22          Administrator for use in—

23                         “(A) promulgating and revising regulations  
24                         under this part; and

1           “(B) ensuring the overall environmental in-  
2           tegrity of the programs established pursuant to  
3           those regulations.

4           “(3) COORDINATION.—The Advisory Committee  
5           may share membership with or otherwise coordinate  
6           with the Advisory Committee established under sec-  
7           tion 732, consistent with this section and section  
8           732.

9           “(b) MEMBERSHIP.—

10           “(1) IN GENERAL.—The Advisory Committee  
11           shall be comprised of at least 9 members, who shall  
12           be qualified by education, training, and experience to  
13           evaluate scientific and technical information on mat-  
14           ters referred to the Committee under this section.

15           “(2) APPOINTMENT.—The Administrator shall  
16           appoint Advisory Committee members, including a  
17           Chair and Vice-Chair of the Advisory Committee.

18           “(3) APPLICABLE PROVISIONS.—Paragraphs  
19           (2) through (7) of section 732(b) shall apply with  
20           respect to operations of the Advisory Committee.

21           “(c) ACTIVITIES.—The Advisory Committee shall—

22           “(1) not later than 180 days after the date of  
23           establishment of the Advisory Committee and peri-  
24           odically thereafter, provide recommendations to the  
25           Administrator regarding offset project types that



1 should be considered for eligibility under section  
2 754, taking into consideration relevant scientific and  
3 other issues, including—

4 “(A) the availability of a representative  
5 data set for use in developing the activity base-  
6 line;

7 “(B) the potential for accurate quantifica-  
8 tion of greenhouse gas reduction, avoidance, or  
9 sequestration for an offset project type;

10 “(C) the potential level of scientific and  
11 measurement uncertainty associated with an  
12 offset project type;

13 “(D) any beneficial or adverse environ-  
14 mental, public health, welfare, social, economic,  
15 or energy effects associated with an offset  
16 project type; and

17 “(E) the extent to which, as of the date of  
18 submission of the report, the project or activity  
19 types within each category—

20 “(i) represent business-as-usual (ab-  
21 sent funding from offset credits) practices  
22 for a relevant country, land area, industry  
23 sector, or forest, soil, or facility type; and

24 “(ii) satisfy other considerations relat-  
25 ing to additionality;

1           “(2) make available to the Administrator advice  
2           and comments on offset methodologies that should  
3           be considered under regulations promulgated pursu-  
4           ant to subsections (a) and (b) of section 755, includ-  
5           ing methodologies to address the issues of  
6           additionality, activity baselines, measurement, leak-  
7           age, uncertainty, permanence, and environmental in-  
8           tegrity in the context of international offsets;

9           “(3) make available to the Administrator, and  
10          other relevant Federal agencies, advice and com-  
11          ments regarding scientific, technical, and methodo-  
12          logical issues associated with the implementation of  
13          this part;

14          “(4)(A) make available to the Administrator ad-  
15          vice and comments on areas in which further knowl-  
16          edge is required to appraise the adequacy of exist-  
17          ing, revised, or proposed methodologies for use  
18          under this part; and

19          “(B) describe the research efforts necessary to  
20          provide the required information; and

21          “(5) make available to the Administrator advice  
22          and comments on other ways to improve or safe-  
23          guard the environmental integrity of programs es-  
24          tablished under this part.

1           “(d) SCIENTIFIC REVIEW OF INTERNATIONAL OFF-  
2 SET AND DEFORESTATION REDUCTION PROGRAMS.—For  
3 programs under this title, the Advisory Committee shall  
4 conduct a scientific review that meets the requirements of  
5 section 732(d)(2)(D).

6           “(e) POWERS AND PERSONNEL MATTERS.—

7                 “(1) IN GENERAL.—Except as provided in para-  
8 graph (2), subsections (e) and (f) of section 742  
9 shall apply to the Committee.

10               “(2) FOREIGN NATIONALS.—The Administrator  
11 may appoint 1 or more foreign nationals with rel-  
12 evant expertise to serve as full or ex officio members  
13 of the Committee.

14 **“SEC. 753. ESTABLISHMENT OF INTERNATIONAL OFFSETS**  
15 **PROGRAM.**

16           “(a) REGULATIONS.—

17                 “(1) IN GENERAL.—Not later than 2 years  
18 after the date of enactment of the American Power  
19 Act, the Administrator, in consultation with the Sec-  
20 retary of State, the Administrator of the United  
21 States Agency for International Development, and  
22 any other appropriate Federal agencies, and taking  
23 into consideration the recommendations of the Advi-  
24 sory Committee, shall promulgate regulations in ac-  
25 cordance with this part that establish a program for

1 the issuance of international offset credits under this  
2 part based on activities that reduce or avoid green-  
3 house gas emissions, or increase sequestration of  
4 greenhouse gases, in a developing country.

5 “(2) REVISION.—The Administrator shall peri-  
6 odically revise the regulations promulgated under  
7 paragraph (1) as necessary to meet the requirements  
8 of this part.

9 “(b) REQUIREMENTS.—The regulations promulgated  
10 under subsection (a) shall—

11 “(1) authorize the issuance of offset credits  
12 with respect to qualifying offset projects that result  
13 in emission reductions;

14 “(2) ensure that such offset credits represent  
15 verifiable and additional emission reductions;

16 “(3) ensure that—

17 “(A) offset credits issued for sequestration  
18 offset projects are only issued for emission re-  
19 ductions that are permanent;

20 “(B) any sequestration with respect to  
21 which an offset credit is issued under this title  
22 results in a net increase in sequestration; and

23 “(C) full and transparent account is taken  
24 of any actual or potential reversal of the se-  
25 questration, with an adequate margin of safety;

1           “(4) provide for the implementation of this  
2 part;

3           “(5) include, as emission reductions creditable  
4 under this part, reductions in greenhouse gases  
5 achieved through the destruction of methane and the  
6 conversion of methane to carbon dioxide, and reduc-  
7 tions achieved through destruction of  
8 chlorofluorocarbons or other ozone depleting sub-  
9 stances, subject to the conditions specified in section  
10 619(b)(9), based on the carbon dioxide equivalent  
11 value of the substance destroyed; and

12           “(6) establish a process to accept and respond  
13 to comments from third parties in the United States  
14 regarding programs established under this part in a  
15 timely manner.

16           “(c) AGREEMENT OR ARRANGEMENT.—The Adminis-  
17 trator may issue international offset credits only if—

18           “(1) the United States is a party to a bilateral  
19 or multilateral agreement or arrangement that in-  
20 cludes the country in which the project or measure  
21 achieving the relevant emission reduction has oc-  
22 curred;

23           “(2) the country is a developing country; and

24           “(3) the agreement or arrangement—

1           “(A) ensures that all of the requirements  
2 of this part apply to the issuance of inter-  
3 national offset credits;

4           “(B) provides for the appropriate distribu-  
5 tion of international offset credits issued; and

6           “(C) provides that the offset project rep-  
7 resentative be eligible to receive service of proc-  
8 ess in the United States for the purpose of all  
9 civil and regulatory actions in Federal courts, if  
10 such service is made in accordance with the  
11 Federal rules for service of process in the State  
12 in which the case or regulatory action is  
13 brought.

14       “(d) CATEGORIES OF INTERNATIONAL OFFSET  
15 CREDITS.—

16           “(1) IN GENERAL.—Except as provided in para-  
17 graph (2), international offset credits may be issued  
18 only if—

19           “(A) the requirements of this part are met;  
20 and

21           “(B) the offset credit is issued pursuant to  
22 subsection (a), (b), or (c) of section 756.

23       “(2) SUPPLEMENTAL INTERNATIONAL OFFSET  
24 CATEGORIES.—

1           “(A) IN GENERAL.—In order to ensure a  
2 sufficient supply of international offset credits  
3 and to reduce the cost of compliance with this  
4 title, the Administrator may establish categories  
5 of international offset projects in addition to  
6 those described in subsections (a) through (c)  
7 of section 756 if—

8                   “(i) for 2 consecutive years, the auc-  
9 tion price for allowances reaches the cost  
10 containment reserve auction price under  
11 section 726(c); and

12                   “(ii) the Administrator determines  
13 that the total quantity of international off-  
14 sets held by covered entities for each of the  
15 2 years referred to in clause (i) does not  
16 exceed the limit on international offsets es-  
17 tablished under section 722(d)(1)(B)(iii).

18           “(B) SUPPLEMENTAL CATEGORIES.—Any  
19 supplemental categories of international offsets  
20 established pursuant to subparagraph (A) shall  
21 satisfy all applicable provisions of this part, in-  
22 cluding subsection (c) of this section and sec-  
23 tions 754 and 755, and meet the following cri-  
24 teria:

1                   “(i) The country in which the activi-  
2                   ties in the offset category would take place  
3                   has developed and is implementing a low-  
4                   carbon development plan that includes pro-  
5                   visions for the activities described in the  
6                   offset category.

7                   “(ii) The activities in the offset cat-  
8                   egory are not activities included under sub-  
9                   section (a), (b), or (c) of section 756.

10                   “(iii) The activities in the offset cat-  
11                   egory satisfy specific criteria relevant to  
12                   methodologies and institutional and tech-  
13                   nical capacities associated with developing  
14                   country contexts to ensure adequate treat-  
15                   ment of leakage, additionality, and perma-  
16                   nence.

17                   “(e) COORDINATION TO MINIMIZE NEGATIVE EF-  
18                   FECTS.—In promulgating and implementing regulations  
19                   under this part, the Administrator shall act (including by  
20                   rejecting projects, if necessary) to avoid or minimize, to  
21                   the maximum extent practicable, adverse effects on human  
22                   health or the environment resulting from the implementa-  
23                   tion of offset projects under this part.

24                   **“SEC. 754. ELIGIBLE PROJECT TYPES.**

25                   “(a) LIST OF ELIGIBLE PROJECT TYPES.—



1           “(1) IN GENERAL.—As part of the regulations  
2 promulgated under section 753(a), the Adminis-  
3 trator shall establish, and may periodically revise, a  
4 list of types of projects eligible to generate offset  
5 credits in developing countries.

6           “(2) ADVISORY COMMITTEE RECOMMENDA-  
7 TIONS.—In determining the eligibility of project  
8 types, the Administrator shall—

9           “(A) take into consideration the rec-  
10 ommendations of the Advisory Committee; and

11           “(B) if a list established under this section  
12 differs from the recommendations of the Advi-  
13 sory Committee, provide an explanation for the  
14 difference.

15           “(3) INITIAL DETERMINATION.—The Adminis-  
16 trator shall establish the initial eligibility list under  
17 paragraph (1) not later than 1 year after the date  
18 of enactment of this title, including on the list  
19 project types for which there are well-developed  
20 methodologies that the Administrator determines  
21 would meet the criteria of section 755.

22           “(4) METHODOLOGIES.—In issuing methodolo-  
23 gies pursuant to section 755, the Administrator shall  
24 give priority to methodologies for offset types in-  
25 cluded on the initial eligibility list.

1 “(b) MODIFICATION OF LIST.—

2 “(1) IN GENERAL.—The Administrator, in con-  
3 sultation with appropriate Federal agencies and tak-  
4 ing into consideration the recommendations of the  
5 Advisory Committee, may at any time, by rule —

6 “(A) add a project type to the list estab-  
7 lished under subsection (a), if the Adminis-  
8 trator determines that the project type can gen-  
9 erate additional emission reductions subject to  
10 the requirements of this part; or

11 “(B) remove a project type from the list  
12 established under subsection (a), if the Admin-  
13 istrator determines that a project type on the  
14 list does not meet the requirements of this part.

15 “(2) PROPOSED MODIFICATIONS.—The Admin-  
16 istrator shall consider adding to or removing from  
17 the list established under subsection (a), at a min-  
18 imum, project types proposed to the Adminis-  
19 trator—

20 “(A) by petition pursuant to subsection  
21 (c); or

22 “(B) by the Advisory Committee.

23 “(c) PETITION PROCESS.—

24 “(1) IN GENERAL.—Any person of the United  
25 States may petition the Administrator to modify the

1 list established under subsection (a) by adding or re-  
2 moving a project type pursuant to subsection (b).

3 “(2) REQUIREMENT FOR SHOWING.—Any peti-  
4 tion under paragraph (1) shall include—

5 “(A) a showing by the petitioner that the  
6 type of project does or does not meet the re-  
7 quirements of this part; and

8 “(B) other evidence adequate to support  
9 the petition.

10 “(3) RESPONSE.—Not later than 1 year after  
11 the date of receipt of a complete petition, the Ad-  
12 ministrator shall—

13 “(A) approve or disapprove the petition;  
14 and

15 “(B) provide a written explanation of the  
16 reasons for the decision of the Administrator.

17 “(4) PROHIBITED BASIS FOR DISAPPROVAL.—  
18 The Administrator may not deny a petition under  
19 this subsection on the basis of inadequate agency re-  
20 sources or time for review.

21 **“SEC. 755. REQUIREMENTS FOR INTERNATIONAL OFFSET**  
22 **PROJECTS.**

23 “(a) METHODOLOGIES.—As part of the regulations  
24 promulgated under section 753(a), the Administrator shall

1 establish, for each type of offset project listed as eligible  
2 under section 754—

3           “(1) a standardized methodology for use in de-  
4 termining the additionality of emission reductions  
5 achieved by an offset project of that type that en-  
6 sures, at a minimum, that any emission reduction is  
7 considered additional only to the extent that the re-  
8 duction results from activities that—

9           “(A) are not required by or undertaken to  
10 comply with any law (including any regulation,  
11 consent order, or consent agreement, but ex-  
12 cluding any contract);

13           “(B) were not commenced prior to Janu-  
14 ary 1, 2009, except in the case of offset project  
15 activities that commenced after January 1,  
16 2001, and were registered as of the date of en-  
17 actment of this title under an offset program  
18 with respect to which the Administrator has  
19 made an affirmative determination under sec-  
20 tion 740(b)(2);

21           “(C) are not receiving support under this  
22 Act; and

23           “(D) exceed the activity baseline estab-  
24 lished under paragraph (2);

1           “(2) a standardized methodology for estab-  
2           lishing activity baselines for offset projects of that  
3           type, including an activity baseline established by  
4           the Administrator to reflect a conservative estimate  
5           of business-as-usual performance or practices for the  
6           relevant type of activity such that the baseline pro-  
7           vides an adequate margin of safety to ensure the en-  
8           vironmental integrity of offsets calculated in ref-  
9           erence to the baseline;

10           “(3) a standardized methodology for use in de-  
11           termining the extent to which emission reductions  
12           achieved by an offset project of that type exceed a  
13           relevant activity baseline, including protocols for  
14           monitoring and accounting for uncertainty; and

15           “(4) a standardized methodology for use in ac-  
16           counting for and mitigating potential leakage, if any,  
17           from an offset project of that type, taking uncer-  
18           tainty into account.

19           “(b) ACCOUNTING FOR REVERSALS.—

20           “(1) REGULATIONS.—As part of the regulations  
21           promulgated under section 753(a), for each type of  
22           sequestration project listed under section 754, the  
23           Administrator shall establish requirements to ac-  
24           count for and address reversals, including—

1           “(A) a requirement to report any reversal  
2 with respect to an offset project for which offset  
3 credits have been issued under this part;

4           “(B) provisions to require emission allow-  
5 ances or offset credits to be held in quantities  
6 to fully compensate for greenhouse gas emis-  
7 sions attributable to reversals, and to assign re-  
8 sponsibility for holding the emission allowances  
9 or offset credits;

10           “(C) provisions to discourage repeated in-  
11 tentional reversals by offset project representa-  
12 tives, including the assessment of administra-  
13 tive fees, temporary suspension, or disqualifica-  
14 tion of an offset project representative from the  
15 program; and

16           “(D) any other provisions the Adminis-  
17 trator determines to be necessary to account for  
18 and address reversals.

19           “(2) MECHANISMS.—

20           “(A) IN GENERAL.—The Administrator  
21 shall prescribe mechanisms to ensure that—

22           “(i) any sequestration with respect to  
23 which an offset credit is issued under this  
24 part results in a net increase in sequestra-  
25 tion (ensuring the offset credit is equiva-

1 lent to an emission allowance in terms of  
2 atmospheric impact over time); and

3 “(ii) full account is taken of any ac-  
4 tual or potential reversal of such seques-  
5 tration, with an adequate margin of safety.

6 “(B) REQUIREMENTS.—The Administrator  
7 shall prescribe at least 1 of the following mech-  
8 anisms to meet the requirements of this para-  
9 graph:

10 “(i) An offsets reserve, pursuant to  
11 section 734(b)(2) (but not subject to sec-  
12 tion 734(b)(2)(B)(iii)(III)).

13 “(ii) Insurance that provides for pur-  
14 chase and provision to the Administrator  
15 for retirement of a quantity of offset cred-  
16 its or emission allowances equal in number  
17 to the tons of carbon dioxide equivalents of  
18 greenhouse gas emissions released due to  
19 reversal.

20 “(iii) Another mechanism that the Ad-  
21 ministrator determines satisfies the re-  
22 quirements of this part.

23 “(c) CREDITING PERIODS.—As part of the regula-  
24 tions promulgated under section 753(a), for each offset  
25 project type, the Administrator shall specify a crediting

1 period, and establish provisions for petitions for new cred-  
2 iting periods, as provided in section 734(c), except that—

3 “(1) the crediting period for a forestry offset  
4 project shall not exceed 20 years; and

5 “(2) the Administrator shall make the petition  
6 available publicly on the Internet prior to granting  
7 a petition for a new crediting period.

8 “(d) EMISSION REDUCTION INTEGRITY AND PRE-  
9 EXISTING METHODOLOGIES.—In establishing the require-  
10 ments under this section, the Administrator shall meet the  
11 requirements of subsections (d), (e), and (g) of section  
12 735.

13 “(e) ADDED PROJECT TYPES.—The Administrator  
14 shall establish methodologies described in subsection (a),  
15 and, as applicable, requirements and mechanisms for re-  
16 versals as described in subsection (b), for any project type  
17 that is added to the list pursuant to section 754.

18 “(f) MODIFICATION OF REQUIREMENTS.—In promul-  
19 gating regulations under section 753(a) governing the  
20 issuance of international offset credits pursuant to section  
21 756, the Administrator, in consultation with the Secretary  
22 of State and the Administrator of the United States Agen-  
23 cy for International Development, may modify or omit a  
24 requirement of section 754, 755, or 757 if the Adminis-  
25 trator determines that—



1           “(1) the application of that requirement in the  
2           context of 1 of the categories listed under section  
3           756 is not feasible; or would result in the creation  
4           of offset credits that would not be eligible to satisfy  
5           emission reduction commitments made by the United  
6           States pursuant to the United Nations Framework  
7           Convention on Climate Change, done at New York  
8           on May 9, 1992 (or any successor agreement); and

9           “(2) such modification or omission would not  
10          affect, as determined by the Administrator with an  
11          adequate margin of safety, the integrity of inter-  
12          national offset credits and of the greenhouse gas  
13          emission limitations established pursuant to section  
14          703.

15          “(g) AVOIDING DOUBLE COUNTING.—The Adminis-  
16          trator, in consultation with the Secretary of State, shall  
17          seek, by whatever means appropriate, including agree-  
18          ments, arrangements, or technical cooperation, to ensure  
19          that activities on the basis of which international offset  
20          credits are issued under this section are not used for com-  
21          pliance with an obligation to reduce or avoid greenhouse  
22          gas emissions, or increase greenhouse gas sequestration,  
23          under a foreign or international regulatory system.

1           “(h) LIMITATION.—The Administrator shall not issue  
2 international offset credits generated by projects based on  
3 the destruction of hydrofluorocarbons.

4   **“SEC. 756. CATEGORIES OF INTERNATIONAL OFFSET CRED-**  
5                           **ITS.**

6           “(a) SECTOR-BASED CREDITS.—

7                   “(1) DEFINITION OF SECTORAL BASIS.—

8                           “(A) IN GENERAL.—In this subsection, the  
9 term ‘sectoral basis’ means the issuance of  
10 international offset credits only for the quantity  
11 of sector-wide emission reductions achieved  
12 across the relevant sector or sectors of the econ-  
13 omy relative to a baseline level of emissions es-  
14 tablished in an agreement or arrangement de-  
15 scribed in section 753(c) for the sector.

16                           “(B) BASELINE.—The baseline level of  
17 emissions for a sector referred to in subpara-  
18 graph (A) shall—

19                                   “(i) be established at levels of green-  
20 house gas emissions lower than would  
21 occur under a business-as-usual scenario,  
22 taking into account relevant domestic or  
23 international policies or incentives to re-  
24 duce greenhouse gas emissions;

1                   “(ii) be used to determine  
2                   additionality and performance;

3                   “(iii) account for all significant  
4                   sources of emissions from a sector;

5                   “(iv) be adjusted over time to reflect  
6                   changing circumstances;

7                   “(v) be developed taking into consid-  
8                   eration such factors as—

9                               “(I) any established emission  
10                              performance level for the sector;

11                             “(II) the current performance of  
12                             the sector in the country;

13                             “(III) expected future trends of  
14                             the sector in the country; and

15                             “(IV) historical data and other  
16                             factors to ensure additionality; and

17                             “(vi) be designed to produce signifi-  
18                             cant deviations from business-as-usual  
19                             emissions, consistent with nationally appro-  
20                             priate mitigation commitments or actions,  
21                             in a way that equitably contributes to  
22                             meeting thresholds identified in section  
23                             705(e)(2).

24                             “(2) ACTION BY ADMINISTRATOR.—To mini-  
25                             mize the potential for leakage and to encourage

1 countries to take nationally appropriate mitigation  
2 actions to reduce or avoid greenhouse gas emissions,  
3 or sequester greenhouse gases, the Administrator, in  
4 consultation with the Secretary of State and the Ad-  
5 ministrator of the United States Agency for Inter-  
6 national Development, shall—

7 “(A) identify sectors, or combinations of  
8 sectors, within specific countries with respect to  
9 which the issuance of international offset cred-  
10 its on a sectoral basis is appropriate; and

11 “(B) issue international offset credits for  
12 those sectors only on a sectoral basis.

13 “(3) IDENTIFICATION OF SECTORS.—

14 “(A) IN GENERAL.—For purposes of para-  
15 graph (2)(A), a sectoral basis shall be appro-  
16 priate for activities—

17 “(i) in countries that have compara-  
18 tively high greenhouse gas emissions, or  
19 comparatively greater levels of economic  
20 development; and

21 “(ii) that, if located in the United  
22 States, would be within a sector subject to  
23 the compliance obligation under section  
24 722.

1           “(B) FACTORS.—In determining the sec-  
2           tors and countries for which international offset  
3           credits should be awarded only on a sectoral  
4           basis, the Administrator, in consultation with  
5           the Secretary of State and the Administrator of  
6           the United States Agency for International De-  
7           velopment, shall consider the following factors:

8                   “(i) The gross domestic product of the  
9                   country.

10                   “(ii) The total greenhouse gas emis-  
11                   sions of the country.

12                   “(iii) Whether the comparable sector  
13                   of the United States economy is covered by  
14                   the compliance obligation under section  
15                   722.

16                   “(iv) The heterogeneity or homo-  
17                   geneity of sources within the relevant sec-  
18                   tor.

19                   “(v) Whether the relevant sector pro-  
20                   vides products or services that are sold in  
21                   internationally competitive markets.

22                   “(vi) The risk of leakage if inter-  
23                   national offset credits were issued on a  
24                   project-level basis, instead of on a sectoral

1 basis, for activities within the relevant sec-  
2 tor.

3 “(vii) The capability of accurately  
4 measuring, monitoring, reporting, and  
5 verifying the performance of sources across  
6 the relevant sector.

7 “(viii) Such other factors as the Ad-  
8 ministrator, in consultation with the Sec-  
9 retary of State and the Administrator of  
10 the United States Agency for International  
11 Development, determines are appro-  
12 priate—

13 “(I) to ensure the integrity of the  
14 United States greenhouse gas emis-  
15 sion limitations established under sec-  
16 tion 703; and

17 “(II) to encourage countries to  
18 take nationally appropriate mitigation  
19 actions to reduce emissions.

20 “(ix) The issuance of offsets for ac-  
21 tivities that are—

22 “(I) in addition to nationally ap-  
23 propriate mitigation actions taken by  
24 developing countries pursuant to the

1 low-carbon development plans of the  
2 countries; and

3 “(II) on a sectoral basis.

4 “(b) CREDITS ISSUED BY AN INTERNATIONAL  
5 BODY.—

6 “(1) ISSUANCE OF CREDITS.—

7 “(A) IN GENERAL.—The Administrator, in  
8 consultation with the Secretary of State, may  
9 issue international offset credits in exchange for  
10 instruments in the nature of offset credits that  
11 are issued by an international body established  
12 pursuant to—

13 “(i) the United Nations Framework  
14 Convention on Climate Change, done at  
15 New York on May 9, 1992;

16 “(ii) a protocol to that Convention; or

17 “(iii) an agreement that succeeds that  
18 Convention.

19 “(B) CONDITIONS FOR ISSUANCE.—The  
20 Administrator may issue international offset  
21 credits under this subsection only if, in addition  
22 to meeting the requirements of sections 753  
23 and 755, the Administrator has determined  
24 that the international body that issued the in-  
25 struments has implemented substantive and

1 procedural requirements for the relevant project  
2 type that provide equal or greater assurance of  
3 the integrity of the instruments as is provided  
4 by this part.

5 “(C) PROHIBITION ON ISSUANCE.—Begin-  
6 ning on January 1, 2016, the Administrator  
7 shall issue no offset credit pursuant to this sub-  
8 section if the activity generating the emission  
9 reductions occurs in a country and sector iden-  
10 tified by the Administrator under subsection  
11 (a), unless the instrument issued by the inter-  
12 national body is consistent with subsection (a).

13 “(2) RETIREMENT.—The Administrator, in  
14 consultation with the Secretary of State, shall seek,  
15 by whatever means appropriate, including agree-  
16 ments, arrangements, or technical cooperation with  
17 the international issuing body described in para-  
18 graph (1), to ensure that the body—

19 “(A) is notified of the issuance by the Ad-  
20 ministrator, under this subsection, of an inter-  
21 national offset credit in exchange for an instru-  
22 ment issued by the international body; and

23 “(B) provides, to the maximum extent  
24 practicable, for the disqualification of the in-  
25 strument issued by the international body for



1           subsequent use under any relevant foreign or  
2           international greenhouse gas regulatory pro-  
3           gram, regardless of whether the use is a sale,  
4           exchange, or submission to satisfy a compliance  
5           obligation.

6           “(c) OFFSETS FROM REDUCED DEFORESTATION.—

7           “(1) REQUIREMENTS.—The Administrator, in  
8           accordance with the regulations promulgated under  
9           section 753(a) and an agreement or arrangement de-  
10          scribed in section 753(c), shall issue international  
11          offset credits for greenhouse gas emission reductions  
12          achieved through activities to reduce deforestation  
13          only if, in addition to the requirements of this  
14          part—

15                 “(A) the activity occurs in—

16                         “(i) a country listed by the Adminis-  
17                         trator pursuant to paragraph (2); or

18                         “(ii) a state or province listed by the  
19                         Administrator pursuant to paragraph (5);

20                 “(B) the quantity of the offset credits is  
21                 determined by comparing the national emissions  
22                 from deforestation relative to a national defor-  
23                 estation baseline for that country established, in  
24                 accordance with an agreement or arrangement

1 described in section 753(c), pursuant to para-  
2 graph (4);

3 “(C) the reduction in emissions from de-  
4 forestation has occurred before the issuance of  
5 the international offset credit and, taking into  
6 consideration relevant international standards,  
7 has been demonstrated using ground-based in-  
8 ventories, remote sensing technology, and other  
9 methodologies to ensure that all relevant carbon  
10 stocks are accounted;

11 “(D) the Administrator has made appro-  
12 priate adjustments, such as discounting for any  
13 additional uncertainty, to account for cir-  
14 cumstances specific to the country, including  
15 the technical capacity of the country described  
16 in paragraph (2)(A);

17 “(E) the Administrator has determined  
18 that the country within which the activity oc-  
19 curs has in place a publicly available strategic  
20 plan that includes the criteria listed in para-  
21 graph (2)(C);

22 “(F) the activity is designed, carried out,  
23 and managed—

24 “(i) in accordance with forest manage-  
25 ment practices that—

1                   “(I) improve the livelihoods of  
2 forest communities;

3                   “(II) maintain the natural bio-  
4 diversity, resilience, and carbon stor-  
5 age capacity of forests; and

6                   “(III) do not adversely impact  
7 the permanence of forest carbon  
8 stocks or emission reductions;

9                   “(ii) to promote or restore native for-  
10 est species and ecosystems, to the extent  
11 practicable, and to avoid the introduction  
12 of invasive nonnative species;

13                   “(iii) in a manner that gives due re-  
14 gard to the rights and interests of local  
15 communities, indigenous peoples, forest-de-  
16 pendent communities, and vulnerable social  
17 groups;

18                   “(iv) in consultation with, and with  
19 full participation of, local communities, in-  
20 digenous peoples, and forest-dependent  
21 communities, in affected areas, as partners  
22 and primary stakeholders, prior to and  
23 during the design, planning, implementa-  
24 tion, and monitoring and evaluation of ac-  
25 tivities;

1           “(v) with transparent and equitable  
2           sharing of profits and benefits derived  
3           from offset credits with local communities,  
4           indigenous peoples, and forest-dependent  
5           communities;

6           “(vi) with full transparency, third-  
7           party independent oversight, and public  
8           dissemination of related financial and con-  
9           tractual arrangements; and

10          “(vii) so that the social and environ-  
11          mental impacts of those activities are mon-  
12          itored and reported in sufficient detail to  
13          allow appropriate officials to determine  
14          compliance with the requirements of this  
15          section;

16          “(G) the reduction otherwise satisfies and  
17          is consistent with any relevant requirements es-  
18          tablished by an agreement reached under the  
19          auspices of the United Nations Framework  
20          Convention on Climate Change, done at New  
21          York on May 9, 1992; and

22          “(H) in quantifying offsets by comparing  
23          the national emissions from deforestation rel-  
24          ative to a national- or state-level deforestation  
25          baseline as provided in paragraph (4) or (5)—

1                   “(i) a list of activities to reduce defor-  
2                   estation is provided to the Administrator  
3                   and made publicly available;

4                   “(ii) the social and environmental im-  
5                   pacts of those activities are monitored and  
6                   reported in sufficient detail to allow the  
7                   Administrator to determine compliance  
8                   with the requirements of this section; and

9                   “(iii) the distribution of revenues for  
10                  activities to reduce deforestation is trans-  
11                  parent, subject to independent third-party  
12                  oversight, and publicly disseminated.

13                  “(2) ELIGIBLE COUNTRIES.—The Adminis-  
14                  trator, in consultation with the Secretary of State  
15                  and the Administrator of the United States Agency  
16                  for International Development, and in accordance  
17                  with an agreement or arrangement described in sec-  
18                  tion 753(c), shall establish, and periodically review  
19                  and update, a list of the developing countries that  
20                  have the capacity to participate in deforestation and  
21                  forest degradation reduction activities, and enhanced  
22                  forest sequestration, at a national level, including—

23                  “(A) the technical capacity to monitor,  
24                  measure, report, and verify forest carbon fluxes  
25                  for all significant sources of greenhouse gas

1 emissions from deforestation and forest deg-  
2 radation, and emission reductions from enhanc-  
3 ing forest sequestration, with an acceptable  
4 level of uncertainty, as determined taking into  
5 account relevant internationally accepted meth-  
6 odologies, particularly those established by the  
7 Intergovernmental Panel on Climate Change;

8 “(B) the institutional capacity to reduce  
9 emissions from deforestation and forest deg-  
10 radation, and enhance forest sequestration, in-  
11 cluding strong forest governance and mecha-  
12 nisms to ensure transparency and third-party  
13 independent oversight of offset activities and  
14 revenues, and the transparent and equitable  
15 distribution of offset revenues for local actions;  
16 and

17 “(C) a land use or forest sector strategic  
18 plan that—

19 “(i) assesses national and local causes  
20 of deforestation and forest degradation and  
21 identifies reforms to national policies need-  
22 ed to address those causes;

23 “(ii) estimates the emissions of the  
24 country resulting from deforestation and  
25 forest degradation;

1           “(iii) identifies improvements in and a  
2           timeline for data collection, monitoring,  
3           and institutional capacity necessary to im-  
4           plement an effective national deforestation  
5           reduction program that meets the criteria  
6           described in this section (including a na-  
7           tional deforestation baseline);

8           “(iv) establishes a timeline for imple-  
9           menting the program and transitioning  
10          forest-based economies to low-emission de-  
11          velopment pathways with respect to emis-  
12          sions from forest and land use activities;

13          “(v) includes a national policy for con-  
14          sultations with, and full participation of,  
15          all stakeholders, especially indigenous and  
16          forest-dependent communities, in the de-  
17          sign, planning, and implementation of ac-  
18          tivities, whether at the national or local  
19          level, to reduce deforestation in the country  
20          (including a national process for address-  
21          ing grievances if stakeholders have been  
22          caused social, environmental, or economic  
23          harm);

24          “(vi) provides for the distribution of  
25          revenues for activities to reduce deforest-

1                   ation transparently and publicly, subject to  
2                   independent third-party oversight; and

3                   “(vii) includes a national platform or  
4                   a type of registry for information relating  
5                   to deforestation and degradation policy and  
6                   program implementation processes, includ-  
7                   ing a mechanism for the monitoring and  
8                   reporting of the social and environmental  
9                   impacts of those activities.

10                  “(3) PROTECTION OF INTERESTS.—With re-  
11                  spect to an agreement or arrangement described in  
12                  section 753(c) with a country that addresses offset  
13                  credits issued pursuant to this subsection, the Ad-  
14                  ministrator, in consultation with the Secretary of  
15                  State and the Administrator of the United States  
16                  Agency for International Development, shall under-  
17                  take due diligence to ensure the establishment and  
18                  enforcement by the country of legal regimes, proc-  
19                  esses, standards, and safeguards that—

20                         “(A) give due regard to the rights and in-  
21                         terests of local communities, indigenous peoples,  
22                         forest-dependent communities, and vulnerable  
23                         social groups;

24                         “(B) promote consultations with, and full  
25                         participation of, forest-dependent communities



1 and indigenous peoples in affected areas, as  
2 partners and primary stakeholders, prior to and  
3 during the design, planning, implementation,  
4 and monitoring and evaluation of activities; and

5 “(C) encourage transparent and equitable  
6 sharing of profits and benefits derived from  
7 international offset credits with local commu-  
8 nities, indigenous peoples, and forest-dependent  
9 communities.

10 “(4) NATIONAL DEFORESTATION BASELINE.—A  
11 national deforestation baseline established under this  
12 subsection shall—

13 “(A) be national in scope;

14 “(B) be consistent with nationally appro-  
15 priate mitigation commitments or actions with  
16 respect to deforestation, taking into consider-  
17 ation the average annual historical deforestation  
18 rates of the country during a period of at least  
19 5 years, the applicable drivers of deforestation,  
20 and other factors to ensure that only reductions  
21 that are in addition to those commitments or  
22 actions will generate offsets;

23 “(C) establish a trajectory that would re-  
24 sult in zero-net-deforestation by not later than  
25 20 years after the date on which a national de-

1 forestation baseline has been established, in-  
2 cluding a spatially explicit land use plan that  
3 identifies intact and primary forest areas and  
4 managed forest areas that are to remain while  
5 the country is reaching the zero-net-deforest-  
6 ation trajectory;

7 “(D) be adjusted over time to take into ac-  
8 count changing national circumstances; and

9 “(E) be designed to account for all signifi-  
10 cant sources of greenhouse gas emissions from  
11 deforestation in the country.

12 “(5) STATE-LEVEL OR PROVINCE-LEVEL AC-  
13 TIVITIES.—

14 “(A) ELIGIBLE STATES AND PROVINCES.—

15 The Administrator, in consultation with the  
16 Secretary of State and the Administrator of the  
17 United States Agency for International Devel-  
18 opment, shall establish, and periodically review  
19 and update, a list of states or provinces in de-  
20 veloping countries in which—

21 “(i) the state or province is under-  
22 taking deforestation reduction activities;

23 “(ii) the state or province has the ca-  
24 pacity to engage in deforestation reduction

1 activities at the state or province level, in-  
2 cluding—

3 “(I) the technical capacity to  
4 monitor and measure forest carbon  
5 fluxes for all significant sources of  
6 greenhouse gas emissions from defor-  
7 estation with an acceptable level of  
8 uncertainty, including a spatially ex-  
9 plicit land use plan that identifies in-  
10 tact and primary forest areas and  
11 managed forest areas that are to re-  
12 main while the country is reaching the  
13 zero net deforestation trajectory; and

14 “(II) the institutional capacity to  
15 reduce emissions from deforestation,  
16 including strong forest governance  
17 and mechanisms to deliver forest con-  
18 servation resources for local actions;

19 “(iii) the state and province meets the  
20 eligibility criteria described in paragraphs  
21 (2) and (3) for the geographical area  
22 under the jurisdiction of the state or prov-  
23 ince; and

24 “(iv) the country—



1           “(i) be consistent with any existing  
2           nationally appropriate mitigation commit-  
3           ments or actions with respect to deforest-  
4           ation, taking into consideration the average  
5           annual historical deforestation rates of the  
6           state or province during a period of at  
7           least 5 years, the applicable drivers of de-  
8           forestation, and other factors to ensure  
9           that only reductions that are in addition to  
10          those commitments or actions will generate  
11          offsets;

12          “(ii) establish a trajectory that would  
13          result in zero-net-deforestation by not later  
14          than 20 years after the date on which a  
15          state- or province-level deforestation base-  
16          line has been established, including a spa-  
17          tially explicit land use plan that identifies  
18          intact and primary forest areas and man-  
19          aged forest areas that are to remain while  
20          the country is reaching the zero-net-defor-  
21          estation trajectory;

22          “(iii) be adjusted over time to take  
23          into account changing state or province  
24          circumstances; and

1                   “(iv) be designed to account for all  
2                   significant sources of greenhouse gas emis-  
3                   sions from deforestation in the country.

4                   “(D) PHASE OUT.—Beginning 5 years  
5                   after the first calendar year for which a covered  
6                   entity must demonstrate compliance with sec-  
7                   tion 722(a), the Administrator shall issue no  
8                   further international offset credits for eligible  
9                   state- or province-level activities to reduce de-  
10                  forestation pursuant to this paragraph.

11                  “(6) OFFSET CREDIT ISSUANCE.—Require-  
12                  ments under this subsection to issue offset credits  
13                  only if the quantity of the offset credits is deter-  
14                  mined by reference to a national deforestation base-  
15                  line do not preclude the Administrator from issuing  
16                  a portion of the total quantity of those credits di-  
17                  rectly to an offset project representative for use in  
18                  carrying out activities in accordance with this sec-  
19                  tion that contributed to a reduction in emissions, if  
20                  that issuance is authorized by the agreement or ar-  
21                  rangement described in section 753(c).

22                  “(7) EXPANSION OF SCOPE.—In implementing  
23                  this subsection, the Administrator, taking into con-  
24                  sideration the recommendations of the Advisory  
25                  Committee, may expand the scope of creditable ac-

1           activities to include activities that reduce emissions  
2           from land use, such as those that address forest deg-  
3           radation or soil carbon losses associated with for-  
4           ested wetlands or peatlands.

5   **“SEC. 757. APPROVAL OF OFFSET PROJECTS.**

6           “(a) IN GENERAL.—As part of the regulations pro-  
7           mulgated under section 753, the Administrator shall in-  
8           clude provisions for the approval of offset projects in ac-  
9           cordance with the terms and conditions of subsections (a),  
10          (b), (c), and (e) of section 746, as modified by the require-  
11          ments of this section, for approval of offset projects under  
12          this part:

13          “(b) PETITION.—An offset project approval petition  
14          under this part shall—

15                  “(1) be signed by a responsible official to cer-  
16                  tify the accuracy of the information submitted; and

17                  “(2) designate a party who is authorized to pro-  
18                  vide access to the appropriate officials or an author-  
19                  ized representative to the offset project.

20          “(c) ACTION BY ADMINISTRATOR.—If the Adminis-  
21          trator determines that an offset project approval petition  
22          is complete, the Administrator shall—

23                  “(1) make the approval petition publicly avail-  
24                  able on the Internet; and

1           “(2) not later than 90 days after receiving a  
2 complete approval petition—

3           “(A) approve or deny the petition in writ-  
4 ing; and

5           “(B) if the petition is denied, provide the  
6 reasons for the denial and make the decision of  
7 the Administrator publicly available on the  
8 Internet.

9 **“SEC. 758. VERIFICATION OF OFFSET PROJECTS.**

10       “(a) VERIFICATION.—

11           “(1) IN GENERAL.—As part of the regulations  
12 promulgated under section 753(a) and pursuant to  
13 section 737 and this section, the Administrator shall  
14 establish requirements, including protocols, for  
15 verification of the quantity of greenhouse gas emis-  
16 sion reductions resulting from an offset project.

17           “(2) REFERENCES.—In applying section 737 to  
18 this part, references to section 735 shall be deemed  
19 to refer to section 755.

20       “(b) TRANSPARENCY.—Not later than 90 days after  
21 receiving a complete verification report for an offset  
22 project under this part, the Administrator shall—

23           “(1) make the report publicly available on the  
24 Internet;



1           “(2) make a determination of the quantity of  
2           emission reductions resulting from an offset project  
3           approved under section 756; and

4           “(3) notify the offset project representative in  
5           writing of the determination and make the deter-  
6           mination publicly available on the Internet.

7           “(c) REVOCATION.—The regulations concerning ac-  
8           creditation of third-party verifiers required under sub-  
9           section (a) shall establish a process by which the Adminis-  
10          trator may revoke the accreditation of any third-party  
11          verifier—

12           “(1) that the Administrator determines fails to  
13           maintain professional qualifications or to avoid a  
14           conflict of interest; or

15           “(2) for other good cause.

16          **“SEC. 759. ISSUANCE OF OFFSET CREDITS.**

17           “The Administrator shall issue offset credits for off-  
18          set projects under this part pursuant to section 738.

19          **“SEC. 760. AUDITS.**

20           “(a) IN GENERAL.—The Administrator shall conduct  
21          audits of activities under this part pursuant to the terms  
22          and conditions of subsections (a), (b), and (c) of section  
23          739.

24           “(b) AUDIT REQUIREMENTS.—

1           “(1) IN GENERAL.—As part of the regulations  
2           promulgated under section 753(a), the Adminis-  
3           trator shall establish requirements and protocols for  
4           an auditing program concerning project representa-  
5           tives, third party verifiers, and reports submitted by  
6           those persons, including offset project approval peti-  
7           tions and verification reports.

8           “(2) REQUIREMENTS.—Regulations promul-  
9           gated under paragraph (1) shall include—

10                   “(A) requirements to audit the components  
11                   of the offset project, which shall be evaluated  
12                   against the offset approval petition and the  
13                   verification report;

14                   “(B) specifications for the minimum expe-  
15                   rience or training of the auditors;

16                   “(C) the form in which reports shall be  
17                   completed; and

18                   “(D) any other information that the Ad-  
19                   ministrators considers to be necessary to achieve  
20                   the purposes of this Act.

21   **“SEC. 761. PROGRAM REVIEW AND REVISION.**

22           “‘At least once every 5 years, the Administrator shall  
23           review and, based on new or updated information and tak-  
24           ing into consideration the recommendations of the Advi-  
25           sory Committee, update and revise—

1           “(1) the list of eligible project types established  
2           under section 754;

3           “(2) the methodologies established, including  
4           specific activity baselines, under section 755(a);

5           “(3) the reversal requirements and mechanisms  
6           established or prescribed under section 755(b);

7           “(4) measures to improve the accountability of  
8           the offsets program; and

9           “(5) any other requirements established under  
10          this part to ensure the environmental integrity and  
11          effective operation of this part.

12   **“SEC. 762. ENVIRONMENTAL CONSIDERATIONS.**

13          “If the Administrator lists forestry or other relevant  
14          land management-related offset projects as eligible inter-  
15          national offset project types under section 754, the Ad-  
16          ministrator, in consultation with appropriate Federal  
17          agencies, shall promulgate regulations to establish criteria  
18          for those offset projects—

19               “(1) to ensure that native species are given pri-  
20               mary consideration in the projects;

21               “(2) to enhance biological diversity in the  
22               projects;

23               “(3) to prohibit the use of invasive plants or  
24               noxious weeds as designated by an appropriate au-

1       thority with respect to the location of the offset  
2       project;

3             “(4) in the case of forestry offset projects, in  
4       accordance with widely accepted, environmentally  
5       sustainable forestry practices;

6             “(5) to ensure that the offset project area was  
7       not converted from native ecosystems, such as a for-  
8       est, grassland, scrubland, or wetland, to generate  
9       offsets, unless such a conversion took place at  
10      least 10 years prior to the earlier of—

11             “(A) the date of enactment of this title; or

12             “(B) January 1, 2009; and

13             “(6) to the maximum extent practicable, to en-  
14      sure that the use of offset credits would be eligible  
15      to satisfy emission reduction commitments made by  
16      the United States in multilateral agreements, such  
17      as the United Nations Framework Convention on  
18      Climate Change, done at New York on May 9, 1992  
19      (or any successor agreement).

20   **“SEC. 763. INCORPORATION BY REFERENCE.**

21             “To the extent that requirements of part D are incor-  
22      porated by reference into this part, a reference to the ‘Sec-  
23      retary’, ‘Secretary and Administrator’, ‘Administrator and  
24      Secretary’, ‘appropriate official’, or ‘appropriate officials’

1 in part D shall be deemed to refer to the ‘Administrator’  
2 for purposes of this part.”.

3 **SEC. 2002. DEFINITIONS.**

4 (a) IN GENERAL.—Title VII of the Clean Air Act (as  
5 added by section 2001) is amended by inserting before  
6 part A the following:

7 **“SEC. 700. DEFINITIONS.**

8 “In this title:

9 “(1) ADDITIONAL.—The term ‘additional’,  
10 when used with respect to the use of offsets to re-  
11 duce or avoid greenhouse gas emissions or to seques-  
12 ter greenhouse gases, means any reduction, avoid-  
13 ance, or sequestration that result in a lower level of  
14 net greenhouse gas emissions or atmospheric con-  
15 centrations than would occur in the absence of an  
16 offset credit.

17 “(2) ADDITIONALITY.—The term ‘additionality’  
18 means the extent to which reductions or avoidance  
19 of greenhouse gas emissions, or sequestration of  
20 greenhouse gases, are additional.

21 “(3) AFFILIATED.—The term ‘affiliated’—

22 “(A) when used in relation to an entity,  
23 means that the entity is owned or controlled by,  
24 or under common ownership or control with,

1 another entity, as determined by the Adminis-  
2 trator; and

3 “(B) when used in relation to a natural  
4 gas local distribution company, means that the  
5 natural gas local distribution company is owned  
6 or controlled by, or under common ownership or  
7 control with, another natural gas local distribu-  
8 tion company, as determined by the Adminis-  
9 trator.

10 “(4) ALLOWANCE.—

11 “(A) IN GENERAL.—The term ‘allowance’  
12 means a limited authorization to emit, or have  
13 attributable greenhouse gas emissions in a  
14 quantity of, 1 ton of carbon dioxide equivalent  
15 of a greenhouse gas in accordance with this  
16 title.

17 “(B) INCLUSIONS.—The term ‘allowance’  
18 includes—

19 “(i) an emission allowance;

20 “(ii) a compensatory allowance; or

21 “(iii) an international emission allow-  
22 ance (other than an international reserve  
23 allowance established under section 777).

1           “(5) ATTRIBUTABLE GREENHOUSE GAS EMIS-  
2           SIONS.—The term ‘attributable greenhouse gas emis-  
3           sions’ means—

4                   “(A) for a covered entity that is a refined  
5           product provider described in paragraph  
6           (12)(B), greenhouse gases that would be emit-  
7           ted from the combustion of any refined product  
8           for which the covered entity is responsible dur-  
9           ing that calendar year, assuming no capture  
10          and sequestration of any greenhouse gas emis-  
11          sions;

12                   “(B) for a covered entity that is an indus-  
13          trial gas producer or importer described in  
14          paragraph (12)(C), the tons of carbon dioxide  
15          equivalent of any gas described in clauses (i)  
16          through (vi) of paragraph (12)(C)—

17                           “(i) produced or imported by the cov-  
18          ered entity during the previous calendar  
19          year for sale or distribution in commerce;  
20          or

21                           “(ii) released as fugitive emissions in  
22          the production of fluorinated gas; and

23                   “(C) for a natural gas local distribution  
24          company described in paragraph (12)(J), green-  
25          house gases that would be emitted from the

1 combustion of the natural gas, and any other  
2 gas meeting the specifications for commingling  
3 with natural gas for purposes of delivery, that  
4 the entity delivered during the calendar year to  
5 customers that are not covered entities, assum-  
6 ing no capture and sequestration of that green-  
7 house gas.

8 “(6) BIOLOGICAL SEQUESTRATION; BIO-  
9 LOGICALLY SEQUESTERED.—The terms ‘biological  
10 sequestration’ and ‘biologically sequestered’ mean  
11 the removal of greenhouse gases from the atmos-  
12 phere by terrestrial biological means, such as by  
13 growing plants, and the storage of those greenhouse  
14 gases in plants or soils.

15 “(7) CAPPED EMISSIONS.—The term ‘capped  
16 emissions’ means greenhouse gas emissions to which  
17 section 722 applies, including attributable green-  
18 house gas emissions.

19 “(8) CAPPED SOURCE.—The term ‘capped  
20 source’ means a source that directly emits capped  
21 emissions.

22 “(9) CARBON DIOXIDE EQUIVALENT.—The  
23 term ‘carbon dioxide equivalent’ means the unit of  
24 measure of greenhouse gases as provided under sec-



1       tion 711 or 712, which shall be expressed in metric  
2       tons unless concentrations are expressly referenced.

3           “(10) CARBON STOCK.—The term ‘carbon  
4       stock’ means the quantity of carbon contained in a  
5       biological reservoir or system that has the capacity  
6       to accumulate or release carbon.

7           “(11) COST CONTAINMENT RESERVE ALLOW-  
8       ANCE.—The term ‘Cost Containment Reserve allow-  
9       ance’ means an emission allowance reserved for,  
10      transferred to, or deposited in the Cost Containment  
11      Reserve, or established, under section 726.

12          “(12) COVERED ENTITY.—The term ‘covered  
13      entity’ means each of the following:

14           “(A) Any electricity source.

15           “(B) Any refined product provider.

16           “(C) Any stationary source that produces,  
17      and any entity that (or any group of 2 or more  
18      affiliated entities that, in the aggregate) im-  
19      ports, for sale or distribution in commerce, in  
20      bulk or in products designated by the Adminis-  
21      trator, during 2008 or any subsequent year  
22      25,000 tons or more of carbon dioxide equiva-  
23      lent of—

24           “(i) fossil fuel-based carbon dioxide;

25           “(ii) nitrous oxide;

1 “(iii) perfluorocarbons;

2 “(iv) sulfur hexafluoride;

3 “(v) any other fluorinated gas, except  
4 nitrogen trifluoride, that is a greenhouse  
5 gas, as designated by the Administrator  
6 under subsection (b) or (c) of section 711;  
7 or

8 “(vi) any combination of greenhouse  
9 gases described in clauses (i) through (v).

10 “(D) Any stationary source that has emit-  
11 ted 25,000 or more tons of carbon dioxide  
12 equivalent of nitrogen trifluoride during 2008  
13 or any subsequent year.

14 “(E) Any geological sequestration site.

15 “(F) Any stationary source in the following  
16 industrial sectors:

17 “(i) Adipic acid production.

18 “(ii) Primary aluminum production.

19 “(iii) Ammonia manufacturing.

20 “(iv) Cement production, excluding  
21 grinding-only operations.

22 “(v) Hydrochlorofluorocarbon produc-  
23 tion.

24 “(vi) Lime manufacturing.

25 “(vii) Nitric acid production.

1 “(viii) Petroleum refining.

2 “(ix) Phosphoric acid production.

3 “(x) Silicon carbide production.

4 “(xi) Soda ash production.

5 “(xii) Titanium dioxide production.

6 “(xiii) Coal-based liquid or gaseous  
7 fuel production.

8 “(G) Any stationary source in the chemical  
9 or petrochemical sector that, during 2008 or  
10 any subsequent year—

11 “(i) produces acrylonitrile, carbon  
12 black, ethylene, ethylene dichloride, ethyl-  
13 ene oxide, or methanol; or

14 “(ii) produces a chemical or petro-  
15 chemical product, if producing that prod-  
16 uct results in annual combustion plus proc-  
17 ess emissions of 25,000 or more tons of  
18 carbon dioxide equivalent.

19 “(H) Any stationary source that—

20 “(i) is in 1 of the following industrial  
21 sectors:

22 “(I) Ethanol production.

23 “(II) Ferroalloy production.

24 “(III) Fluorinated gas produc-  
25 tion.

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1 “(IV) Food processing.

2 “(V) Glass production.

3 “(VI) Hydrogen production.

4 “(VII) Beneficiation or other  
5 processing (including agglomeration)  
6 of metal ores.

7 “(VIII) Iron and steel produc-  
8 tion.

9 “(IX) Lead production.

10 “(X) Pulp and paper manufac-  
11 turing.

12 “(XI) Zinc production; and

13 “(ii) has emitted 25,000 or more tons  
14 of carbon dioxide equivalent during 2008  
15 or any subsequent year.

16 “(I) Any fossil fuel-fired combustion device  
17 (such as a boiler) or grouping of such devices  
18 that—

19 “(i) is all or part of an industrial  
20 source not specified in subparagraph (D),  
21 (F), (G), or (H); and

22 “(ii) has emitted 25,000 or more tons  
23 of carbon dioxide equivalent during 2008  
24 or any subsequent year.

1           “(J) Any natural gas local distribution  
2           company that (or any group of 2 or more affili-  
3           ated natural gas local distribution companies  
4           that, in the aggregate), during 2008 or any  
5           subsequent year, delivers 460,000,000 cubic  
6           feet or more of natural gas, and any other gas  
7           meeting the specifications for commingling with  
8           natural gas for purposes of delivery, to cus-  
9           tomers that are not covered entities.

10           “(13) CREDITING PERIOD.—The term ‘crediting  
11           period’ means the period with respect to which an  
12           offset project is eligible to earn offset credits under  
13           part D, as determined under section 735(c).

14           “(14) DESIGNATED REPRESENTATIVE.—The  
15           term ‘designated representative’, with respect to a  
16           covered entity, a reporting entity, an offset project  
17           developer, or any other entity receiving or holding  
18           allowances or offset credits under this title, means  
19           an individual authorized, through a certificate of  
20           representation submitted to the Administrator by  
21           the owners and operators or similar entity official—

22           “(A) to represent the owners and operators  
23           or similar entity official in all matters per-  
24           taining to this title (including the holding,

1 transfer, or disposition of allowances or offset  
2 credits); and

3 “(B) to make all submissions to the Ad-  
4 ministrator under this title.

5 “(15) DEVELOPING COUNTRY.—The term ‘de-  
6 veloping country’ means a country eligible to receive  
7 official development assistance according to the in-  
8 come guidelines of the Development Assistance Com-  
9 mittee of the Organisation for Economic Co-oper-  
10 ation and Development.

11 “(16) DISTILLATE FUEL.—The term ‘distillate  
12 fuel’ means—

13 “(A) No. 1, No. 2, and No. 4 diesel fuels;  
14 and

15 “(B) No. 1, No. 2, and No. 4 fuel oils.

16 “(17) DOMESTIC OFFSET CREDIT.—The term  
17 ‘domestic offset credit’ means an offset credit issued  
18 under part D.

19 “(18) ELECTRICITY SOURCE.—The term ‘elec-  
20 tricity source’ means a stationary source that in-  
21 cludes 1 or more utility units.

22 “(19) EMISSION.—

23 “(A) IN GENERAL.—The term ‘emission’  
24 means the release of a greenhouse gas into the  
25 ambient air.

1           “(B) EXCLUSION.—The term ‘emission’  
2           does not include gases that are captured and  
3           geologically sequestered, except to the extent  
4           that the gases are later released into the atmos-  
5           phere, in which case compliance shall be dem-  
6           onstrated pursuant to section 722(b)(6).

7           “(20) EMISSION ALLOWANCE.—The term ‘emis-  
8           sion allowance’ means an allowance established  
9           under section 721(a) or 726(g)(2).

10          “(21) EMISSIVE NATURAL GAS LIQUID.—The  
11          term ‘emissive natural gas liquid’ means odorized  
12          butane and propane, and any other natural gas liq-  
13          uid designated, by rule, as an emissive natural gas  
14          liquid by the Administrator under section 729.

15          “(22) FEDERAL LAND.—The term ‘Federal  
16          land’ means land that is owned by the United  
17          States, other than land held in trust for an Indian  
18          or Indian tribe.

19          “(23) FOSSIL FUEL.—The term ‘fossil fuel’  
20          means natural gas, petroleum, or coal, or any form  
21          of solid, liquid, or gaseous fuel derived from such a  
22          material, including consumer products that are de-  
23          rived from those materials and combusted.

24          “(24) FOSSIL FUEL-FIRED.—The term ‘fossil  
25          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 logical formations for purposes of permanent stor-  
12 age.

13 “(27) GEOLOGIC SEQUESTRATION SITE.—The  
14 term ‘geologic sequestration site’ means a site at  
15 which carbon dioxide is geologically sequestered.

16 “(28) GREENHOUSE GAS.—The term ‘green-  
17 house gas’ means any gas described in section  
18 711(a) or designated under subsection (b), (c), or  
19 (d) of section 711, except to the extent that the gas  
20 is regulated under title VI.

21 “(29) HOLD.—The term ‘hold’, with respect to  
22 an allowance or offset credit means to have in the  
23 appropriate account in the allowance tracking sys-  
24 tem, or submit to the Administrator for recording in  
25 the account.



1           “(30) INDUSTRIAL SOURCE.—The term ‘indus-  
2           trial source’ means any stationary source that—

3                   “(A) is not an electricity source; and

4                   “(B) is in—

5                           “(i) the manufacturing sector (as de-  
6                           fined in North American Industrial Classi-  
7                           fication System codes 31, 32, and 33); or

8                           “(ii) the natural gas processing or  
9                           natural gas pipeline transportation sector  
10                          (as defined in North American Industrial  
11                          Classification System code 211112 or  
12                          486210).

13           “(31) INTERNATIONAL EMISSION ALLOW-  
14           ANCE.—The term ‘international emission allowance’  
15           means a tradable authorization to emit 1 ton of car-  
16           bon dioxide equivalent of greenhouse gas that is  
17           issued by a national or supranational foreign govern-  
18           ment pursuant to a qualifying international program  
19           designated by the Administrator pursuant to section  
20           728(a).

21           “(32) INTERNATIONAL OFFSET CREDIT.—The  
22           term ‘international offset credit’ means an offset  
23           credit issued by the Administrator under part E.

1           “(33) LEAKAGE.—The term ‘leakage’ means a  
2           significant increase in greenhouse gas emissions, or  
3           significant decrease in sequestration, that—

4                   “(A) is caused by an offset project; and

5                   “(B) occurs outside the boundaries of the  
6           offset project.

7           “(34) MINERAL SEQUESTRATION.—The term  
8           ‘mineral sequestration’ means sequestration of car-  
9           bon dioxide from the atmosphere by capturing car-  
10          bon dioxide into a permanent mineral, such as the  
11          aqueous precipitation of carbonate minerals that re-  
12          sults in the storage of carbon dioxide in a mineral  
13          form.

14          “(35) NATURAL GAS LIQUID.—The term ‘nat-  
15          ural gas liquid’ means ethane, butane, isobutane,  
16          natural gasoline, and propane that is ready for com-  
17          mercial sale or use.

18          “(36) NATURAL GAS LOCAL DISTRIBUTION  
19          COMPANY.—The term ‘natural gas local distribution  
20          company’ has the meaning given the term ‘local dis-  
21          tribution company’ in section 2 of the Natural Gas  
22          Policy Act of 1978 (15 U.S.C. 3301).

23          “(37) OFFSET CREDIT.—The term ‘offset cred-  
24          it’ means an offset credit issued under part D or E.

1           “(38) OFFSET PROJECT.—The term ‘offset  
2 project’ means a project or activity—

3           “(A) that reduces or avoids greenhouse gas  
4 emissions or sequesters greenhouse gases; and

5           “(B) for which offset credits are or may be  
6 issued under part D or E.

7           “(39) OFFSET PROJECT REPRESENTATIVE.—  
8 The term ‘offset project representative’ means the  
9 individual or entity designated as the offset project  
10 representative in an offset project approval petition  
11 under section 736.

12           “(40) QUALIFIED R&D FACILITY.—The term  
13 ‘qualified R&D facility’ means a facility that—

14           “(A) conducts research and development;

15           “(B) was in operation as of the date of en-  
16 actment of this title; and

17           “(C) is part of a covered entity subject to  
18 1 or more of paragraphs (1) through (8) of sec-  
19 tion 722(b).

20           “(41) PETROLEUM.—The term ‘petroleum’ in-  
21 cludes crude oil, tar sands, oil shale, and heavy oils.

22           “(42) REFINED PRODUCT.—

23           “(A) IN GENERAL.—The term ‘refined  
24 product’ means finished motor gasoline (regard-  
25 less of whether intended for blending), distillate

1 fuel oil, kerosene, aviation fuel, emissive natural  
2 gas liquid, residual oil, and coal-based liquid  
3 fuel.

4 “(B) EXCLUSIONS.—The term ‘refined  
5 product’ does not include—

6 “(i) petroleum coke;

7 “(ii) distillate fuel or residual oil used  
8 by or sold to covered entities described in  
9 subparagraphs (A), (D), (F), (G), (H), and  
10 (I) of paragraph (12);

11 “(iii) distillate fuel or residual oil used  
12 to power ocean-going vessels;

13 “(iv) aviation fuel in the case that an  
14 international agreement is reached to ad-  
15 dress the emissions of the fuel;

16 “(v) any refined product used for  
17 chemical or industrial manufacturing feed-  
18 stock and not emitted, as determined in  
19 accordance with the regulations under sec-  
20 tion 730;

21 “(vi) any renewable fuel component of  
22 a refined product (regardless of whether  
23 the product is used by a stationary or mo-  
24 bile source); or

1                   “(vii) any refined product that is ex-  
2                   ported or sold for export.

3                   “(43) REFINED PRODUCT PROVIDER.—

4                   “(A) IN GENERAL.—Subject to subpara-  
5                   graphs (B) and (C), the term ‘refined product  
6                   provider’ means the title holder of the refined  
7                   product inside a terminal.

8                   “(B) REFINED PRODUCT THAT DOES NOT  
9                   PASS THROUGH A TERMINAL.—In the case of a  
10                  refined product that does not pass through a  
11                  terminal, the term ‘refined product provider’  
12                  means—

13                  “(i) the owner of the refined product  
14                  that is not destined for a terminal at the  
15                  time the refined product is removed from  
16                  the refinery;

17                  “(ii) the owner of the emissive natural  
18                  gas liquid when the liquid becomes mer-  
19                  chantable;

20                  “(iii) the entity that enters refined  
21                  product into the United States for con-  
22                  sumption, use, or warehousing; or

23                  “(iv) a coal-based liquid fuel producer  
24                  in the case of coal-based liquid fuel.

1           “(C) EXCLUSION.—The term ‘refined  
2           product provider’ does not include the owner of  
3           a refined product with respect to a refined  
4           product that is moved by bulk transfer to an-  
5           other terminal, refinery, or storage facility.

6           “(44) RENEWABLE BIOMASS.—The term ‘re-  
7           newable biomass’ means any of the following:

8           “(A) 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 stands (as de-  
24               fined by the applicable land management  
25               plan), late-successional stands (except for

1 dead, severely damaged, or badly infested  
2 trees) (as defined by the applicable land  
3 management plan), components of the Na-  
4 tional Landscape Conservation System,  
5 National Monuments, National Conserva-  
6 tion Areas, Designated Primitive Areas, or  
7 Wild and Scenic Rivers corridors;

8 “(ii) harvested in environmentally sus-  
9 tainable quantities, as determined by the  
10 appropriate Federal land manager; and

11 “(iii) harvested in accordance with ap-  
12 plicable law and land management plans;

13 “(B) any organic matter that is available  
14 on a renewable or recurring basis from non-  
15 Federal land or land belonging to an Indian or  
16 Indian tribe that is held in trust by the United  
17 States or subject to a restriction against alien-  
18 ation imposed by the United States, including—

19 “(i) renewable plant material, includ-  
20 ing—

21 “(I) feed grains;

22 “(II) other agricultural commod-  
23 ities;

24 “(III) other plants and trees; and

25 “(IV) algae; and

1 “(ii) waste material, including—

2 “(I) crop residue;

3 “(II) other vegetative waste ma-  
4 terial (including wood waste and wood  
5 residues).

6 “(III) animal waste and byprod-  
7 ucts (including fats, oils, greases, and  
8 manure);

9 “(IV) construction waste; and

10 “(V) food waste and yard waste;

11 and

12 “(C) residues and byproducts from wood,  
13 pulp, or paper products facilities.

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) the purpose of which is to conduct re-  
19 search 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) RETIRE.—The term ‘retire’, with respect  
25 to an allowance or offset credit established or issued



1       under this title, means to disqualify the allowance or  
2       offset credit for any subsequent use under this title,  
3       regardless of whether the use is a sale, exchange, or  
4       holding of the allowance or offset credit to satisfy a  
5       compliance obligation.

6               “(47) REVERSAL.—The term ‘reversal’ means  
7       an intentional or unintentional loss of sequestered  
8       greenhouse gases to the atmosphere.

9               “(48) SEQUESTERED; SEQUESTRATION.—

10              “(A) IN GENERAL.—The terms ‘seques-  
11       tered’ and ‘sequestration’ mean the separation,  
12       isolation, or removal of greenhouse gases from  
13       the atmosphere, as determined by the Adminis-  
14       trator.

15              “(B) INCLUSIONS.—The terms ‘seques-  
16       tered’ and ‘sequestration’ include—

17                      “(i) biological sequestration;

18                      “(ii) geological sequestration; and

19                      “(iii) mineral sequestration.

20              “(C) EXCLUSIONS.—The terms ‘seques-  
21       tered’ and ‘sequestration’ does not include  
22       ocean fertilization techniques.

23              “(49) STATIONARY SOURCE.—The term ‘sta-  
24       tionary source’ means any integrated operation com-  
25       prising any plant, building, structure, or stationary

1 equipment, including support buildings and equip-  
2 ment, that—

3 “(A) is located within 1 or more contig-  
4 uous or adjacent properties;

5 “(B) is under common control of the same  
6 1 or more persons; and

7 “(C) emits or may emit a greenhouse gas.

8 “(50) TON.—The term ‘ton’ means a metric  
9 ton.

10 “(51) UNCAPPED EMISSIONS.—The term ‘un-  
11 capped emissions’ means emissions of greenhouse  
12 gases emitted after December 31, 2012, that are not  
13 capped emissions.

14 “(52) UNITED STATES GREENHOUSE GAS EMIS-  
15 SIONS.—The term ‘United States greenhouse gas  
16 emissions’ means the total quantity of annual green-  
17 house gas emissions from the United States, as cal-  
18 culated by the Administrator and reported to the  
19 United Nations Framework Convention on Climate  
20 Change Secretariat.

21 “(53) UTILITY UNIT.—The term ‘utility unit’  
22 means a combustion device that, on January 1,  
23 2009, or any date thereafter, is fossil fuel-fired and  
24 serves a generator that produces electricity for sale,  
25 unless the combustion device, during the 12-month

1 period beginning on the later of January 1, 2009, or  
2 the date of commencement of commercial operation  
3 and each calendar year beginning after that later  
4 date—

5 “(A) is part of an integrated cycle system  
6 that cogenerates thermal energy and electricity  
7 during normal operation and that supplies  $\frac{1}{3}$  or  
8 less of its potential electric output capacity or  
9 25 megawatts or less of electrical output for  
10 sale; or

11 “(B) combusts materials of which more  
12 than 95 percent is municipal solid waste on a  
13 heat input basis.

14 “(54) VINTAGE YEAR.—

15 “(A) IN GENERAL.—The term ‘vintage  
16 year’ means the calendar year for which an  
17 emission allowance is established under section  
18 721(a) or that is assigned to an emission allow-  
19 ance under section 726(g)(3)(A).

20 “(B) COST CONTAINMENT RESERVE AL-  
21 LOWANCES.—The term ‘vintage year’, with re-  
22 spect to a cost containment reserve allowance,  
23 means the year during which the allowance is  
24 purchased at auction.”.

1 (b) DEFINITION OF GREENHOUSE GAS.—Section 302  
2 of the Clean Air Act (42 U.S.C. 7602) is amended by add-  
3 ing at the end the following:

4 “(aa) GREENHOUSE GAS.—The term ‘greenhouse  
5 gas’ means any gas designated as a greenhouse gas by  
6 the Administrator under section 711.”.

7 **Subtitle B—Disposition of**  
8 **Allowances**

9 **SEC. 2101. DISPOSITION OF ALLOWANCES FOR GLOBAL**  
10 **WARMING POLLUTION REDUCTION PRO-**  
11 **GRAM.**

12 Title VII of the Clean Air Act (as amended by section  
13 2001) is amended by adding at the end the following:

14 **“PART G—DISPOSITION OF ALLOWANCES**

15 **“SEC. 781. ALLOCATION OF EMISSION ALLOWANCES.**

16 “(a) CONSUMER PROTECTION.—

17 “(1) ELECTRICITY CONSUMERS.—To benefit  
18 and protect electricity consumers, the Administrator  
19 shall allocate for each vintage year the percentage,  
20 listed in the following table, of the emission allow-  
21 ances established for each year under section 721(a),  
22 to be distributed in accordance with section 782:

**“Electricity consumers**

<b>Vintage year</b>	<b>Percentage of al- lowances</b>
2013 .....	51.0
2014 .....	51.0
2015 .....	51.0

**“Electricity consumers—Continued**

<b>Vintage year</b>	<b>Percentage of allowances</b>
2016 .....	35.0
2017 .....	35.0
2018 .....	35.0
2019 .....	35.0
2020 .....	35.0
2021 .....	35.0
2022 .....	35.0
2023 .....	35.0
2024 .....	35.0
2025 .....	35.0
2026 .....	32.0
2027 .....	24.0
2028 .....	16.5
2029 .....	8.5

1           “(2) NATURAL GAS CONSUMERS.—To benefit  
2           and protect natural gas consumers, the Adminis-  
3           trator shall allocate for each vintage year the per-  
4           centage, listed in the following table, of the emission  
5           allowances established for each year under section  
6           721(a), to be distributed in accordance with section  
7           783:

**“Natural gas consumers**

<b>Vintage year</b>	<b>Percentage of allowances</b>
2016 .....	9.0
2017 .....	9.0
2018 .....	9.0
2019 .....	9.0
2020 .....	9.0
2021 .....	9.0
2022 .....	9.0
2023 .....	9.0
2024 .....	9.0
2025 .....	9.0
2026 .....	7.2
2027 .....	5.4
2028 .....	3.6
2029 .....	1.8

1           “(3) HOME HEATING OIL AND PROPANE CON-  
 2           SUMERS.—To benefit and protect home heating oil  
 3           and propane consumers, the Administrator shall al-  
 4           locate for each vintage year the percentage, listed in  
 5           the following table, of the emission allowances estab-  
 6           lished for each year under section 721(a), to be dis-  
 7           tributed in accordance with section 784:

**“Home heating oil and propane consumers**

<b>Vintage year</b>	<b>Percentage of al- lowances</b>
2013 .....	1.9
2014 .....	1.9
2015 .....	1.9
2016 .....	1.5
2017 .....	1.5
2018 .....	1.5
2019 .....	1.5
2020 .....	1.5
2021 .....	1.5
2022 .....	1.5
2023 .....	1.5
2024 .....	1.5
2025 .....	1.5
2026 .....	1.2
2027 .....	0.9
2028 .....	0.6
2029 .....	0.3

8           “(4) CONSUMER RELIEF.—To benefit and pro-  
 9           tect disproportionately impacted consumers, the Ad-  
 10          ministrator shall auction, pursuant to section 790—

11           “(A) for each of vintage years 2013  
 12           through 2019, 12.3 percent of the emission al-  
 13           lowances established for each year under section  
 14           721(a), with the proceeds used to carry out—

1                   “(i) the energy refund program estab-  
2                   lished under section 2201 of the Social Se-  
3                   curity Act (as added by section 3204 of the  
4                   American Power Act); and

5                   “(ii) the working families refundable  
6                   credit program under section 36D of the  
7                   Internal Revenue Code of 1986 (as added  
8                   by section 3202(a) of the American Power  
9                   Act);

10                  “(B) for each of vintage years 2020  
11                  through 2029, 10.6 percent of the emission al-  
12                  lowances established for each year under section  
13                  721(a), with the proceeds used to carry out—

14                         “(i) the energy refund program estab-  
15                         lished under section 2201 of the Social Se-  
16                         curity Act; and

17                         “(ii) the working families refundable  
18                         credit program under section 36D of the  
19                         Internal Revenue Code of 1986;

20                  “(C) for each of vintage years 2030  
21                  through 2034, 11.5 percent of the emission al-  
22                  lowances established for each year under section  
23                  721(a), with the proceeds used to carry out the  
24                  energy refund program established under sec-  
25                  tion 2201 of the Social Security Act; and

1           “(D) for vintage year 2035 and each vin-  
 2           tage year thereafter, 12.5 percent of the emis-  
 3           sion allowances established for each year under  
 4           section 721(a), with the proceeds used to fund  
 5           the energy refund program established under  
 6           section 2201 of the Social Security Act.

7           “(5) UNIVERSAL TRUST FUND.—To benefit and  
 8           protect all people of the United States, the Adminis-  
 9           trator shall auction, pursuant to section 790, for  
 10          each vintage year, the percentage, listed in the fol-  
 11          lowing table, of the emission allowances established  
 12          for each year under section 721(a), and transfer the  
 13          proceeds to the Universal Trust Fund established  
 14          under section 3206 of the American Power Act:

**“Universal trust fund**

<b>Vintage year</b>	<b>Percentage of al- lowances</b>
2026 .....	8.1
2027 .....	21.5
2028 .....	33.7
2029 .....	47.1
2030 .....	54.5
2031 .....	54.5
2032 .....	54.5
2033 .....	54.5
2034 .....	54.5
2035 and each calendar year thereafter .....	77.8

15          “(b) JOB PROTECTION AND GROWTH.—

16           “(1) TRADE-EXPOSED INDUSTRIES.—

17           “(A) ALLOCATION.—To protect and pro-  
 18           mote manufacturing jobs in the United States



1 and prevent carbon leakage to other countries,  
 2 the Administrator shall allocate to energy-inten-  
 3 sive, trade-exposed entities, for each vintage  
 4 year, up to the percentage listed in the fol-  
 5 lowing table of the emission allowances estab-  
 6 lished for each year under section 721(a), to be  
 7 distributed in accordance with section 774:

**“Trade-exposed industries**

<b>Vintage year</b>	<b>Percentage of al- lowances</b>
2013 .....	2.0
2014 .....	2.0
2015 .....	2.0
2016 .....	15.0
2017 .....	15.0
2018 .....	15.0
2019 .....	15.0
2020 .....	15.0
2021 .....	15.0
2022 .....	15.0
2023 .....	15.0
2024 .....	15.0
2025 .....	15.0
2026 .....	12.0
2027 .....	9.0
2028 .....	6.0
2029 .....	3.0

8 “(B) CARRYOVER.—If the Administrator  
 9 does not distribute all of the allowances allo-  
 10 cated pursuant to this paragraph for a given  
 11 vintage year by the end of that year, all such  
 12 undistributed emission allowances shall, in ac-  
 13 cordance with subsection (g), be exchanged for  
 14 allowances from the following vintage year and  
 15 treated as part of the allocation for energy-in-

1           tensive, trade-exposed entities for that later vin-  
2           tage year.

3           “(2) INDUSTRIAL ENERGY EFFICIENCY.—To fa-  
4           cilitate manufacturing plant energy efficiency retro-  
5           fits and modernization, for each of vintage years  
6           2013 through 2015, the Administrator shall allocate  
7           0.5 percent of emission allowances established for  
8           each year under section 721(a), up to a maximum  
9           cumulative allowance value of \$1,550,000,000, to be  
10          distributed as follows:

11                   “(A) **【96.77】** percent to be distributed for  
12           industrial energy efficiency activities that meet  
13           the criteria for grants under part E of title III  
14           of the Energy Policy and Conservation Act (42  
15           U.S.C. 6341 et seq.) (as added by section  
16           451(a) of the Energy Independence and Secu-  
17           rity Act of 2007) and sections 452 and 453 of  
18           the Energy Independence and Security Act of  
19           2007, 42 U.S.C. 17111, 17112), of which—

20                           “(i) at least **【26.67】** percent of the  
21           allowances allocated under this subpara-  
22           graph shall be used for projects that use  
23           sensors, information networks, and con-  
24           trols to improve industrial energy efficiency  
25           and productivity and reduce emissions; and

1                   “(ii) at least **13.33** percent of the  
 2                   allowances allocated under this subpara-  
 3                   graph shall be used for small and medium  
 4                   manufacturing enterprises.

5                   “(B) **3.23** percent to be distributed for  
 6                   manufacturing extension partnership activities  
 7                   that meet the criteria for grants under section  
 8                   25**(f)** of the National Institute of Standards  
 9                   and Technology Act (15 U.S.C. 278k**(f)**).

10                  “(3) **REFINERS**.—To facilitate the continuation  
 11                  of domestic fuel production, the Administrator shall  
 12                  allocate for each vintage year the percentage, listed  
 13                  in the following table, of the emission allowances es-  
 14                  tablished for each year under section 721(a), to be  
 15                  distributed in accordance with section 785:

**“Refiners**

<b>Vintage year</b>	<b>Percentage of al- lowances</b>
2013 .....	4.3
2014 .....	4.3
2015 .....	4.3
2016 .....	3.75
2017 .....	3.75
2018 .....	3.75
2019 .....	3.75
2020 .....	3.75
2021 .....	3.75
2022 .....	3.75
2023 .....	3.75
2024 .....	3.75
2025 .....	3.75
2026 .....	3.0
2027 .....	2.25
2028 .....	1.5
2029 .....	0.75

1           “(c) CLEAN ENERGY TECHNOLOGY DEVELOPMENT  
2 AND DEPLOYMENT.—

3           “(1) COMMERCIAL DEPLOYMENT OF CARBON  
4 CAPTURE AND SEQUESTRATION.—

5           “(A) ALLOCATION.—To provide for the de-  
6 ployment of carbon capture and sequestration  
7 technology, the Administrator shall allocate for  
8 each vintage year the percentage, listed in the  
9 following table, of the emission allowances es-  
10 tablished for each year under section 721(a), to  
11 be distributed in accordance with section 794:

**“Deployment of carbon capture and sequestration technology**

Vintage year	Percentage of al- lowances
2017 .....	0.8
2018 .....	0.8
2020 .....	4.5
2021 .....	5.0
2022 .....	7.4
2023 .....	7.4
2024 .....	7.4
2025 .....	7.4
2026 .....	8.0
2027 .....	8.0
2028 .....	8.0
2029 .....	8.0
2030 .....	10.0
2031 .....	10.0
2032 .....	10.0
2033 .....	10.0
2034 .....	10.0

12           “(B) CARRYOVER.—If the Administrator  
13 does not distribute all of the allowances allo-  
14 cated pursuant to this paragraph for a given  
15 vintage year by the end of that year, all such

1           undistributed emission allowances shall, in ac-  
2           cordance with subsection (g), be exchanged for  
3           allowances from the following vintage year and  
4           treated as part of the allocation for the deploy-  
5           ment of carbon capture and sequestration tech-  
6           nology for that later vintage year.

7           “(2) CLEAN VEHICLE TECHNOLOGY.—To facili-  
8           tate development of clean vehicle technology, the Ad-  
9           ministrator shall allocate emission allowances to be  
10          distributed in accordance with section 4111 of the  
11          American Power Act, in the following quantities:

12                 “(A) For each of vintage years 2013  
13                 through 2020, 1 percent of the emission allow-  
14                 ances established for each year under section  
15                 721(a).

16                 “(B) For vintage year 2021, 0.5 percent of  
17                 the emission allowances established for each  
18                 year under section 721(a).

19           “(3) LOW-CARBON INDUSTRIAL TECHNOLOGIES  
20          RESEARCH AND DEVELOPMENT.—To facilitate the  
21          transformation of manufacturing in the United  
22          States, the Administrator shall allocate emission al-  
23          lowances for the National Industrial Innovation In-  
24          stitute established under section 4143 of the Amer-

1        ican Power Act to be distributed in accordance with  
2        that section, in the following quantities:

3               “(A) For each of vintage years 2013  
4               through 2020, 1 percent of the emission allow-  
5               ances established for each year under section  
6               721(a).

7               “(B) For vintage year 2021 0.5 percent of  
8               the emission allowances established for each  
9               year under section 721(a).

10              “(4) CLEAN ENERGY TECHNOLOGY RESEARCH  
11              AND DEVELOPMENT.—To assist in the development  
12              of clean energy technologies, for each of vintage  
13              years 2013 through 2021, the Administrator shall  
14              allocate 2 percent of the emission allowances estab-  
15              lished for each year under section 721(a) to be dis-  
16              tributed in accordance with section 1801 of the  
17              American Power Act.

18              “(5) ENERGY EFFICIENCY AND RENEWABLE  
19              ENERGY.—

20              “(A) ALLOCATION.—To promote energy ef-  
21              ficiency and renewable energy technology, the  
22              Administrator shall allocate for each vintage  
23              year the percentage, listed in the following  
24              table, of the emission allowances established for

1 each year under section 721(a), to be allocated  
2 in accordance with subparagraphs (B) and (C):

**“Investment in energy efficiency and renewable energy**

<b>Vintage year</b>	<b>Percentage of allowances</b>
2013 .....	2.5
2014 .....	2.5
2015 .....	2.5
2016 .....	2.0
2017 .....	2.0
2018 .....	2.0
2019 .....	1.0
2020 .....	1.0
2021 .....	0.5

3 “(B) RURAL ENERGY SAVINGS PRO-  
4 GRAM.—For each of vintage years 2013  
5 through 2015, the Administrator shall allocate  
6 0.5 percent of the emission allowances estab-  
7 lished for each year under section 721(a), up to  
8 a maximum cumulative allowance value of  
9 \$1,000,000,000, to carry out the rural energy  
10 savings program established under section 366  
11 of the Consolidated Farm and Rural Develop-  
12 ment Act (as added by section 1602 of the  
13 American Power Act).

14 “(C) STATE PROGRAMS.—For distribution  
15 in accordance with section 1603(b) of the  
16 American Power Act, the Administrator shall  
17 allocate the allowances allocated under subpara-  
18 graph (A) that are not allocated under subpara-

1 graph (B) to carry out activities described in  
 2 section 1603(e)(4) of that Act.

3 “(d) ADAPTATION.—

4 “(1) ALLOCATION.—Subject to paragraph (2),  
 5 to assist in efforts to adapt to climate change, do-  
 6 mestically and internationally, the Administrator  
 7 shall allocate for each vintage year the percentage,  
 8 listed in the following table, of the emission allow-  
 9 ances established for each year under section 721(a),  
 10 to be distributed so that—

11 “(A)  $\frac{1}{2}$  of the allowances are used to carry  
 12 out title VI of the American Power Act; and

13 “(B)  $\frac{1}{2}$  of the allowances are distributed  
 14 in accordance with section 5005 of the Amer-  
 15 ican Power Act:

**“Adaptation**

<b>Vintage year</b>	<b>Percentage of al- lowances</b>
2019 .....	1.5
2020 .....	1.5
2021 .....	2.2
2022 .....	3.2
2023 .....	3.2
2024 .....	3.2
2025 .....	3.2
2026 .....	3.5
2027 .....	4.0
2028 .....	5.0
2029 .....	5.5
2030 .....	6.0
2031 .....	6.0
2032 .....	6.0
2033 .....	6.0
2034 .....	6.0



1           “(2) PRESIDENTIAL DETERMINATION.—The  
2           President may adjust the division of allowances be-  
3           tween title VI and section 5005 of the American  
4           Power Act based on a determination that it would  
5           be in the national interest of the United States, tak-  
6           ing into consideration available information (includ-  
7           ing pursuant to section 705), on the needs of at-risk  
8           and most vulnerable communities, and United States  
9           obligations under bilateral or multilateral agree-  
10          ments.

11          “(e) EARLY ACTION.—To recognize early action to  
12          reduce greenhouse gas emissions, for each of vintage years  
13          2013 through 2015, the Administrator shall allocate 1.0  
14          percent of the emission allowances established each year  
15          under section 721(a) to be distributed in accordance with  
16          section 788.

17          “(f) TRANSPORTATION INFRASTRUCTURE AND EFFI-  
18          CIENCY.—To increase the safety, effectiveness, and effi-  
19          ciency of the transportation infrastructure of the United  
20          States, the Administrator shall, with respect to a quantity  
21          of allowances equal to the percentage, listed in the fol-  
22          lowing table, of the emission allowances established for the  
23          relevant vintage years under section 721(a)—

24                  “(1) auction, pursuant to section 790,  $\frac{1}{3}$  of the  
25          emission allowances, up to a maximum annual allow-

1       ance value of \$2,500,000,000, and deposit the pro-  
 2       ceeds in the Highway Trust Fund, to be distributed  
 3       in accordance with section 785;

4           “(2) allocate  $\frac{1}{3}$  of the emission allowances, up  
 5       to a maximum annual allowance value of  
 6       \$1,875,000,000, to the Secretary of Transportation  
 7       to be distributed for same purposes as grants pro-  
 8       vided under the heading ‘SUPPLEMENTAL DISCRE-  
 9       TIONARY GRANTS FOR NATIONAL SURFACE TRANS-  
 10      PORTATION SYSTEM’ of title XII of division A of the  
 11      American Recovery and Reinvestment Act of 2009  
 12      (Public Law 111–5; 123 Stat. 203); and

13           “(3) allocate  $\frac{1}{3}$  of the emission allowances to  
 14      the Secretary of Transportation, up to a maximum  
 15      annual allowance value of \$1,875,000,000, to be dis-  
 16      tributed in accordance with section 1712 of the  
 17      American Power Act:

**“Transportation Infrastructure and Efficiency**

<b>Vintage year</b>	<b>Percentage of al- lowances</b>
2013 .....	12.0
2014 .....	12.0
2015 .....	12.0
2016 .....	9.2
2017 .....	8.2
2018 .....	8.2
2019 .....	7.6
2020 .....	6.0
2021 .....	6.0
2022 .....	5.8
2023 .....	5.8
2024 .....	5.8
2025 .....	5.8
2026 .....	5.8

**“Transportation Infrastructure and Efficiency—Continued**

<b>Vintage year</b>	<b>Percentage of allowances</b>
2027 .....	5.8
2028 .....	5.8
2029 .....	5.8
2030 .....	6.7
2031 .....	6.7
2032 .....	6.7
2033 .....	6.7
2034 .....	6.7

1       “(g) TREATMENT OF CARRYOVER ALLOWANCES.—

2               “(1) IN GENERAL.—If there are undistributed  
3 allowances from a vintage year for eligible industrial  
4 sectors pursuant to subsection (b)(1) or deployment  
5 of carbon capture and sequestration technology pur-  
6 suant to subsection (c)(1), the Administrator shall—

7               “(A) use the undistributed allowances to  
8 increase for the same vintage year—

9               “(i) the allocation of allowances for  
10 deficit reduction pursuant to subsection  
11 (h);

12               “(ii) the allocation of allowances for  
13 the program for disproportionately im-  
14 pacted consumers pursuant to subsection  
15 (a)(4); or

16               “(iii) a combination of the purposes  
17 described in clauses (i) and (ii); and

18               “(B) except as provided in paragraph  
19 (2)—

1                   “(i) decrease by the same quantity for  
2                   the following vintage year the allocation for  
3                   the purpose for which the allocation was  
4                   increased pursuant to subparagraph (A);  
5                   and

6                   “(ii) increase by the same quantity for  
7                   the following vintage year the allocation for  
8                   the purpose for which the undistributed al-  
9                   lowances were originally allocated.

10                   “(2) EXCESS UNDISTRIBUTED ALLOWANCES.—

11                   “(A) IN GENERAL.—For each vintage year  
12                   for which this subsection applies, the Adminis-  
13                   trator shall determine whether—

14                   “(i) the total quantity of undistrib-  
15                   uted allowances for that vintage year that  
16                   were allocated pursuant to subsections  
17                   (b)(1) and (c)(1); exceeds

18                   “(ii) the total quantity of allowances  
19                   allocated pursuant to subsections (a)(4)  
20                   and (h) for the following vintage year.

21                   “(B) DETERMINATION OF EXCEEDANCE.—

22                   If the Administrator determines under subpara-  
23                   graph (A) that the quantity described in sub-  
24                   paragraph (A)(i) exceeds the quantity described  
25                   in subparagraph (A)(ii)—

1                   “(i) paragraph (1)(B)(ii) shall not  
2                   apply; and

3                   “(ii) for each purpose described in  
4                   subsection (b)(1) and (c)(1) for which un-  
5                   distributed allowances for a given vintage  
6                   year were allocated, the Administrator  
7                   shall increase the allocation for the fol-  
8                   lowing vintage year by the quantity that  
9                   equals the product obtained by multi-  
10                  plying—

11                   “(I) the number of undistributed  
12                   allowances for that purpose; and

13                   “(II) the quantity described in  
14                   subparagraph (A)(ii) divided by the  
15                   quantity described in subparagraph  
16                   (A)(i).

17                  “(h) REMAINING ALLOWANCES.—For vintage year  
18 2013 and each vintage year thereafter, the Administrator  
19 shall auction, pursuant to section 790, and deposit the  
20 proceeds not otherwise obligated pursuant to the American  
21 Power Act, or an amendment made by that Act, in the  
22 Deficit Reduction Fund established under section 787—

23                   “(1) all allowances not allocated for distribution  
24                   pursuant to subsections (a) through (f) or provided  
25                   pursuant to section 786; and

1           “(2) each allowance allocated under this sec-  
2           tion, but not distributed before March 31 of the cal-  
3           endar year following the vintage year, other than for  
4           allowances allocated pursuant to subsections (b)(1)  
5           and (c)(1)).

6   **“SEC. 786. EXCHANGE FOR STATE ALLOWANCES.**

7           “(a) DEFINITION OF STATE ALLOWANCE.—In this  
8           section, the term ‘State allowance’ means a greenhouse  
9           gas emission allowance issued—

10           “(1) before the later of—

11                   “(A) December 31, 2012; and

12                   “(B) January 1 of the first calendar year  
13           for which the Administrator allocates allow-  
14           ances pursuant to section 781;

15           “(2) by the State of California; or

16           “(3) for—

17                   “(A) the Regional Greenhouse Gas Initia-  
18           tive; or

19                   “(B) the Western Climate Initiative.

20           “(b) REGULATIONS.—

21           “(1) IN GENERAL.—Not later than 1 year after  
22           the date of enactment of this title, the Administrator  
23           shall promulgate regulations allowing any individual  
24           or entity in the United States to exchange State al-

1 lowances for emission allowances established by the  
2 Administrator under section 721(a).

3 “(2) REQUIREMENTS.—The regulations promul-  
4 gated under subsection (a) shall—

5 “(A) provide that an individual or entity  
6 exchanging State allowances under this section  
7 shall receive emission allowances established  
8 under section 721(a) in a quantity sufficient to  
9 compensate for the cost of obtaining and hold-  
10 ing the State allowances;

11 “(B) establish a deadline by which individ-  
12 uals and entities shall exchange the State allow-  
13 ances;

14 “(C) require that the emission allowances  
15 disbursed pursuant to this section shall be de-  
16 ducted from the quantity of emission allowances  
17 to be auctioned pursuant to section 781; and

18 “(D) require that, on exchange, a State al-  
19 lowance shall be retired for purposes of use  
20 under the program by or for which the State al-  
21 lowance was originally issued.

22 “(c) COST OF OBTAINING STATE ALLOWANCE.—For  
23 purposes of this section, the cost of obtaining a State al-  
24 lowance shall be the average auction price for State emis-  
25 sion allowances issued for the year for which the State

1 allowance was issued under the program under which the  
2 State allowance was issued.

3 **“SEC. 787. DEFICIT REDUCTION FUND.**

4 “(a) ESTABLISHMENT OF FUND.—There is estab-  
5 lished in the Treasury of the United States a fund to be  
6 known as the ‘Deficit Reduction Fund’ (referred to in this  
7 section as the ‘Fund’), to be administered by the Secretary  
8 of the Treasury, to be available without fiscal year limita-  
9 tion and subject to appropriation, for deficit reduction.

10 “(b) TRANSFERS TO FUND.—The Fund shall consist  
11 of such amounts as are made available to the Fund under  
12 section 781.

13 **“SEC. 788. EARLY ACTION RECOGNITION.**

14 “(a) IN GENERAL.—Emission allowances allocated  
15 pursuant to section 781(e)(7) shall be distributed by the  
16 Administrator in accordance with this section, with  $\frac{1}{3}$  of  
17 such allowances distributed pursuant to subsection (b) and  
18  $\frac{2}{3}$  of such allowances distributed pursuant to subsection  
19 (e).

20 “(b) EARLY OFFSETS.—Not later than 18 months  
21 after the date of enactment of this title, the Administrator  
22 shall promulgate regulations for distributing the portion  
23 of emission allowances described in subsection (a) that  
24 allow—



1           “(1) any individual or entity in the United  
2 States to exchange instruments in the nature of off-  
3 set credits issued before January 1, 2009, by a  
4 State, local, or voluntary offset program with respect  
5 to which the Administrator has made an affirmative  
6 determination under section 740(b) for emission al-  
7 lowances established by the Administrator under sec-  
8 tion 721(a); and

9           “(2) the Administrator to provide compensation  
10 in the form of emission allowances to entities, in-  
11 cluding units of local government, that do not meet  
12 the criteria of paragraph (1) but meet the criteria  
13 of this paragraph for documented early reductions or  
14 avoidance of greenhouse gas emissions or greenhouse  
15 gases sequestered before January 1, 2009, from  
16 projects or process improvements begun before Jan-  
17 uary 1, 2009, in cases in which—

18           “(A) the entity publicly stated greenhouse  
19 gas reduction goals and publicly reported  
20 against those goals;

21           “(B) the entity demonstrated entity-wide  
22 net greenhouse gas reductions; and

23           “(C) the entity demonstrates the actual  
24 projects or process improvements undertaken to  
25 make reductions and documents the reductions

1 (such as through documentation of engineering  
2 projects).

3 “(c) REQUIREMENTS.—The regulations promulgated  
4 pursuant to subsection (b) shall—

5 “(1) provide that an individual or entity ex-  
6 changing credits under subsection (b)(1) receive  
7 emission allowances established under section 721(a)  
8 in a quantity for which the monetary value is equiva-  
9 lent to the average monetary value of the credits  
10 during the period beginning on January 1, 2006,  
11 and ending on January 1, 2009, as adjusted for in-  
12 flation to reflect current dollar values at the time of  
13 the exchange, except that if available data are insuf-  
14 ficient to determine the average monetary value with  
15 reasonable accuracy, the Administrator may provide  
16 a default monetary value as established by the Ad-  
17 ministrator in the regulations promulgated under  
18 this section;

19 “(2) provide that an individual or entity receiv-  
20 ing compensation for documented early action under  
21 subsection (b)(2) shall receive emission allowances  
22 established under section 721(a) in a quantity that  
23 is approximately equivalent in value to the carbon  
24 dioxide equivalent per ton value received by entities  
25 in exchange for credits under paragraph (1) (as ad-

1       justed for inflation to reflect current dollar values at  
2       the time of the exchange), as determined by the Ad-  
3       ministrator;

4           “(3) provide that—

5               “(A) only reductions or avoidance of green-  
6               house gas emissions, or sequestration of green-  
7               house gases, achieved by activities in the United  
8               States during the period beginning on January  
9               1, 2001, and ending on January 1, 2009, may  
10              be compensated under this section; and

11              “(B) only credits issued for those activities  
12              may be exchanged under this section;

13              “(4) provide that only credits that have not  
14              been retired or otherwise used to meet a voluntary  
15              or mandatory commitment, and have not expired,  
16              may be exchanged under subsection (b)(1);

17              “(5) require that, once exchanged, a credit be  
18              retired for purposes of use under the program by or  
19              for which the credit was originally issued; and

20              “(6) establish a deadline by which individuals  
21              and entities must exchange the credits or request  
22              compensation for early action under this section.

23              “(d) PARTICIPATION.—Participation in an exchange  
24              of credits for emission allowances or compensation for  
25              early action pursuant to this section shall not preclude any

1 individual or entity from participation in an offset credit  
2 program established under part D.

3 “(e) STATE CAP AND TRADE PROGRAMS.—

4 “(1) ELIGIBLE STATES.—The Administrator  
5 shall establish a list of States eligible for allowance  
6 allocation under this subsection, which shall include  
7 only those States that have established, by the date  
8 of enactment of this title, a mandatory system of  
9 greenhouse gas regulation under which the State—

10 “(A) has issued a limited number of  
11 tradable instruments in the nature of emission  
12 allowances; and

13 “(B) requires that sources within the juris-  
14 diction of the State surrender such tradable in-  
15 struments for each unit of greenhouse gases  
16 emitted during a compliance period.

17 “(2) DISTRIBUTION OF ALLOWANCES AMONG  
18 ELIGIBLE STATES.—The Administrator shall dis-  
19 tribute emission allowances among eligible States  
20 under this section each year on a pro rata basis  
21 based on the proportion that—

22 “(A) the total number of emission allow-  
23 ances issued by the eligible State before the  
24 date of enactment of this title; bears to

1           “(B) the total number of emission allow-  
2           ances issued by all eligible States before that  
3           date.

4           “(3) USES.—A State shall use emission allow-  
5           ances distributed under this subsection exclusively  
6           for entities and programs designed to decrease  
7           greenhouse gas emissions or for research, develop-  
8           ment, and deployment of technologies that reduce  
9           greenhouse gas emissions, giving priority to cost-ef-  
10          fective programs, such as programs to increase en-  
11          ergy efficiency.

12          “(4) REPORTING.—Each State receiving allow-  
13          ances or allowance value under this subsection shall  
14          submit to the Administrator a report that contains  
15          a list of entities and programs receiving allowances  
16          or allowance value under this subsection, including a  
17          description of the activities undertaken and benefits  
18          delivered.

19          “(5) ENFORCEMENT.—If the Administrator de-  
20          termines that a State is not in compliance with this  
21          subsection, the Administrator may withhold up to  
22          twice the number of allowances that the State failed  
23          to use in accordance with this section, that the State  
24          would otherwise be eligible to receive under this title  
25          in later years. Allowances withheld pursuant to this

1 subsection shall be distributed among the remaining  
2 States in accordance with paragraph (2).

3 **“SEC. 790. AUCTION PROCEDURES.**

4 “(a) IN GENERAL.—An auction of emission allow-  
5 ances by the Administrator authorized by this part shall  
6 be carried out pursuant to this section and the regulations  
7 promulgated under this section.

8 “(b) INITIAL REGULATIONS.—Except as provided in  
9 subsection (c), not later than 1 year after the date of en-  
10 actment of this title, the Administrator, in consultation  
11 with the Secretary of the Treasury and the heads of other  
12 relevant agencies, as appropriate, shall promulgate regula-  
13 tions that include the following requirements:

14 “(1) FREQUENCY.—An auction under this sec-  
15 tion shall be conducted 4 times per year at regular  
16 intervals, with the first auction to be conducted not  
17 later than March 31, 2012.

18 “(2) AUCTION SCHEDULE AND VINTAGE  
19 YEARS.—The Administrator shall, at each quarterly  
20 auction under this section, offer for sale—

21 “(A) except for auctions conducted in  
22 2012, a portion of the allowances with the same  
23 vintage year as the year in which the auction is  
24 conducted; and

1           “(B) a portion of the allowances with vin-  
2           tage years of up to 4 years after the year in  
3           which the auction is being conducted.

4           “(3) AUCTION FORMAT.—An auction under this  
5           section shall follow a uniform price format.

6           “(4) PARTICIPATION; FINANCIAL ASSURANCE.—

7           “(A) PARTICIPATION.—An auction under  
8           this section shall be open only to covered enti-  
9           ties and regulated greenhouse gas market par-  
10          ticipants as defined pursuant to the Commodity  
11          Exchange Act (7 U.S.C. 1 et seq.).

12          “(B) FINANCIAL ASSURANCE REQUIRE-  
13          MENTS.—The Administrator may establish fi-  
14          nancial assurance requirements to ensure that  
15          auction participants can and will perform on  
16          the bids of the participants.

17          “(5) DISCLOSURE OF BENEFICIAL OWNER-  
18          SHIP.—Each bidder in an auction under this section  
19          shall be required to disclose to the Administrator  
20          and other agencies, as appropriate, the person or en-  
21          tity sponsoring or benefitting from the participation  
22          of the bidder in the auction if the person or entity  
23          is, in whole or in part, a person other than the bid-  
24          der.

1           “(6) PURCHASE LIMITS.—The implementing  
2           agency shall set purchase limits as necessary to pre-  
3           vent manipulation of prices at any quarterly auction.

4           “(7) PUBLICATION OF INFORMATION.—After  
5           completion of an auction under this section, the Ad-  
6           ministrator shall, in a timely fashion, publish—

7                   “(A) the identities of winning bidders;

8                   “(B) the quantity of allowances obtained  
9                   by each winning bidder; and

10                   “(C) the auction clearing price.

11           “(8) OTHER REQUIREMENTS.—The Adminis-  
12           trator may include such other requirements or provi-  
13           sions as are appropriate to promote effective, effi-  
14           cient, transparent, and fair administration of auc-  
15           tions under this section.

16           “(c) ALTERNATIVE DESIGN.—

17                   “(1) IN GENERAL.—If the Administrator, in  
18                   consultation with the Secretary of the Treasury and  
19                   the heads of other relevant agencies, as appropriate,  
20                   determines that an alternative auction design would  
21                   be more effective, taking into account factors includ-  
22                   ing administrative costs, transparency, fairness,  
23                   price discovery, promotion of liquid secondary mar-  
24                   kets, risks of collusion or manipulation, and the con-  
25                   sequences of any allowances set aside pursuant to



1 section 729(e) for attributable emissions from re-  
2 fined products, the Administrator may, as appro-  
3 priate, promulgate or revise auction regulations  
4 without regard to the requirements of subsection (b).

5 “(2) CONSIDERATIONS.—In promulgating regu-  
6 lations under this subsection, the Administrator—

7 “(A) shall take into consideration factors,  
8 including those factors described in paragraph  
9 (1); but

10 “(B) shall not consider maximization of  
11 revenues to the Federal Government or allow-  
12 ance owners.

13 “(d) RESERVE AUCTION PRICE.—The reserve price  
14 of an emission allowance offered for auction under this  
15 section shall be—

16 “(1) for auctions occurring during calendar  
17 year 2013, **[\$12]** (in constant 2009 dollars); and

18 “(2) for auctions occurring during calendar  
19 year 2014 or any calendar year thereafter, the re-  
20 serve auction price for the preceding calendar year,  
21 increased by the rate of inflation (as indexed for  
22 United States dollar inflation from the date of en-  
23 actment of this title (as measured by the Consumer  
24 Price Index)) plus **[3 percent]**.

1           “(e) DELEGATION OR CONTRACT.—Pursuant to reg-  
2 ulations promulgated under this section, the Adminis-  
3 trator may by delegation or contract provide for the con-  
4 duct of auctions under the supervision of the Adminis-  
5 trator by other departments or agencies of the Federal  
6 Government or nongovernmental agencies, groups, or or-  
7 ganizations.

8           “(f) TRANSPORTATION FUELS AND REFINED PETRO-  
9 LEUM PRODUCTS.—

10           “(1) IN GENERAL.—The Administrator shall, in  
11 accordance with this subsection, promulgate regula-  
12 tions governing the set-aside and purchase of allow-  
13 ances by a refined product provider under section  
14 729.

15           “(2) SOURCE OF ALLOWANCES.—

16           “(A) IN GENERAL.—Not later than 14  
17 days prior to the auction of allowances for a  
18 quarter, the Administrator, in consultation with  
19 the Energy Information Administration, shall—

20           “(i) estimate the number of allow-  
21 ances that refined product providers are  
22 expected to purchase to demonstrate com-  
23 pliance for that quarter; and

1                   “(ii) set aside that number of allow-  
2                   ances from the allowances available for  
3                   auction for that quarter.

4                   “(B) SUPPLY OF ALLOWANCES.—If the  
5                   number of allowances set aside under this para-  
6                   graph for purchase by refined product providers  
7                   exceeds a percentage (to be determined by the  
8                   Administrator by regulation) of the number of  
9                   allowances available for auction during that  
10                  quarter, the Administrator shall take appro-  
11                  priate action in accordance with paragraph (4).

12                  “(3) VINTAGE YEAR.—

13                  “(A) IN GENERAL.—Except as provided in  
14                  subparagraph (B), an allowance sold pursuant  
15                  to this subsection shall have a vintage year that  
16                  is not later than the calendar year of the quar-  
17                  ter preceding the quarter in which the payment  
18                  for purchase of allowances is due.

19                  “(B) BORROWED ALLOWANCES.—In the  
20                  case of an allowance that is borrowed under  
21                  paragraph (4)(A), the allowance shall have a  
22                  vintage year that is 1 year later than the quar-  
23                  ter in which payment for purchases of allow-  
24                  ances is due.

1           “(4) ENSURING AN ADEQUATE SUPPLY.—In ac-  
2           cordance with procedures established under this sec-  
3           tion, the Administrator—

4                   “(A) may borrow allowances with a vintage  
5                   year that is 1 year later than the calendar year  
6                   of the quarter preceding the quarter in which  
7                   payment for purchase of allowances is due by  
8                   refined product providers on a limited basis as  
9                   necessary to ensure an adequate supply of al-  
10                  lowances for transfer pursuant to paragraph  
11                  (2); and

12                   “(B) considering the set-aside of allow-  
13                   ances pursuant to paragraph (2), shall make  
14                   available a sufficient number of the allowances  
15                   each quarter for sale at auction, including by  
16                   required consignment of allowances allocated  
17                   under section 781, as necessary to ensure ade-  
18                   quate market liquidity, price discovery, and al-  
19                   lowance availability.

20 **“SEC. 791. AUCTIONING ALLOWANCES FOR OTHER ENTI-**  
21 **TIES.**

22           “(a) CONSIGNMENT.—Notwithstanding section  
23 790(b)(4)(A), the Administrator may auction, pursuant to  
24 section 790, emission allowances and compensatory allow-  
25 ances on consignment in accordance with this section—

1           “(1) at the request of the entity holding the al-  
2           lowances; or

3           “(2) pursuant to the procedures established  
4           under section 790(f).

5           “(b) ADMINISTRATOR AS AGENT.—In auctioning on  
6           consignment any emission allowances or compensatory al-  
7           lowances under this section, the Administrator shall—

8           “(1) act as the agent of the entity holding the  
9           allowances; and

10           “(2) transfer the proceeds from the auctions di-  
11           rectly to the entity pursuant to subsection (c).

12           “(c) PRICING.—Notwithstanding subsection (b), the  
13           Administrator—

14           “(1) shall not be obligated to obtain the highest  
15           price practicable for the emission allowances; and

16           “(2) shall auction consignment allowances in  
17           the same manner and pursuant to the same rules as  
18           auctions of other allowances under section 790, in-  
19           cluding allowances sold pursuant to sections 729 and  
20           790(f).

21           “(d) PROCEEDS.—

22           “(1) IN GENERAL.—For emission allowances  
23           and compensatory allowances auctioned pursuant to  
24           this section, notwithstanding section 3302 of title  
25           31, United States Code, or any other provision of

1 law, not later than 90 days after the date of receipt  
2 of proceeds from such an auction, the United States  
3 shall transfer the proceeds to the entity the allow-  
4 ances of which were auctioned.

5 “(2) NO TRANSFER OR TREATMENT AS PUBLIC  
6 FUNDS.—No funds transferred from a purchaser to  
7 a seller of emission allowances or compensatory al-  
8 lowances under this subsection shall be—

9 “(A) held by any officer or employee of the  
10 United States; or

11 “(B) treated for any purpose as public  
12 funds.

13 **“SEC. 792. OVERSIGHT OF ALLOCATIONS AND AUCTION**  
14 **PROCEEDS.**

15 “(a) IN GENERAL.—Not later than January 1, 2015,  
16 and every 2 years thereafter, the Comptroller General of  
17 the United States shall carry out a review of programs  
18 administered by the Federal Government that distribute  
19 emission allowances or funds from any Federal auction of  
20 emission allowances.

21 “(b) CONTENTS.—Each report under subsection (a)  
22 shall include a comprehensive evaluation of the adminis-  
23 tration and effectiveness of each program, including—

24 “(1) the efficiency, transparency, and sound-  
25 ness of the administration of each program;

1           “(2) the performance of activities receiving as-  
2           sistance under each program;

3           “(3) the cost-effectiveness of each program in  
4           achieving the stated purposes of the program; and

5           “(4) recommendations, if any, for regulatory or  
6           administrative changes to each program to improve  
7           the effectiveness of the program.

8           “(c) FOCUS.—In evaluating program performance,  
9           each review under this section shall address the effective-  
10          ness of such programs in—

11           “(1) creating and preserving jobs;

12           “(2) ensuring a manageable transition for dis-  
13          proportionately impacted consumers;

14           “(3) reducing the emissions, or enhancing se-  
15          questration, of greenhouse gases;

16           “(4) developing clean technologies; and

17           “(5) building resilience to the impacts of cli-  
18          mate change.

19          **“SEC. 793. PROTECTION OF AFFECTED PARTIES.**

20           “A holder of allowances or offsets may file a petition,  
21          in accordance with the terms and conditions of section  
22          307(d), for review of action by the Administrator that may  
23          affect the value or integrity of such allowances or offsets.

1 **“SEC. 797. PRESIDENTIAL DETERMINATION.**

2 “(a) IN GENERAL.—The President may determine  
3 that—

4 “(1) a multilateral agreement has been reached  
5 with other major greenhouse gas-emitting countries  
6 that, together with the United States, are respon-  
7 sible for more than 67 percent of the global green-  
8 house gas emissions;

9 “(2) the agreement contains goals the achieve-  
10 ment of which would substantially reduce the risk of  
11 climate change; and

12 “(3) 1 or more funds are available with the fi-  
13 duciary and technical capacity to effectively ad-  
14 dress—

15 “(A) preparation of developing countries to  
16 participate in international markets for inter-  
17 national offset credits for reduced emissions  
18 from deforestation;

19 “(B) protection and promotion of the na-  
20 tional security, foreign policy, environmental,  
21 and economic interests of the United States to  
22 the extent those interests may be advanced by  
23 minimizing, averting, or increasing resilience to  
24 the impacts of climate change; or

25 “(C) deployment of clean energy tech-  
26 nologies through activities such as—



1                   “(i) support for the incremental costs  
2                   associated with transforming economies to  
3                   low carbon pathways;

4                   “(ii) capacity building to implement  
5                   energy efficiency; and

6                   “(iii) expanding exports of clean en-  
7                   ergy technologies.

8           “(b) ALLOCATION OF ALLOWANCES.—Not earlier  
9 than 90 days after making a determination described in  
10 subsection (a), the President may (unless otherwise re-  
11 quired by law) direct the Administrator to allocate not  
12 more than 5 percent of the allowances established under  
13 section 721 for the calendar year following the year in  
14 which the determination is made, and for subsequent cal-  
15 endar years as appropriate, to 1 or more funds determined  
16 by the President to meet the criteria described in sub-  
17 section (a)(3) and as necessary to meet obligations of the  
18 United States.

19           “(c) LIMITATION.—Not more than 15 percent of the  
20 assistance made available for any year for the purposes  
21 of this section may be used to support activities described  
22 in subsection (a)(3) in any single country.

23           “(d) ELIGIBLE COUNTRIES.—The Secretary of State  
24 shall determine that a country is an eligible country under  
25 this section if the country—

1 “(1) is a developing country that—

2 “(A) has entered into an international  
3 agreement to which the United States is a  
4 party, and agrees to take substantial action  
5 with respect to the greenhouse gas emissions of  
6 the countries consistent with the commitments  
7 listed in the Copenhagen Accord which builds  
8 on the agreements reached in the Bali Action  
9 Plan developed under the United Nations  
10 Framework Convention on Climate Change,  
11 done at New York on May 9, 1992; or

12 “(B) has developed nationally appropriate  
13 mitigation actions that seek to achieve substan-  
14 tial reductions, sequestration, or avoidance of  
15 greenhouse gas emissions, relative to business-  
16 as-usual levels; or

17 “(2) is a most vulnerable developing country  
18 that is least prepared to meet the effects of climate  
19 change and is seeking to adapt to climate change  
20 and increase clean energy access.

21 “(e) REFERENCES.—Any provision in this title (ex-  
22 cept for subsection (b) of this section) that refers to a  
23 quantity or percentage of the emission allowances estab-  
24 lished for a calendar year under section 721(a) shall be  
25 considered to refer to the quantity of emission allowances

1 as determined pursuant to section 721(e), less any emis-  
2 sion allowances established for that year that are allocated  
3 as a result of a Presidential determination under this sec-  
4 tion or section 789.

5 **“SEC. 798. MERCHANT GENERATOR EFFICIENCY INCEN-**  
6 **TIVE.**

7 “(a) **IN GENERAL.**—Not later than 180 days after  
8 the date of enactment of this title, the Administrator shall  
9 establish a program to improve the efficiency and reduce  
10 the carbon pollution intensity of the generation of the mer-  
11 chant coal unit fleet by providing incentives in accordance  
12 with this section.

13 “(b) **ELIGIBILITY.**—Regulations promulgated to  
14 carry out this section shall provide that in order to qualify  
15 for an incentive under this section, the owner or operator  
16 of a merchant coal unit shall notify the Administrator  
17 prior to January 1, 2014, that the owner or operator has  
18 elected to permanently retire the unit or to repower the  
19 unit **【with a less emissive fuel】**.

20 “(c) **EMISSION ALLOWANCES.**—Subject to subsection  
21 782(e)(6) and subsection (d), if the owner or operator of  
22 a merchant coal unit provides timely notification to the  
23 Administrator of the election to permanently retire the  
24 unit pursuant to subsection (b), for a period **【to be deter-**  
25 **mined by the Administrator】** following the permanent clo-

1 sure or permanent repowering of the unit, the Adminis-  
2 trator shall issue to the owner or operator of the merchant  
3 coal unit emissions allowances equal to the product ob-  
4 tained by multiplying (as determined by the Adminis-  
5 trator)—

6 “(1) 0.5;

7 “(2) the average annual qualifying emissions of  
8 the merchant coal unit during the base period; and

9 “(3) a phase-down factor for [\_\_ years] fol-  
10 lowing closure.

11 “(d) LIMITATION.—The Administrator shall limit the  
12 incentive provided under this section to not more than 35  
13 gigawatts of merchant coal unit capacity.

14 “(e) EFFECTS ON COAL CONSUMPTION AND EM-  
15 PLOYMENT.—The Administrator shall designate [\_\_\_\_  
16 percent] of the allowances described in subsection (c ) for  
17 addressing the effects of the program under this section  
18 on coal consumption and employment, with a particular  
19 focus on counties with—

20 “(1) a high concentration of jobs in energy-pro-  
21 ducing or energy-intensive industries;

22 “(2) transfer payments representing a high pro-  
23 portion of personal income; and

24 “(3) a persistently high rate of unemployment  
25 or low rate of labor force participation.”.



- 1                   “(iii) Hydrofluorocarbon-41 (HFC–  
2                   41);
- 3                   “(iv) Hydrofluorocarbon-125 (HFC–  
4                   125);
- 5                   “(v) Hydrofluorocarbon-134 (HFC–  
6                   134);
- 7                   “(vi) Hydrofluorocarbon-134a (HFC–  
8                   134a);
- 9                   “(vii) Hydrofluorocarbon-143 (HFC–  
10                  143);
- 11                  “(viii)            Hydrofluorocarbon-143a  
12                  (HFC–143a);
- 13                  “(ix) Hydrofluorocarbon-152 (HFC–  
14                  152);
- 15                  “(x) Hydrofluorocarbon-152a (HFC–  
16                  152a);
- 17                  “(xi)             Hydrofluorocarbon-227ea  
18                  (HFC–227ea);
- 19                  “(xii)            Hydrofluorocarbon-236cb  
20                  (HFC–236cb);
- 21                  “(xiii)           Hydrofluorocarbon-236ea  
22                  (HFC–236ea);
- 23                  “(xiv)            Hydrofluorocarbon-236fa  
24                  (HFC–236fa);

- 1                   “(xv)           Hydrofluorocarbon-245ca  
2                   (HFC-245ca);  
3                   “(xvi)           Hydrofluorocarbon-245fa  
4                   (HFC-245fa);  
5                   “(xvii)          Hydrofluorocarbon-365mfc  
6                   (HFC-365mfc);  
7                   “(xviii)         Hydrofluorocarbon-43-10mee  
8                   (HFC-43-10mee);  
9                   “(xix)           Hydrofluoroolefin-1234yf  
10                  (HFO-1234yf); and  
11                  “(xx)           Hydrofluoroolefin-1234ze  
12                  (HFO-1234ze).

13                 “(3) INITIAL LIST.—Not later than 180 days  
14                 after the date of enactment of this section, the Ad-  
15                 ministrator shall publish an initial list of class II,  
16                 group II substances, including the substances listed  
17                 in paragraph (2)(B).

18                 “(4) ADDITIONS TO LIST.—The Administrator  
19                 may add to the initial list of class II, group II sub-  
20                 stances published under paragraph (3) any other  
21                 substance used as a substitute for a class I or II  
22                 substance if the Administrator determines that 1  
23                 metric ton of the substance makes the same or a  
24                 greater contribution to global warming during a  
25                 100-year period as 1 metric ton of carbon dioxide.

1           “(5) REGULATIONS.—Not later than 2 years  
2 after the date of enactment of this section, the Ad-  
3 ministrator shall revise the regulations promulgated  
4 under this title (including the regulations referred to  
5 in sections 603, 608, 609, 610, 611, 612, and 613)  
6 to apply to class II, group II substances.

7           “(b) CONSUMPTION AND PRODUCTION OF CLASS II,  
8 GROUP II SUBSTANCES.—

9           “(1) CONSUMPTION PHASE-DOWN.—

10           “(A) PHASE-DOWN.—

11           “(i) IN GENERAL.—Not later than 18  
12 months after the date of enactment of this  
13 section, in the case of class II, group II  
14 substances, in lieu of applying section 605  
15 and the regulations promulgated under  
16 that section, the Administrator shall pro-  
17 mulgate regulations phasing down the con-  
18 sumption of class II, group II substances  
19 in the United States, and the importation  
20 of products containing any class II, group  
21 II substance, in accordance with this sub-  
22 section.

23           “(ii) UNLAWFUL PRODUCTION AND  
24 IMPORTATION.—Effective beginning on  
25 January 1, 2013, it shall be unlawful for



1 any person to produce any class II, group  
2 II substance, import any class II, group II  
3 substance, or import any product con-  
4 taining any class II, group II substance  
5 without holding 1 consumption allowance  
6 or 1 destruction offset credit for each car-  
7 bon dioxide equivalent ton of the class II,  
8 group II substance.

9 “(iii) REFUND.—Any person that ex-  
10 ports a class II, group II substance for  
11 which a consumption allowance was retired  
12 may receive a refund of that allowance  
13 from the Administrator following the ex-  
14 port.

15 “(B) PRODUCTION.—

16 “(i) IN GENERAL.—Except as pro-  
17 vided in clause (ii), if the United States be-  
18 comes a party or otherwise adheres to a  
19 multilateral agreement (including any  
20 amendment to the Montreal Protocol that  
21 restricts the production of class II, group  
22 II substances), the Administrator shall  
23 promulgate regulations establishing a base-  
24 line for the production of class II, group II  
25 substances in the United States and phas-

1           ing down the production of class II, group  
2           II substances in the United States, in ac-  
3           cordance with the multilateral agreement  
4           and subject to the same exceptions and  
5           other provisions as are applicable to the  
6           phase down of consumption of class II,  
7           group II substances under this section.

8           “(ii) EXCEPTION.—The Administrator  
9           shall not require a person that obtains pro-  
10          duction allowances from the Administrator  
11          to make payment for the allowances if the  
12          person is making payment for a cor-  
13          responding quantity of consumption allow-  
14          ances of the same vintage year.

15          “(iii) UNLAWFUL PRODUCTION.—Be-  
16          ginning on the effective date of the regula-  
17          tions promulgated under clause (i), it shall  
18          be unlawful for any person to produce any  
19          class II, group II substance without hold-  
20          ing 1 consumption allowance and 1 produc-  
21          tion allowance, or 1 destruction offset cred-  
22          it, for each carbon dioxide equivalent ton  
23          of 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 by regulation limit the per-  
 2 centage of the compliance obligation of a person  
 3 that may be met through the use of destruction  
 4 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)(i), the  
 12 number of class II, group II consumption allowances  
 13 established by the Administrator for each calendar  
 14 year beginning with calendar year 2013 shall be the  
 15 following percentage of the baseline, as established  
 16 by the Administrator pursuant to paragraph (3):

“Calendar Year	Percent of Baseline
2013	87.5
2014	85
2015	82.5
2016	80
2017	77.5
2018	75
2019	71
2020	67
2021	63

“Calendar Year	Percent of Baseline
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.—

2           “(A) IN GENERAL.—Not later than 1 year  
3           after the date of enactment of this section, sub-  
4           ject to subparagraphs (B) through (D), the Ad-  
5           ministrator shall promulgate regulations to es-  
6           tablish the baseline for purposes of paragraph  
7           (2).

8           “(B) CALCULATION OF BASELINE.—The  
9           baseline shall be the sum, expressed in metric  
10          tons of carbon dioxide equivalents, obtained by  
11          adding—

1           “(i) the annual average consumption  
2           of all class II substances during calendar  
3           years 2004, 2005, and 2006; and

4           “(ii) the annual average quantity of  
5           all class II substances contained in im-  
6           ported products during calendar years  
7           2004, 2005, and 2006.

8           “(C)    MAXIMUM    BASELINE.—Notwith-  
9           standing subparagraph (A), if the Adminis-  
10          trator determines that the baseline is higher  
11          than 370,000,000 metric tons of carbon dioxide  
12          equivalents, the Administrator shall establish  
13          the baseline at 370,000,000 metric tons of car-  
14          bon dioxide equivalents.

15          “(D)    MINIMUM    BASELINE.—Notwith-  
16          standing subparagraph (A), if the Adminis-  
17          trator determines that the baseline is lower  
18          than 280,000,000 metric tons of carbon dioxide  
19          equivalents, the Administrator shall establish  
20          the baseline at 280,000,000 metric tons of car-  
21          bon dioxide equivalents.

22          “(4) DISTRIBUTION OF ALLOWANCES.—

23                 “(A) IN GENERAL.—Pursuant to the regu-  
24                 lations promulgated under paragraph (1)(A),  
25                 for each calendar year beginning with calendar

1           year 2013, the Administrator shall sell con-  
 2           sumption allowances in accordance with this  
 3           paragraph.

4           “(B) ESTABLISHMENT OF POOLS.—

5           “(i) IN GENERAL.—The Administrator  
 6           shall establish a producer-importer allow-  
 7           ance pool and a secondary allowance pool.

8           “(ii) DISTRIBUTION WITHIN POOLS.—  
 9           Of the consumption allowances available  
 10          for a calendar year—

11           “(I) 80 percent shall be placed in  
 12          the producer-importer pool; and

13           “(II) 20 percent shall be placed  
 14          in the secondary pool.

15          “(C) PRODUCER-IMPORTER POOL.—

16          “(i) AUCTION.—

17           “(I) IN GENERAL.—For each cal-  
 18          endar year, the Administrator shall  
 19          offer for sale at auction the following  
 20          percentage of the consumption allow-  
 21          ances in the producer-importer pool:

“Calendar Year	Percent Available for Auction
2013	20
2014	30
2015	40



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1                   mitted to participate in future  
2                   auctions under this clause.

3                   “(bb) BASIS.—The Adminis-  
4                   trator shall base a determination  
5                   under item (aa) on the duration,  
6                   consistency, and scale of the pur-  
7                   chases by a person of consump-  
8                   tion allowances in the secondary  
9                   pool       under       subparagraph  
10                  (D)(ii)(III), as well as economic  
11                  or technical hardship and other  
12                  factors determined to be relevant  
13                  by the Administrator.

14                  “(IV) MINIMUM BIDS.—The Ad-  
15                  ministratoor shall set a minimum bid  
16                  per consumption allowance of the fol-  
17                  lowing:

18                         “(aa) For vintage year  
19                         2013, \$1.20.

20                         “(bb) For vintage year  
21                         2014, \$1.40.

22                         “(cc) For vintage year 2015,  
23                         \$1.60.

24                         “(dd) For vintage year  
25                         2016, \$1.80.



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1                   “(ee) For vintage year 2017,  
2                   \$2.00.

3                   “(ff) For vintage year 2018  
4                   and each vintage year thereafter,  
5                   \$2.00, as indexed for United  
6                   States dollar inflation from the  
7                   date of enactment of this section  
8                   (as measured by the Consumer  
9                   Price Index).

10                  “(ii) NONAUCTION SALE.—

11                   “(I) IN GENERAL.—For each cal-  
12                   endar year, as soon as practicable  
13                   after auction, the Administrator shall  
14                   offer for sale the remaining consump-  
15                   tion allowances in the producer-im-  
16                   porter pool at the following prices:

17                   “(aa) A fee of \$1.20 per vin-  
18                   tage year 2013 allowance.

19                   “(bb) A fee of \$1.40 per vin-  
20                   tage year 2014 allowance.

21                   “(cc) For each vintage year  
22                   2015 allowance, a fee equal to  
23                   the average of \$1.10 and the  
24                   auction clearing price for vintage  
25                   year 2014 allowances.

1                   “(dd) For each vintage year  
2                   2016 allowance, a fee equal to  
3                   the average of \$1.30 and the  
4                   auction clearing price for vintage  
5                   year 2015 allowances.

6                   “(ee) For each vintage year  
7                   2017 allowance, a fee equal to  
8                   the average of \$1.40 and the  
9                   auction clearing price for vintage  
10                  year 2016 allowances.

11                  “(ff) For each allowance of  
12                  vintage year 2018 and subse-  
13                  quent vintage years, a fee equal  
14                  to the auction clearing price for  
15                  that vintage year.

16                  “(II) PROPORTIONATE SALE.—  
17                  The Administrator shall offer to sell  
18                  the remaining consumption allowances  
19                  in the producer-importer pool to pro-  
20                  ducers of class II, group II substances  
21                  and importers of class II, group II  
22                  substances in proportion to the rel-  
23                  ative allocation shares of those pro-  
24                  ducers and importers determined  
25                  under subclause (III).

1                   “(III) DETERMINATION OF ALLO-  
2                   CATION SHARE.—Subject to subclause  
3                   (IV), the allocation share of a pro-  
4                   ducer or importer for a sale under  
5                   this clause shall be—

6                   “(aa) determined by the Ad-  
7                   ministrator using the annual av-  
8                   erage data of the producer or im-  
9                   porter on class II substances  
10                  from calendar years 2004, 2005,  
11                  and 2006, on a carbon dioxide  
12                  equivalent basis;

13                  “(bb) based on production,  
14                  plus importation, plus acquisi-  
15                  tions and purchases from persons  
16                  that produced class II substances  
17                  in the United States during cal-  
18                  endar year 2004, 2005, or 2006,  
19                  less exportation and less trans-  
20                  fers and sales to persons that  
21                  produced class II substances in  
22                  the United States during cal-  
23                  endar year 2004, 2005, or 2006;  
24                  and

1                   “(cc) for an importer of  
2 class II substances that did not  
3 produce in the United States any  
4 class II substance during cal-  
5 endar years 2004, 2005, and  
6 2006, based on the importation  
7 of the importer of the class II  
8 substances, less exportation of  
9 the class II substances, during  
10 those calendar years.

11                   “(IV) ACCOUNTING.—The Ad-  
12 ministrator shall account for—

13                   “(aa) for purposes of item  
14 (aa) of subclause (III), 100 per-  
15 cent of class II, group II sub-  
16 stances and 60 percent of class  
17 II, group I substances; and

18                   “(bb) for purposes of item  
19 (bb) of subclause (III), 100 per-  
20 cent of class II, group II sub-  
21 stances and 100 percent of class  
22 II, group I substances.

23                   “(V) UNPURCHASED CONSUMP-  
24 TION ALLOWANCES.—

1                   “(aa) IN GENERAL.—Any  
2 consumption allowances made  
3 available for nonauction sale to a  
4 specific producer or importer of  
5 class II, group II substances but  
6 not purchased by the specific  
7 producer or importer shall be  
8 made available for sale to any  
9 person that produced or imported  
10 class II substances during cal-  
11 endar year 2004, 2005, or 2006.

12                   “(bb) INSUFFICIENT SUP-  
13 PLY.—If demand for consump-  
14 tion allowances described in item  
15 (aa) exceeds the supply of those  
16 consumption allowances, the Ad-  
17 ministrator shall develop and use  
18 criteria for the sale of those con-  
19 sumption allowances that may in-  
20 clude pro rata shares, historic  
21 production and importation, eco-  
22 nomic or technical hardship, or  
23 other factors determined to be  
24 relevant by the Administrator.

1                   “(cc) INSUFFICIENT DE-  
2                   MAND.—If the supply of con-  
3                   sumption allowances described in  
4                   item (aa) exceeds demand for  
5                   those consumption allowances,  
6                   the Administrator may offer the  
7                   consumption allowances for sale  
8                   in the secondary pool in accord-  
9                   ance with subparagraph (D).

10                   “(D) SECONDARY POOL.—

11                   “(i) IN GENERAL.—For each calendar  
12                   year, as soon as practicable after the auc-  
13                   tion required under subparagraph (C), the  
14                   Administrator shall offer for sale the con-  
15                   sumption allowances in the secondary pool  
16                   at the prices specified in subparagraph  
17                   (C)(ii).

18                   “(ii) APPLICATIONS.—The Adminis-  
19                   trator shall accept applications for pur-  
20                   chase of secondary pool consumption allow-  
21                   ances from—

22                   “(I) importers of products con-  
23                   taining class II, group II substances;

24                   “(II) persons that purchased any  
25                   class II, group II substance directly

1 from a producer or importer of class  
2 II, group II substances for use in a  
3 product containing a class II, group II  
4 substance, a manufacturing process,  
5 or a reclamation process;

6 “(III) persons that did not  
7 produce or import a class II substance  
8 during calendar year 2004, 2005, or  
9 2006, but that the Administrator de-  
10 termines have subsequently taken sig-  
11 nificant steps to produce or import a  
12 substantial quantity of any class II,  
13 group II substance; and

14 “(IV) persons that produced or  
15 imported any class II substance dur-  
16 ing calendar year 2004, 2005, or  
17 2006.

18 “(iii) ADEQUATE OR EXCESS SUP-  
19 PLY.—

20 “(I) IN GENERAL.—If the supply  
21 of consumption allowances in the sec-  
22 ondary pool equals or exceeds the de-  
23 mand for consumption allowances in  
24 the secondary pool as presented in the  
25 applications for purchase, the Admin-

1            istrator shall sell the consumption al-  
2            lowances in the secondary pool to the  
3            applicants in the quantities requested  
4            in the applications for purchase.

5                    “(II) ROLL-OVER OF UNSOLD AL-  
6            LOWANCES.—Any consumption allow-  
7            ances in the secondary pool that are  
8            not purchased for a calendar year  
9            may be rolled over and added to the  
10           quantity available in the secondary  
11           pool for the following calendar year.

12                   “(iv) EXCESS DEMAND.—

13                    “(I) IN GENERAL.—If the de-  
14           mand for consumption allowances in  
15           the secondary pool as presented in the  
16           applications for purchase exceeds the  
17           supply of consumption allowances in  
18           the secondary pool, the Administrator  
19           shall sell the consumption allowances  
20           in accordance with subclauses (II)  
21           through (V).

22                    “(II) SALE TO CLASS II, GROUP  
23           II IMPORTERS.—

24                    “(aa) IN GENERAL.—The  
25           Administrator shall first sell the



1 consumption allowances in the  
2 secondary pool to any importers  
3 of products containing class II,  
4 group II substances in the quan-  
5 tities requested in the applica-  
6 tions for purchase submitted by  
7 the importers.

8 “(bb) DEMAND EXCEEDING  
9 SUPPLY.—If the demand for con-  
10 sumption allowances described in  
11 item (aa) exceeds supply of those  
12 consumption allowances, the Ad-  
13 ministrator shall develop and use  
14 criteria for the sale of the con-  
15 sumption allowances among im-  
16 porters of products containing  
17 class II, group II substances that  
18 may include pro rata shares, his-  
19 toric importation, economic or  
20 technical hardship, or other fac-  
21 tors determined to be relevant by  
22 the Administrator.

23 “(III) SALE TO OTHER PER-  
24 SONS.—

1                   “(aa) IN GENERAL.—After  
2 selling consumption allowances in  
3 accordance with subclause (II),  
4 the Administrator shall sell any  
5 remaining consumption allow-  
6 ances to persons identified in  
7 subclauses (II) and (III) of  
8 clause (ii) in the quantities re-  
9 quested in the applications for  
10 purchase submitted by those per-  
11 sons.

12                   “(bb) DEMAND EXCEEDING  
13 SUPPLY.—If the demand for con-  
14 sumption allowances described in  
15 item (aa) exceeds supply of those  
16 consumption allowances, the Ad-  
17 ministrator shall develop and use  
18 criteria for the sale of those con-  
19 sumption allowances to persons  
20 identified in subclauses (II) and  
21 (III) of clause (ii) that may in-  
22 clude pro rata shares, historic  
23 use, economic or technical hard-  
24 ship, or other factors determined

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1 to be relevant by the Adminis-  
2 trator.

3 “(IV) SALE TO CLASS II PRO-  
4 DUCERS AND IMPORTERS.—

5 “(aa) IN GENERAL.—After  
6 selling consumption allowances in  
7 accordance with subclauses (II)  
8 and (III), the Administrator shall  
9 sell any remaining consumption  
10 allowances to persons that pro-  
11 duced or imported any class II  
12 substance during calendar year  
13 2004, 2005, or 2006 in the quan-  
14 tities requested in the applica-  
15 tions for purchase submitted by  
16 those persons.

17 “(bb) DEMAND EXCEEDING  
18 SUPPLY.—If the demand for con-  
19 sumption allowances described in  
20 item (aa) exceeds supply of those  
21 consumption allowances, the Ad-  
22 ministrator shall develop and use  
23 criteria for the sale of those con-  
24 sumption allowances that may in-  
25 clude pro rata shares, historic

1 production and importation, eco-  
2 nomic or technical hardship, or  
3 other factors determined to be  
4 relevant by the Administrator.

5 “(V) DISCLOSURE.—Each person  
6 that purchases consumption allow-  
7 ances in a nonauction sale under this  
8 subparagraph shall be required to dis-  
9 close the person or entity sponsoring  
10 or benefitting from the purchases if  
11 the person or entity is, in whole or in  
12 part, other than the purchaser or the  
13 employer of the purchaser.

14 “(E) DISCRETION TO WITHHOLD ALLOW-  
15 ANCES.—

16 “(i) IN GENERAL.—Nothing in this  
17 paragraph prevents the Administrator  
18 from exercising discretion to withhold and  
19 retire consumption allowances that would  
20 otherwise be available for auction or non-  
21 auction sale, or to allocate those allowances  
22 for essential uses pursuant to subsection  
23 (d).

24 “(ii) REGULATIONS.—Not later than  
25 18 months after the date of enactment of



1                   “(I) the auction shall be held an-  
2 nually, with the first auction to be  
3 held not later than October 31, 2012;

4                   “(II) the auction shall follow a  
5 single-round, sealed-bid, uniform price  
6 format;

7                   “(III) the Administrator may es-  
8 tablish financial assurance require-  
9 ments to ensure that auction partici-  
10 pants can and will perform on the  
11 bids of the participants;

12                   “(IV) each bidder in the auction  
13 shall be required to disclose the per-  
14 son or entity sponsoring or benefitting  
15 from the participation of the bidder in  
16 the auction if the person or entity is,  
17 in whole or in part, other than the  
18 bidder;

19                   “(V) after the auction, the Ad-  
20 ministrator shall, in a timely fashion,  
21 publish the number of bidders, num-  
22 ber of winning bidders, the quantity  
23 of allowances sold, and the auction  
24 clearing price;

1                   “(VI) for the vintage year 2013  
2                   auction, no auction participant may,  
3                   directly or in concert with another  
4                   participant, bid for or purchase more  
5                   allowances offered for sale at the auc-  
6                   tion than the greater of—

7                   “(aa) the number of allow-  
8                   ances that, when added to the  
9                   number of allowances available  
10                  for purchase by the participant in  
11                  the producer-importer pool non-  
12                  auction sale, would equal the an-  
13                  nual average consumption of the  
14                  participant of class II, group II  
15                  substances in calendar years  
16                  2004, 2005, and 2006; or

17                  “(bb) the number of allow-  
18                  ances equal to the product of—

19                  “(AA) 1.20 multiplied  
20                  by the allocation share of  
21                  the participant of the pro-  
22                  ducer-importer pool nonauc-  
23                  tion sale, as determined  
24                  under paragraph (4)(C)(ii);  
25                  and

1                                   “(BB) the number of  
2                                   vintage year 2013 allow-  
3                                   ances offered at auction;

4                                   “(VII) for the vintage year 2014  
5                                   auction, no auction participant may,  
6                                   directly or in concert with another  
7                                   participant, bid for or purchase more  
8                                   allowances offered for sale at the auc-  
9                                   tion than the product of—

10                                   “(aa) 1.15 multiplied by the  
11                                   ratio that—

12                                   “(AA) the total number  
13                                   of vintage year 2013 allow-  
14                                   ances purchased by the par-  
15                                   ticipant from the auction  
16                                   and from the producer-im-  
17                                   porter pool nonauction sale;  
18                                   bears to

19                                   “(BB) the total number  
20                                   of vintage year 2013 allow-  
21                                   ances in the producer-im-  
22                                   porter pool; and

23                                   “(bb) the number of vintage  
24                                   year 2014 allowances offered at  
25                                   auction; and



1                   “(VIII) for the auctions for vin-  
2                   tage year 2015 and subsequent vin-  
3                   tage years, no auction participant  
4                   may, directly or in concert with an-  
5                   other participant, bid for or purchase  
6                   more allowances offered for sale at the  
7                   auction than the product of—

8                   “(aa) 1.15 multiplied by the  
9                   ratio that—

10                   “(AA) the highest num-  
11                   ber of allowances required to  
12                   be held by the participant in  
13                   any of the 2 prior vintage  
14                   years to meet the compliance  
15                   obligation of the participant  
16                   under paragraph (1); bears  
17                   to

18                   “(BB) the total number  
19                   of allowances in the pro-  
20                   ducer-importer pool for that  
21                   vintage year; and

22                   “(bb) the number of allow-  
23                   ances offered at auction for that  
24                   vintage year.

1                   “(iii) OTHER REQUIREMENTS.—The  
2 Administrator may include in the regula-  
3 tions promulgated under clause (i) such  
4 other requirements or provisions as the  
5 Administrator considers to be necessary to  
6 promote effective, efficient, transparent,  
7 and fair administration of auctions under  
8 this section.

9                   “(B) REVISION OF REGULATIONS.—

10                   “(i) IN GENERAL.—The Administrator  
11 may, at any time, revise the initial regula-  
12 tions promulgated under subparagraph (A)  
13 based on the experience of the Adminis-  
14 trator in administering allowance auctions  
15 by promulgating new regulations.

16                   “(ii) ALTERNATIVE AUCTION DE-  
17 SIGN.—Regulations revised under clause  
18 (i) shall not be required to meet the re-  
19 quirements under subparagraph (A) if the  
20 Administrator determines that an alter-  
21 native auction design would be more effec-  
22 tive, taking into account factors that in-  
23 clude the costs of administration, trans-  
24 parency, fairness, and risks of collusion or  
25 manipulation.

1                   “(iii) REVENUES.—In determining  
2                   whether and how to revise the initial regu-  
3                   lations under this subparagraph, the Ad-  
4                   ministrators shall not consider maximiza-  
5                   tion of revenues to the Federal Govern-  
6                   ment.

7                   “(C) DELEGATION OR CONTRACT.—Pursu-  
8                   ant to regulations under this section, the Ad-  
9                   ministrators may, by delegation or contract, pro-  
10                  vide for the conduct of auctions under the su-  
11                  pervision of the Administrator by other Federal  
12                  departments or agencies or by nongovernmental  
13                  agencies, groups, or organizations.

14                  “(7) PAYMENTS FOR ALLOWANCES.—

15                  “(A) INITIAL REGULATIONS.—

16                  “(i) IN GENERAL.—Not later than 18  
17                  months after the date of enactment of this  
18                  section, the Administrator shall promulgate  
19                  regulations governing the payment for al-  
20                  lowances purchased in auction and nonau-  
21                  ction sales under this section.

22                  “(ii) REQUIREMENT.—The regulations  
23                  promulgated under clause (i) shall include  
24                  the requirement that, in the event that full  
25                  payment for purchased allowances is not



1                   tion of revenues to the Federal Govern-  
2                   ment.

3                   “(C) DELEGATION OR CONTRACT.—Pursu-  
4                   ant to regulations under this section, the Ad-  
5                   ministrator may, by delegation or contract, pro-  
6                   vide for the conduct of auctions under the su-  
7                   pervision of the Administrator by other Federal  
8                   departments or agencies or by nongovernmental  
9                   agencies, groups, or organizations.

10                  “(D) PENALTIES FOR NONPAYMENT.—  
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                  subsection (b).

15                  “(8) IMPORTED PRODUCTS.—If the United  
16                  States becomes a party or otherwise adheres to a  
17                  multilateral agreement, including any amendment to  
18                  the Montreal Protocol, that restricts the production  
19                  or consumption of class II, group II substances—

20                  “(A) as of the date on which the agree-  
21                  ment or amendment enters into force, it shall  
22                  no longer be unlawful for any person to import  
23                  from a party to the agreement or amendment  
24                  any product containing any class II, group II  
25                  substance the production or consumption of

1           which is regulated by the agreement or amend-  
2           ment without holding 1 consumption allowance  
3           or 1 destruction offset credit for each carbon  
4           dioxide equivalent ton of the class II, group II  
5           substance;

6           “(B) not later than 1 year after the later  
7           of the date on which the United States becomes  
8           a party or otherwise adheres to the agreement  
9           or amendment or the date on which the agree-  
10          ment or amendment enters into force, the Ad-  
11          ministrator shall promulgate regulations to es-  
12          tablish a new baseline for purposes of para-  
13          graph (2), which new baseline shall be equal to  
14          the difference between—

15                   “(i) the original baseline; and

16                   “(ii) the carbon dioxide equivalent of  
17                   the annual average quantity of any class II  
18                   substances regulated by the agreement or  
19                   amendment contained in products imported  
20                   from parties to the agreement or amend-  
21                   ment in calendar years 2004, 2005, and  
22                   2006;

23           “(C) as of the date on which the agree-  
24          ment or amendment enters into force, no per-  
25          son importing any product containing any class

1           II, group II substance may, directly or in con-  
2           cert with another person, purchase any con-  
3           sumption allowances for sale by the Adminis-  
4           trator for the importation of products from a  
5           party to the agreement or amendment that con-  
6           tain any class II, group II substance restricted  
7           by the agreement or amendment; and

8                   “(D) the Administrator may adjust the 2  
9           allowance pools established under paragraph  
10          (4)(B) such that—

11                   “(i) up to 90 percent of the consump-  
12          tion allowances available for a calendar  
13          year are placed in the producer-importer  
14          pool; and

15                   “(ii) the remaining consumption al-  
16          lowances are placed in the secondary pool.

17          “(9) OFFSETS.—

18                   “(A) DEFINITION OF DESTRUCTION.—In  
19          this paragraph, the term ‘destruction’ means  
20          the conversion of a substance by thermal, chem-  
21          ical, or other means to another substance with  
22          little or no carbon dioxide equivalent value and  
23          no ozone depletion potential.

24                   “(B) CHLOROFLUOROCARBON DESTRUC-  
25          TION.—

1           “(i) IN GENERAL.—Not later than 18  
2           months after the date of enactment of this  
3           section, the Administrator shall promulgate  
4           regulations to provide for the issuance of  
5           offset credits for the destruction, during  
6           calendar year 2012 or later, of  
7           chlorofluorocarbons in the United States in  
8           accordance with subparagraph (E).

9           “(ii) DISTRIBUTION OF CREDITS.—  
10          Except as provided in clause (iii), the Ad-  
11          ministrator shall establish and distribute to  
12          an       entity       that       destroyed  
13          chlorofluorocarbons a quantity of destruc-  
14          tion offset credits an amount equal to the  
15          product obtained by multiplying—

16                   “(I) 0.8; and

17                   “(II) the number of metric tons  
18                   of carbon dioxide equivalents of reduc-  
19                   tion achieved through the destruction.

20          “(iii) EXCEPTION.—No destruction  
21          offset credits shall be established for the  
22          destruction of a class II, group II sub-  
23          stance.

24          “(C) REGULATIONS.—



1                   “(i) IN GENERAL.—The regulations  
2 promulgated under this paragraph shall in-  
3 clude standards and protocols for—

4                               “(I) project eligibility;

5                               “(II) certification of destroyers;

6                               “(III) monitoring;

7                               “(IV) tracking;

8                               “(V) destruction efficiency;

9                               “(VI) quantification of project  
10 and baseline emissions and carbon di-  
11 oxide equivalent value; and

12                               “(VII) verification.

13                   “(ii) ROLE OF ADMINISTRATOR.—The  
14 Administrator shall ensure that destruction  
15 offset credits represent real and verifiable  
16 destruction of chlorofluorocarbons or other  
17 class I or class II, group I, substances au-  
18 thorized under subparagraph (D).

19                   “(D) OTHER SUBSTANCES.—

20                               “(i) IN GENERAL.—The Administrator  
21 may promulgate regulations to add to the  
22 list of class I and class II, group I, sub-  
23 stances that may be destroyed for destruc-  
24 tion offset credits, taking into account—

1                   “(I) the carbon dioxide equivalent  
2                   value, ozone depletion potential, prev-  
3                   alence in banks in the United States,  
4                   and emission rates of a candidate sub-  
5                   stance; and

6                   “(II) the need for additional cost  
7                   containment under the class II, group  
8                   II limits and the integrity of the class  
9                   II, group II limits.

10                  “(ii) NO ADDITION BEFORE PHASE-  
11                  OUT.—The Administrator shall not add a  
12                  class I or class II, group I, substance to  
13                  the list if the consumption of the substance  
14                  has not been completely phased-out inter-  
15                  nationally (except for essential use exemp-  
16                  tions or other similar exemptions) pursu-  
17                  ant to the Montreal Protocol.

18                  “(E) EXTENSION OF OFFSETS.—

19                  “(i) IN GENERAL.—As part of the  
20                  regulations pursuant to subparagraph (A),  
21                  the Administrator may, based on the car-  
22                  bon dioxide equivalent value of the sub-  
23                  stance destroyed, add the types of destruc-  
24                  tion projects authorized to receive destruc-  
25                  tion offset credits under this paragraph to

1 the list of types of projects eligible for off-  
2 set credits under section 734.

3 “(ii) REQUIREMENTS GOVERNING  
4 ISSUANCE.—The issuance of offset credits  
5 for destruction projects added to the list of  
6 eligible project types under section 734  
7 shall be governed by the applicable require-  
8 ments of that part, except that, in the  
9 event of a conflict with the regulations ap-  
10 plicable to projects under part D of title  
11 VII, regulations under this paragraph shall  
12 apply.

13 “(iii) LIMITATION ON DESTRUCTION  
14 OFFSET CREDITS.—In no event shall more  
15 than 1 destruction offset credit be issued  
16 under title VII and this section for the de-  
17 struction of the same quantity of a sub-  
18 stance.

19 “(iv) PETITION.—Any person may,  
20 after the addition pursuant to this sub-  
21 paragraph of such destruction projects to  
22 the list of projects eligible for offset credits  
23 under section 734, petition the Adminis-  
24 trator to establish by regulation criteria for  
25 the issuance of chlorofluorocarbon destruc-

1                   tion credits in accordance with the require-  
2                   ments of part D. The petition shall provide  
3                   information adequate to support the peti-  
4                   tion. The Administrator shall grant or  
5                   deny the petition in accordance with sec-  
6                   tion 619(b).

7                   “(10) LEGAL STATUS OF ALLOWANCES AND  
8                   CREDITS.—Neither a production or consumption al-  
9                   lowance nor a destruction offset credit constitutes a  
10                  property right.

11                  “(c) DEADLINES FOR COMPLIANCE.—Notwith-  
12                  standing the deadlines specified for class II substances in  
13                  sections 608, 609, 610, 612, and 613 that occur prior to  
14                  January 1, 2009, the deadline for promulgating regula-  
15                  tions under those sections for class II, group II substances  
16                  shall be January 1, 2013.

17                  “(d) EXCEPTIONS FOR ESSENTIAL USES.—

18                         “(1) IN GENERAL.—Notwithstanding the provi-  
19                         sions of this section regarding auction and nonauc-  
20                         tion sale of allowances, to the extent consistent with  
21                         any applicable multilateral agreement to which the  
22                         United States is a party or otherwise adheres, the  
23                         Administrator may allocate (and in the case of med-  
24                         ical devices, shall determine whether to allocate) al-  
25                         lowances withheld from auction or nonauction sale

1 under subsection (b)(4)(E) for essential uses in ac-  
2 cordance with this subsection.

3 “(2) MEDICAL DEVICES.—

4 “(A) IN GENERAL.—The Administrator,  
5 after notice and opportunity for public com-  
6 ment, and in consultation with the Commis-  
7 sioner of Food and Drugs (referred to in this  
8 paragraph as the ‘Commissioner’), shall deter-  
9 mine whether to allocate withheld allowances  
10 for the production and consumption of class II,  
11 group II substances solely for use in medical  
12 devices approved and determined to be essential  
13 by the Commissioner.

14 “(B) APPROVAL AND DETERMINATION.—  
15 Not later than 20 months after the date of en-  
16 actment of this section, the Commissioner shall  
17 approve and determine essential medical de-  
18 vices.

19 “(C) METERED DOSE INHALERS.—For  
20 purposes of this section, section 601(8)(A) shall  
21 not apply to metered dose inhalers.

22 “(3) AVIATION AND SPACE VEHICLE SAFETY.—  
23 The Administrator, after notice and opportunity for  
24 public comment, and in consultation with the Ad-  
25 ministrator of the Federal Aviation Administration

1 or the Administrator of the National Aeronautics  
2 and Space Administration, may allocate withheld al-  
3 lowances for the production and consumption of  
4 class II, group II substances solely for aviation and  
5 space flight safety purposes.

6 “(4) FIRE SUPPRESSION.—

7 “(A) IN GENERAL.—The Administrator,  
8 after notice and opportunity for public com-  
9 ment, may allocate withheld allowances for the  
10 production and consumption of class II, group  
11 II substances solely for fire suppression pur-  
12 poses.

13 “(B) APPLICABILITY OF CERTAIN PROVI-  
14 SIONS.—Paragraphs (1) and (2) of subsection  
15 (g) of section 604 shall apply to class II, group  
16 II substances in the same manner and to the  
17 same extent as the provisions apply to the sub-  
18 stances specified in that subsection.

19 “(5) NATIONAL SECURITY.—The Administrator,  
20 after notice and opportunity for public comment,  
21 and in consultation with the Secretary of Defense,  
22 may allocate withheld allowances for the production  
23 and consumption of class II, group II substances for  
24 use as may be necessary to protect the national se-  
25 curity interests of the United States if the Adminis-

1       trator, in consultation with the Secretary of Defense,  
2       finds that—

3               “(A) adequate substitutes are not avail-  
4               able; and

5               “(B) the production or consumption of the  
6               substances is necessary to protect that national  
7               security interest.

8       “(e) DEVELOPING COUNTRIES.—

9               “(1) IN GENERAL.—Notwithstanding any  
10              phase-down of production required by this section,  
11              the Administrator, after notice and opportunity for  
12              public comment, may authorize the production of  
13              limited quantities of class II, group II substances in  
14              excess of the quantities otherwise allowable under  
15              this section solely for export to, and use in, devel-  
16              oping countries.

17              “(2) AUTHORIZED PURPOSE.—Any production  
18              authorized under this subsection shall be solely for  
19              purposes of satisfying the basic domestic needs of  
20              developing countries as provided in applicable inter-  
21              national agreements, if any, to which the United  
22              States is a party or otherwise adheres.

23       “(f) ACCELERATED SCHEDULE.—

1           “(1) IN GENERAL.—In lieu of section 606,  
2 paragraphs (2), (3), and (4) of this subsection shall  
3 apply in the case of class II, group II substances.

4           “(2) REGULATIONS.—The Administrator shall  
5 promulgate initial regulations not later than 18  
6 months after the date of enactment of this section,  
7 and revised regulations any time thereafter, that es-  
8 tablish a schedule for phasing down the consumption  
9 (and, if the condition described in subsection  
10 (b)(1)(B) is met, the production) of class II, group  
11 II substances that is more stringent than the sched-  
12 ule set forth in this section if—

13           “(A) based on factors (including trends in  
14 market demand for such substances) and the  
15 availability of substitutes, the Administrator de-  
16 termines that the more stringent schedule is  
17 practicable, taking into account technological  
18 achievability, safety, and other factors the Ad-  
19 ministrator determines to be relevant; or

20           “(B) the Montreal Protocol, or any appli-  
21 cable international agreement to which the  
22 United States is a party or otherwise adheres,  
23 is modified or established to include a schedule  
24 or other requirements to control or reduce pro-  
25 duction, consumption, or use of any class II,



1           group II substance more rapidly than the appli-  
2           cable schedule under this section.

3           “(3) PETITION.—Any person may submit a pe-  
4           tition to promulgate regulations under this sub-  
5           section in the same manner and subject to the same  
6           procedures as are provided in section 606(b).

7           “(4) INCONSISTENCY.—If the Administrator de-  
8           termines that the provisions of this section regarding  
9           banking, allowance rollover, or destruction offset  
10          credits create a significant potential for inconsis-  
11          tency with the requirements of any applicable inter-  
12          national agreement to which the United States is a  
13          party or otherwise adheres, the Administrator may  
14          promulgate regulations restricting the availability of  
15          banking, allowance rollover, or destruction offset  
16          credits to the extent necessary to avoid the inconsis-  
17          tency.

18          “(g) EXCHANGE.—

19                 “(1) IN GENERAL.—Section 607 shall not apply  
20                 in the case of class II, group II substances.

21                 “(2) PROHIBITION ON CONVERSION.—Produc-  
22                 tion and consumption allowances for class II, group  
23                 II substances may be freely exchanged or sold but  
24                 may not be converted into allowances for class II,  
25                 group I substances.

1 “(h) LABELING.—

2 “(1) IN GENERAL.—In applying section 611 to  
3 products containing or manufactured with class II,  
4 group II substances, in lieu of the words ‘destroying  
5 ozone in the upper atmosphere’ on labels required  
6 under section 611, there shall be substituted the  
7 words ‘contributing to global warming’.

8 “(2) EXEMPTIONS.—The Administrator may by  
9 regulation exempt from the requirements of section  
10 611 products containing or manufactured with class  
11 II, group II substances determined to have little or  
12 no carbon dioxide equivalent value compared to  
13 other substances used in similar products.

14 “(i) NONESSENTIAL PRODUCTS.—

15 “(1) IN GENERAL.—For the purposes of section  
16 610, class II, group II substances shall be regulated  
17 under section 610(b), except that in applying section  
18 610(b)—

19 “(A) the word ‘hydrofluorocarbon’ shall be  
20 substituted for the word ‘chlorofluorocarbon’;  
21 and

22 “(B) the term ‘class II, group II’ shall be  
23 substituted for the term ‘class I’.

24 “(2) EXEMPTION.—Class II, group II sub-  
25 stances shall not be subject to section 610(d).

1 “(j) INTERNATIONAL TRANSFERS.—

2 “(1) IN GENERAL.—In the case of class II,  
3 group II substances, in lieu of section 616, this sub-  
4 section shall apply.

5 “(2) TRANSFERS.—

6 “(A) IN GENERAL.—To the extent con-  
7 sistent with any applicable international agree-  
8 ment to which the United States is a party or  
9 otherwise adheres, including any amendment to  
10 the Montreal Protocol, the United States may  
11 engage in transfers with other parties to the  
12 agreement or amendment in accordance with  
13 this paragraph.

14 “(B) TRANSFER WITH REVISED LIMITS.—  
15 The United States may transfer production al-  
16 lowances to another party to the agreement or  
17 amendment if, at the time of the transfer, the  
18 Administrator establishes revised production  
19 limits for the United States accounting for the  
20 transfer in accordance with regulations promul-  
21 gated pursuant to this subsection.

22 “(C) ACQUISITION AFTER REVISED PRO-  
23 Duction LIMITS.—The United States may ac-  
24 quire production allowances from another party  
25 to the agreement or amendment if, at the time

1 of the transfer, the Administrator finds that the  
2 other party has revised the domestic production  
3 limits of the party in the same manner as pro-  
4 vided with respect to transfers by the United  
5 States in the regulations promulgated pursuant  
6 to this subsection.

7 “(k) RELATIONSHIP TO OTHER LAWS.—

8 “(1) STATE LAWS.—For purposes of section  
9 116, the requirements of this section for class II,  
10 group II substances shall be treated as requirements  
11 for the control and abatement of air pollution.

12 “(2) MULTILATERAL AGREEMENTS.—Section  
13 614 shall apply to the provisions of this section con-  
14 cerning class II, group II substances, except that—

15 “(A) for the words ‘Montreal Protocol’,  
16 there shall be substituted the words ‘Montreal  
17 Protocol, or any applicable multilateral agree-  
18 ment to which the United States is a party or  
19 otherwise adheres that restricts the production  
20 or consumption of class II, group II sub-  
21 stances’; and

22 “(B) for the last sentence of section  
23 614(b), there shall be substituted ‘If the Mon-  
24 treal Protocol, or any applicable international  
25 agreement to which the United States is a

1 party or otherwise adheres, is modified or es-  
2 tablished to include a provision regarding trade  
3 in class II, group II substances with nonparties,  
4 the Administrator may implement the trade  
5 provision under this section.’.

6 “(3) FEDERAL FACILITIES.—For purposes of  
7 section 118, the requirements of this section for  
8 class II, group II substances and corresponding  
9 State, interstate, and local requirements, administra-  
10 tive authority, and process and sanctions shall be  
11 treated as requirements for the control and abate-  
12 ment of air pollution within the meaning of section  
13 118.

14 “(1) CARBON DIOXIDE EQUIVALENT VALUE.—

15 “(1) IN GENERAL.—In lieu of section 602(e),  
16 the provisions of this subsection shall apply in the  
17 case of class II, group II substances.

18 “(2) PUBLICATION OF EQUIVALENT VALUES.—

19 Simultaneously with establishing the list of class II,  
20 group II substances under subsection (a)(2), and si-  
21 multaneously with any addition to that list, the Ad-  
22 ministrator shall publish the carbon dioxide equiva-  
23 lent value of each listed class II, group II substance,  
24 based on a determination of the number of metric  
25 tons of carbon dioxide that make the same contribu-

1       tion to global warming during a 100-year period as  
2       1 metric ton of each class II, group II substance.

3           “(3) REVIEW, REVISION, AND PUBLICATION.—  
4       Subject to paragraph (5), not later than February 1,  
5       2017, and not less than every 5 years thereafter, the  
6       Administrator shall—

7           “(A) review and, if appropriate, revise the  
8       carbon dioxide equivalent values established for  
9       class II, group II substances based on a deter-  
10      mination of the number of metric tons of car-  
11      bon dioxide that make the same contribution to  
12      global warming during a 100-year period as 1  
13      metric ton of each class II, group II substance;  
14      and

15          “(B) publish in the Federal Register the  
16      results of that review and any revisions.

17          “(4) EFFECTIVE DATE.—A revised determina-  
18      tion published in the Federal Register under para-  
19      graph (3)(B) shall take effect for production of class  
20      II, group II substances, consumption of class II,  
21      group II substances, and importation of products  
22      containing class II, group II substances beginning  
23      on January 1 of the first calendar year that begins  
24      at least 270 days after the date on which the revised  
25      determination was published.

1 “(5) FREQUENCY OF REVIEW AND REVISION.—

2 “(A) IN GENERAL.—Except as provided in  
3 subparagraph (B), the Administrator may de-  
4 crease the frequency of review and revision  
5 under paragraph (3) if the Administrator deter-  
6 mines that such a decrease is appropriate in  
7 order to synchronize the review and revisions  
8 with any similar review process carried out pur-  
9 suant to—

10 “(i) the United Nations Framework  
11 Convention on Climate Change, done at  
12 New York on May 9, 1992 (or an agree-  
13 ment negotiated under that convention); or

14 “(ii) the Convention for the Protection  
15 of the Ozone Layer, done at Vienna on  
16 March 22, 1985 (TIAS 11097) (or an  
17 agreement negotiated under that conven-  
18 tion).

19 “(B) MINIMUM REVIEW PERIOD.—In no  
20 event shall the Administrator carry out a review  
21 and revision under this subsection any less fre-  
22 quently than every 10 years.

23 “(m) REPORTING REQUIREMENTS.—

24 “(1) IN GENERAL.—In lieu of subsections (b)  
25 and (c) of section 603, paragraphs (2) and (3) of

1       this subsection shall apply in the case of class II,  
2       group II substances.

3               “(2) PERIODIC REPORTS.—

4                       “(A) IN GENERAL.—Except as provided in  
5                       subparagraphs (B) and (C), on a quarterly  
6                       basis, or such other basis (not less than annu-  
7                       ally) as shall be determined by the Adminis-  
8                       trator, each person that produced, imported, or  
9                       exported a class II, group II substance, or that  
10                      imported a product containing a class II, group  
11                      II substance, shall file a report with the Admin-  
12                      istrator that—

13                               “(i) specifies the carbon dioxide equiv-  
14                               alent quantity of the substance that the  
15                               person produced, imported, or exported,  
16                               and the quantity that was contained in  
17                               products imported by that person, during  
18                               the preceding reporting period; and

19                               “(ii) is signed and attested by a re-  
20                               sponsible officer.

21                       “(B) NO REPORTS REQUIRED.—If all other  
22                       reporting is complete, no report under subpara-  
23                       graph (A) shall be required from a person after  
24                       April 1 of the calendar year after the person—



1                   “(i) permanently ceases production,  
2                   importation, and exportation of the sub-  
3                   stance, as well as importation of products  
4                   containing the substance; and

5                   “(ii) notifies the Administrator of that  
6                   cessation in writing.

7                   “(C) MULTILATERAL AGREEMENTS.—If  
8                   the United States becomes a party or otherwise  
9                   adheres to a multilateral agreement, including  
10                  any amendment to the Montreal Protocol, that  
11                  restricts the production or consumption of class  
12                  II, group II substances and all other reporting  
13                  is complete, no report under subparagraph (A)  
14                  shall be required from a person with respect to  
15                  importation from parties to the agreement or  
16                  amendment of products containing any class II,  
17                  group II substance restricted by the agreement  
18                  or amendment, after April 1 of the calendar  
19                  year following the year during which the agree-  
20                  ment or amendment enters into force.

21                  “(3) BASELINE REPORTS FOR CLASS II, GROUP  
22                  II SUBSTANCES.—

23                  “(A) IN GENERAL.—Unless the informa-  
24                  tion has been previously reported to the Admin-  
25                  istrator, on the date on which the first report

1 under paragraph (1) is required to be filed,  
2 each person that produced, imported, or ex-  
3 ported a class II, group II substance, or that  
4 imported a product containing a class II sub-  
5 stance (other than a substance added to the list  
6 of class II, group II substances after the publi-  
7 cation of the initial list of those substances  
8 under subsection (a)(2)), shall file a report with  
9 the Administrator setting forth the quantity of  
10 the substance that the person produced, im-  
11 ported, exported, or that was contained in prod-  
12 ucts imported by that person, during each of  
13 calendar years 2004, 2005, and 2006.

14 “(B) PRODUCERS.—In reporting under  
15 subparagraph (A), each person that produced in  
16 the United States a class II substance during  
17 calendar year 2004, 2005, or 2006 shall re-  
18 port—

19 “(i) all acquisitions or purchases of  
20 class II substances during each of calendar  
21 years 2004, 2005, and 2006 from all other  
22 persons that produced in the United States  
23 a class II substance during calendar year  
24 2004, 2005, or 2006, including such evi-

1                   dence of the acquisitions and purchases as  
2                   the Administrator determines; and

3                   “(ii) all transfers or sales of class II  
4                   substances during each of calendar years  
5                   2004, 2005, and 2006 to all other persons  
6                   that produced in the United States a class  
7                   II substance during calendar year 2004,  
8                   2005, or 2006, including such evidence of  
9                   the transfers and sales as the Adminis-  
10                  trator determines.

11                  “(C) ADDED SUBSTANCES.—In the case of  
12                  a substance added to the list of class II, group  
13                  II substances after publication of the initial list  
14                  of those substances under subsection (a)(2), not  
15                  later than 180 days after the date on which the  
16                  substance is added to the list, each person that  
17                  produced, imported, exported, or imported prod-  
18                  ucts containing the substance during calendar  
19                  year 2004, 2005, or 2006 shall file a report  
20                  with the Administrator that specifies the quan-  
21                  tity of the substance that the person produced,  
22                  imported, and exported, as well as the quantity  
23                  that was contained in products imported by  
24                  that person, during calendar years 2004, 2005,  
25                  and 2006.

1           “(n) STRATOSPHERIC OZONE AND CLIMATE PROTEC-  
2 TION FUND.—

3           “(1) IN GENERAL.—There is established in the  
4 Treasury of the United States a Stratospheric Ozone  
5 and Climate Protection Fund (referred to in this  
6 subsection as the ‘Fund’).

7           “(2) DEPOSITS.—The Administrator shall de-  
8 posit all proceeds from the auction and nonauction  
9 sale of allowances under this section in the Fund.

10           “(3) USE OF AMOUNTS IN FUND.—Amounts de-  
11 posited in the Fund shall be available, subject to ap-  
12 propriations, exclusively for the following purposes:

13           “(A) RECOVERY, RECYCLING, AND REC-  
14 LAMATION.—The Administrator may use  
15 amounts in the Fund to establish a program to  
16 incentivize the recovery, recycling, and reclama-  
17 tion of any class II substances in order to re-  
18 duce emissions of the substances.

19           “(B) MULTILATERAL FUND.—If the  
20 United States becomes a party or otherwise ad-  
21 heres to a multilateral agreement, including any  
22 amendment to the Montreal Protocol, that re-  
23 stricts the production or consumption of class  
24 II, group II substances, the Secretary of State,  
25 in consultation with the Administrator, may use

1 funds to meet any related contribution obliga-  
2 tion of the United States to the Multilateral  
3 Fund for the Implementation of the Montreal  
4 Protocol (or any similar multilateral fund estab-  
5 lished under such a multilateral agreement).

6 “(C) BEST-IN-CLASS APPLIANCES DEPLOY-  
7 MENT PROGRAM.—The Secretary of Energy, in  
8 consultation with the Administrator, may use  
9 amounts in the Fund to establish and carry out  
10 a program, to be known as the ‘Best-in-Class  
11 Appliances Deployment Program’—

12 “(i) to provide bonus payments to re-  
13 tailers or distributors for sales of best-in-  
14 class high-efficiency household appliance  
15 models, high-efficiency installed building  
16 equipment, and high-efficiency consumer  
17 electronics, with the goals of—

18 “(I) accelerating the reduction in  
19 consumption of class II substances  
20 (measured on a global warming poten-  
21 tial-weighted basis);

22 “(II) reducing lifecycle costs for  
23 consumers;

24 “(III) encouraging innovation;  
25 and

1                   “(IV) maximizing energy savings  
2                   and public benefit;

3                   “(ii) to provide bounties to retailers  
4                   and manufacturers for the replacement, re-  
5                   tirement, and recycling, meeting at a min-  
6                   imum the requirements contained in the  
7                   Responsible Appliance Disposal Program  
8                   of the Administrator, of old, inefficient,  
9                   and environmentally harmful products,  
10                  with the same goals as are described in  
11                  clause (i); and

12                  “(iii) to provide premium awards to  
13                  manufacturers for developing and pro-  
14                  ducing new super-efficient best-in-class  
15                  products that meet the same goals as are  
16                  described in clause (i).

17                  “(D) LOW GLOBAL WARMING PRODUCT  
18                  TRANSITION ASSISTANCE PROGRAM.—

19                  “(i) DEFINITION OF PRODUCTS.—In  
20                  this subparagraph, the term ‘products’  
21                  means refrigerators, freezers, dehumidi-  
22                  fiers, air conditioners, foam insulation,  
23                  technical aerosols, fire protection systems,  
24                  and semiconductors.



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, not later than 90 days after the  
7 end of the fiscal year, the Administrator  
8 shall submit to Congress a report detailing  
9 the amounts, recipients, specific purposes,  
10 and 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 at the end the following:

“Sec. 619. Hydrofluorocarbons.”.

15 (c) FIRE SUPPRESSION AGENTS.—Section 605(a) of  
16 the Clean Air Act (42 U.S.C. 7671(a)) is amended—

17 (1) in paragraph (2), by striking “or” at the  
18 end;

19 (2) in paragraph (3), by striking the period at  
20 the end and inserting “; or”; and

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

22 “(4) is listed as acceptable for use as a fire sup-  
23 pression agent for nonresidential applications in ac-  
24 cordance with section 612(c).”.

25 (d) MOTOR VEHICLE AIR CONDITIONERS.—





1 shall be equipped with a device or tech-  
2 nology that limits—

3 “(I) refrigerant emissions and  
4 leaks from the container; and

5 “(II) refrigerant emissions and  
6 leaks during the transfer of refrig-  
7 erant from the container to the motor  
8 vehicle air conditioner; or

9 “(ii) issue a determination that such  
10 regulations are not necessary or appro-  
11 priate.

12 “(C) BEST PRACTICES.—

13 “(i) IN GENERAL.—Except as pro-  
14 vided in clause (ii), not later than 18  
15 months after the date of enactment of this  
16 subsection, the Administrator shall promul-  
17 gate regulations that—

18 “(I) establish requirements for  
19 consumer education materials regard-  
20 ing best practices associated with the  
21 use of containers that contain less  
22 than 20 pounds of a class II, group II  
23 substance; and

24 “(II) prohibit the sale or dis-  
25 tribution, or offer for sale or distribu-

1                   tion, of any class II, group II sub-  
2                   stance in any container that contains  
3                   less than 20 pounds of a class II,  
4                   group II substance.

5                   “(ii) EXCEPTION.—Clause (i)(II) shall  
6                   not apply if the Administrator determines  
7                   that consumer education materials con-  
8                   sistent with the requirements described in  
9                   that clause are—

10                           “(I) displayed and available at  
11                           point-of-sale locations;

12                           “(II) provided to consumers; or

13                           “(III) included in or on the pack-  
14                           aging of the applicable container.

15                   “(D) EXTENSION.—The Administrator  
16                   may extend, by regulation, the requirements es-  
17                   tablished under this paragraph to containers  
18                   that contain 30 pounds or less of a class II,  
19                   group II substance if the Administrator deter-  
20                   mines that the extension would produce signifi-  
21                   cant environmental benefits.

22                   “(3) RESTRICTION OF SALES.—Effective begin-  
23                   ning on January 1, 2014, no individual or entity  
24                   may sell or distribute, offer to sell or distribute, or  
25                   otherwise introduce into commerce any motor vehicle

1 air conditioner refrigerant in any size container un-  
2 less the substance has been found acceptable for use  
3 in a motor vehicle air conditioner under section  
4 612.”.

5 (e) SAFE ALTERNATIVES POLICY.—Section 612(e) of  
6 the Clean Air Act (42 U.S.C. 7671k(e)) is amended by  
7 inserting “or class II” after each reference to “class I”.

8 (f) CONTAINERS OF CLASS I AND CLASS II SUB-  
9 STANCES.—Section 608(e) of the Clean Air Act (42  
10 U.S.C. 7671g(e)) is amended by adding at the end the  
11 following:

12 “(3) CONTAINERS OF CLASS I AND CLASS II  
13 SUBSTANCES.—

14 “(A) DEFINITIONS.—In this paragraph:

15 “(i) DISPOSABLE CONTAINER.—The  
16 term ‘disposable container’ means a con-  
17 tainer that is designed to be disposed of or  
18 recycled.

19 “(ii) REFILLABLE CONTAINER.—The  
20 term ‘refillable container’ means a con-  
21 tainer that is designed to be refilled.

22 “(B) STUDY.—Not later than 1 year after  
23 the date of enactment of this paragraph, the  
24 Administrator shall study the benefits of refill-  
25 able containers and disposable containers used

1 to hold 20 pounds or more of a class I sub-  
2 stance or class II substance.

3 “(C) IMPLEMENTATION.—The Adminis-  
4 trator, based on positive findings from the  
5 study conducted pursuant to subparagraph (B),  
6 shall revise regulations promulgated under this  
7 section to reflect those findings.”.

8 **PART II—BLACK CARBON**

9 **SEC. 2211. REPORT ON BLACK CARBON SOURCES, IMPACTS,**  
10 **AND REDUCTION OPPORTUNITIES.**

11 (a) DEFINITIONS.—In this section:

12 (1) ADMINISTRATOR.—The term “Adminis-  
13 trator” means the Administrator of the Environ-  
14 mental Protection Agency, in consultation with—

15 (A) the Secretary of Energy;

16 (B) the Secretary of State;

17 (C) the Secretary of Agriculture;

18 (D) the Administrator of the National Oce-  
19 anic and Atmospheric Administration;

20 (E) the Administrator of the National Aer-  
21 onautics and Space Administration;

22 (F) the Administrator of the United States  
23 Agency for International Development;

24 (G) the Director of the National Institutes  
25 of Health;

1 (H) the Director of the Centers for Dis-  
2 ease Control and Prevention;

3 (I) the Director of the National Institute  
4 of Standards and Technology; and

5 (J) the heads of other relevant Federal  
6 agencies.

7 (2) BLACK CARBON.—The term “black carbon”  
8 means any strongly light-absorbing graphitic, or ele-  
9 mental carbon-containing, particle produced by in-  
10 complete combustion.

11 (3) OTHER TERMS.—Other terms have the  
12 meanings given the terms under the Clean Air Act  
13 (42 U.S.C. 7401 et seq.).

14 (b) REPORT.—The Administrator shall prepare and  
15 submit to Congress a 3-phase report in accordance with  
16 this section on the sources and effects of, and strategies  
17 for reducing, black carbon emissions.

18 (c) FIRST PHASE; SOURCES, IMPACTS, AND MITIGA-  
19 TION OPPORTUNITIES.—Not later than April 30, 2011,  
20 the Administrator shall complete (in coordination with the  
21 study on black carbon required under the sixth paragraph  
22 of the matter under the heading “ADMINISTRATIVE PRO-  
23 VISIONS, ENVIRONMENTAL PROTECTION AGENCY” under  
24 the heading “ENVIRONMENTAL PROTECTION  
25 AGENCY” of title II of the Department of the Interior,

1 Environment, and Related Agencies Appropriations Act ,  
2 2010 (Public Law 111–88; 123 Stat. 2398)), a report  
3 based on available scientific and technical information  
4 that, to the maximum extent practicable—

5 (1) identifies appropriate definitions and meas-  
6 urement techniques for black carbon, organic car-  
7 bon, and the other light-absorbing aerosols that are  
8 useful in characterizing the climate, public health,  
9 and other environmental impacts of the aerosols;

10 (2) quantifies the major source categories of  
11 emissions of black carbon and other light-absorbing  
12 aerosols in the United States and internationally and  
13 provides estimates of future emissions from those  
14 sources;

15 (3) assesses the net impacts of the emissions of  
16 black carbon and other light-absorbing aerosols from  
17 those sources on global and regional climate, includ-  
18 ing impacts on the Arctic;

19 (4) assesses potential metrics and approaches  
20 for quantifying the climate effects of emissions of  
21 black carbon and other light-absorbing aerosols and  
22 comparing those effects to the climate effects of car-  
23 bon dioxide and other greenhouse gases;

24 (5) identifies cost-effective approaches to de-  
25 creasing emissions of black carbon and other light-

1 absorbing aerosols in the United States and inter-  
2 nationally, including the consideration of—

3 (A) diesel particulate filters for existing  
4 diesel motor vehicle and nonroad engines;

5 (B) particle emission reduction strategies  
6 for marine vessels; and

7 (C) improved stoves and fuels to reduce  
8 emissions from home heating and cooking; and

9 (6) assesses the net impacts of available mitiga-  
10 tion measures on public health, climate change, and  
11 other environmental impacts, taking into account the  
12 effects of mitigation measures on emissions of other  
13 pollutants, including sulfur dioxide, nitrogen oxides,  
14 and volatile organic compounds.

15 (d) SECOND PHASE; INTERNATIONAL ASSISTANCE.—

16 Not later than November 2011, or the date that is 1 year  
17 after the date of enactment of this Act, whichever is later,  
18 the Administrator shall complete a report that—

19 (1) summarizes the quantity, type, and recipi-  
20 ents of all actual and potential financial, technical,  
21 and related assistance provided by the United States  
22 to foreign countries, directly or through multi-  
23 national institutions, to reduce, mitigate, or other-  
24 wise abate—



1 (A) emissions of black carbon and other  
2 light-absorbing aerosols; and

3 (B) any health, environmental, and eco-  
4 nomic impacts associated with those emissions;

5 (2) identifies opportunities, including action  
6 under existing authority, to achieve significant re-  
7 ductions in emissions of black carbon and other  
8 light-absorbing aerosols in foreign countries through  
9 the provision of technical and other assistance, in-  
10 cluding—

11 (A) identifying countries and regions that  
12 may be able to implement or expand programs  
13 for deploying cleaner and more efficient cook  
14 stoves and cook stove fuels, particularly in Afri-  
15 ca and the developing regions of Asia; and

16 (B) considering the feasibility and poten-  
17 tial of implementing revolving funds or loans  
18 for the deployment of cleaner, more efficient  
19 cook stoves, diesel engine retrofits, or other  
20 emissions mitigation technologies; and

21 (3) identifies opportunities to support analysis  
22 of the co-benefits of reducing black carbon for public  
23 health, agriculture, air quality, and climate in devel-  
24 oping countries.

1 (e) THIRD PHASE; RESEARCH AND DEVELOPMENT  
2 OPPORTUNITIES.—Not later than May 2012, or the date  
3 that is 18 months after the date of enactment of this Act,  
4 whichever is later, the Administrator shall issue a report  
5 containing recommendations on—

6 (1) priority areas of focus for additional re-  
7 search on cost-effective technologies, approaches,  
8 and strategies with the highest potential to reduce  
9 emissions of black carbon and other light-absorbing  
10 aerosols and protect public health in the United  
11 States and internationally;

12 (2) research needed to better quantify sources  
13 of black carbon and co-emitted pollutants in the  
14 United States and globally;

15 (3) research to better understand differences in  
16 the acute and chronic human health responses to  
17 aerosols from different sources, including the effect  
18 of different levels of exposure to smoke from cook  
19 stoves and the effect of aerosol chemical composi-  
20 tion;

21 (4) the development of a coordinated inter-  
22 agency plan, as part of the United States Global  
23 Change Research Program established under section  
24 103 of the Global Change Research Act of 1990 (15  
25 U.S.C. 2933), for observations, modeling, and re-

1 search to improve understanding of the impact of  
2 aerosol pollution on climate and air quality on re-  
3 gional and global scales;

4 (5) means of promoting sustainable solutions to  
5 bring cleaner, more efficient, safer, and affordable  
6 stoves, fuels, or both stoves and fuels, to residents  
7 of developing countries that rely to a significant ex-  
8 tent on solid fuels such as wood, dung, charcoal,  
9 coal, or crop residues for home cooking and heating,  
10 to help reduce the public health, environmental, and  
11 economic impacts of emissions from those sources  
12 by—

13 (A) identifying key regions for large-scale  
14 demonstration efforts for deploying such stoves  
15 and fuels, and key partners in each such region;  
16 and

17 (B) developing for each such region a  
18 large-scale implementation strategy with a goal  
19 of collectively reaching 20,000,000 homes over  
20 5 years with interventions that will—

21 (i) increase stove efficiency by over 50  
22 percent (or other appropriate goal, as de-  
23 termined by the Administrator);

1                   (ii) incorporate local customs and  
2 practices, and emphasize locally available  
3 fuels;

4                   (iii) reduce emissions of black carbon  
5 and other light-absorbing aerosols by over  
6 60 percent (or other appropriate goal, as  
7 determined by the Administrator); and

8                   (iv) reduce the incidence of severe  
9 pneumonia in children under 5 years-of-  
10 age by over 30 percent (or other appro-  
11 priate goal, as determined by the Adminis-  
12 trator);

13               (6) research and development activities needed  
14 to better characterize the feasibility of biochar tech-  
15 niques to decrease emissions, increase carbon soil se-  
16 questration, and improve agricultural production,  
17 and if appropriate, encourage broader application of  
18 those techniques; and

19               (7) other research needed to better assess the  
20 co-benefits for public health, agriculture, air quality,  
21 and climate of mitigation strategies for black carbon  
22 and other light-absorbing aerosols.

1 **SEC. 2212. BLACK CARBON MITIGATION.**

2 (a) IN GENERAL.—Title VIII of the Clean Air Act  
3 (as amended by section 4141) is amended by inserting  
4 after section 804 the following:

5 **“SEC. 805. BLACK CARBON.**

6 “(a) IN GENERAL.—Taking into consideration the  
7 public health and environmental impacts of black carbon  
8 emissions (including the effects on global and regional  
9 warming, the Arctic, and other snow and ice-covered sur-  
10 faces), the Administrator shall—

11 “(1) not later than 2 years after the date of en-  
12 actment of this part, propose—

13 “(A) regulations applicable to emissions of  
14 black carbon under the existing authorities of  
15 this Act; or

16 “(B) a finding that existing regulations  
17 promulgated under this Act adequately regulate  
18 black carbon emissions, which finding may be  
19 based on a finding that existing regulations, as  
20 determined by the Administrator—

21 “(i) address those sources that both  
22 contribute significantly to the total emis-  
23 sions of black carbon and provide the  
24 greatest potential for significant and cost-  
25 effective reductions in emissions of black  
26 carbon, under the existing authorities; and

1           “(ii) reflect the greatest degree of  
2           emission reduction achievable through ap-  
3           plication of technology that will be avail-  
4           able for such sources, giving appropriate  
5           consideration to cost, energy, and safety  
6           factors associated with the application of  
7           the technology; and

8           “(2) not later than 3 years after the date of en-  
9           actment of this part, promulgate final regulations  
10          under the existing authorities of this Act or finalize  
11          the proposed finding.

12          “(b) APPLICABILITY OF REGULATIONS.—Regulations  
13          promulgated under subsection (a) shall not apply to spe-  
14          cific types, classes, categories, or other suitable groupings  
15          of emission sources that the Administrator finds are sub-  
16          ject to adequate regulation.”.

17          (b) DIESEL EMISSIONS REDUCTION.—Section 792(d)  
18          of the Energy Policy Act of 2005 (42 U.S.C. 16132(d))  
19          is amended—

20                 (1) by striking paragraph (2);

21                 (2) by striking “FUNDS.—” and all that follows  
22                 through “An eligible entity” and inserting  
23                 “FUNDS.—An eligible entity”;

24                 (3) by redesignating subparagraphs (A) and  
25                 (B), clauses (i) through (v), and subclauses (I)

1 through (V) as paragraphs (1) and (2), subpara-  
2 graphs (A) through (E), and clauses (i) through (v),  
3 respectively, and indenting appropriately; and

4 (4) in paragraph (2) (as so redesignated), by  
5 striking “subparagraph (A)” and inserting “para-  
6 graph (1)”.

7 **SEC. 2213. BLACK CARBON REDUCTION RETROFIT GRANT**  
8 **PROGRAM.**

9 Subtitle G of title VII of the Energy Policy Act of  
10 2005 (as amended by section 1431) is amended by adding  
11 at the end the following:

12 **“SEC. 795. BLACK CARBON REDUCTION RETROFIT GRANT**  
13 **PROGRAM.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) ADMINISTRATOR.—The term ‘Adminis-  
16 trator’ means the Administrator of the Environ-  
17 mental Protection Agency.

18 “(2) BLACK CARBON.—The term ‘black carbon’  
19 means a primary light-absorbing aerosol, as deter-  
20 mined by the Administrator based on the best avail-  
21 able science.

22 “(3) DIESEL PARTICULATE FILTER.—The term  
23 ‘diesel particulate filter’ means a pollution control  
24 technology that reduces at least 85 percent of black

1 carbon, as verified by the Administrator or the Cali-  
2 fornia Air Resources Board.

3 “(4) ELIGIBLE ENTITY.—The term ‘eligible en-  
4 tity’ means a person that is the owner of record of  
5 a heavy duty vehicle.

6 “(5) HEAVY DUTY VEHICLE.—The term ‘heavy  
7 duty vehicle’ has the meaning given the term in sec-  
8 tion 202(b)(3) of the Clean Air Act (42 U.S.C.  
9 7521(b)(3)).

10 “(6) PROGRAM.—The term ‘program’ means  
11 the Black Carbon Reduction Program established  
12 under this section.

13 “(b) ESTABLISHMENT.—The Administrator shall es-  
14 tablish a voluntary grant program, to be known as the  
15 ‘Black Carbon Reduction Retrofit Program’—

16 “(1) to cost effectively mitigate the adverse con-  
17 sequences of global warming by means of early ac-  
18 tion to reduce black carbon emissions from diesel-  
19 powered heavy-duty vehicles placed in service prior  
20 to 2007; and

21 “(2) under which the Administrator, in accord-  
22 ance with this section (including regulations promul-  
23 gated under subsection (g)), shall authorize the pro-  
24 vision of grants in accordance with subsection (c) to  
25 cover 100 percent of the cost of purchasing and in-



1 stalling diesel particulate filters on heavy duty vehi-  
2 cles.

3 “(c) PROGRAM SPECIFICATIONS.—

4 “(1) IN GENERAL.—A grant may be issued  
5 under the program only to cover the costs of the  
6 purchase and installation of a diesel particulate fil-  
7 ter.

8 “(2) MAXIMUM AMOUNT.—The total amount of  
9 grants issued for a fiscal year under the program  
10 may not exceed the amounts made available for the  
11 program for the fiscal year under subsection (h).

12 “(d) EVALUATION AND REPORT.—

13 “(1) IN GENERAL.—Not later than 2 years  
14 after the date of enactment of this section and bien-  
15 nially thereafter, the Administrator shall submit to  
16 Congress a report evaluating the implementation of  
17 the program.

18 “(2) INCLUSIONS.—The report shall include a  
19 description of—

20 “(A) the total number of grant applica-  
21 tions received;

22 “(B) the total dollar value of all grants  
23 issued;

24 “(C) the estimated benefits of grants pro-  
25 vided under the program, including estimates of

1           the total number of tons of black carbon re-  
2           duced, cost-effectiveness, and cost-benefits; and

3                   “(D) any other information the Adminis-  
4           trator considers to be appropriate.

5           “(e) EXCLUSION OF GRANTS FROM INCOME.—A  
6           grant issued under the program shall not be considered  
7           gross income of the purchaser of technology for purposes  
8           of the Internal Revenue Code of 1986.

9           “(f) EFFECT OF SECTION.—Nothing in this section  
10          affects any authority under the Clean Air Act (42 U.S.C.  
11          7401 et seq.) as in existence on the day before the date  
12          of enactment of this section.

13          “(g) REGULATIONS.—

14                   “(1) IN GENERAL.—As soon as practicable  
15           after the date of enactment of this section, the Ad-  
16           ministrators shall promulgate regulations to imple-  
17           ment the program.

18                   “(2) REQUIREMENTS.—The regulations promul-  
19           gated under paragraph (1) shall—

20                           “(A) establish streamlined procedures for  
21           the provision of grants to eligible entities par-  
22           ticipating in the program for the amount of the  
23           purchase and installation of diesel particulate  
24           filters as soon as practicable, but not later than

1           30 days after the date of submission of an ap-  
2           plication for a grant;

3           “(B) include a list of diesel particulate fil-  
4           ters the purchase and installation of which are  
5           eligible to be funded through the program; and

6           “(C) include a list of vehicles by model  
7           year that are eligible to be retrofitted under the  
8           program.

9           “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
10          are authorized to be appropriated to carry out this section  
11          such sums as are necessary.”.

12          **SEC. 2214. ENHANCED SOIL SEQUESTRATION.**

13          (a) DEFINITIONS.—In this section:

14                 (1) BIOCHAR.—The term “biochar” means  
15                 charcoal or black carbon derived from organic mat-  
16                 ter through pyrolysis.

17                 (2) BIOENERGY.—The term “bioenergy” means  
18                 hydrocarbons derived from organic matter through  
19                 pyrolysis, including bio-oil, syngas, or thermal en-  
20                 ergy.

21                 (3) EXCESS BIOMASS.—

22                         (A) IN GENERAL.—The term “excess bio-  
23                         mass” means any plant matter targeted for re-  
24                         moval from public land to promote ecosystem  
25                         health.

1 (B) INCLUSIONS.—The term “excess bio-  
2 mass” includes—

3 (i) trees or tree waste on public land;

4 (ii) wood and wood wastes and resi-  
5 dues; and

6 (iii) weedy plants and grasses (includ-  
7 ing aquatic, noxious, or invasive plants).

8 (4) FEEDSTOCK.—The term “feedstock” means  
9 excess biomass in the form of plant matter or mate-  
10 rials that serves as the raw material for the produc-  
11 tion of biochar and bioenergy.

12 (b) ADVANCING BIOCHAR PRODUCTION TECH-  
13 NOLOGY.—The Secretary of Agriculture (after consulta-  
14 tion with the Secretary of the Interior, the Secretary of  
15 Commerce, the Secretary of Energy, and the Adminis-  
16 trator) shall provide grants to up to 60 facilities to con-  
17 duct research, develop, demonstrate, and deploy biochar  
18 production technology for the purpose of sequestering car-  
19 bon from the atmosphere.

20 (c) ADMINISTRATION.—

21 (1) IN GENERAL.—Subject to paragraph (2),  
22 the Secretary of Agriculture shall ensure that facili-  
23 ties receiving grants under this section represent a  
24 variety of technologies and feedstocks and are geo-  
25 graphically dispersed.

1           (2) FEEDSTOCKS.—The Secretary of Agri-  
2           culture shall ensure that a facility that receives a  
3           grant for a biochar production technology under this  
4           section uses waste biomass feedstocks in connection  
5           with the technology.

6           (d) QUALITY ASSURANCE AND OVERSIGHT.—The  
7           Secretary of Agriculture (in cooperation with the Sec-  
8           retary of the Interior, the Secretary of Commerce, the Sec-  
9           retary of Energy, and the Administrator) shall establish  
10          a program of quality assurance and oversight to ensure  
11          that the facilities that receive grants under this section  
12          achieve the goals specified in the cooperative grant agree-  
13          ments of the facilities.

14          (e) AUTHORIZATION OF APPROPRIATIONS.—There  
15          are authorized to be appropriated to carry out this section  
16          such sums as are necessary.

17                   **PART III—INTERNATIONAL METHANE**

18   **SEC. 2221. SENSE OF THE SENATE ON INTERNATIONAL**  
19                   **METHANE.**

20          (a) FINDINGS.—The Senate finds that—

21                  (1) methane is recognized by the Intergovern-  
22                  mental Panel on Climate Change as the second lead-  
23                  ing contributor to climate change among greenhouse  
24                  gases;

1           (2) methane is emitted from both natural and  
2 anthropogenic sources, with the latter representing  
3 over 60 percent of global emissions;

4           (3) methane is more than 20 times more effec-  
5 tive at trapping heat in the atmosphere than carbon  
6 dioxide, the principal greenhouse gas responsible for  
7 climate change;

8           (4) methane contributes to the formation of  
9 ground-level ozone, which is known to be hazardous  
10 to public health and is also known to contribute sig-  
11 nificantly to climate change;

12           (5) methane typically remains in the atmos-  
13 phere for the relatively short period of 10 to 12  
14 years, meaning that reducing emissions can reduce  
15 the harmful impacts of methane in a comparably  
16 short period of time, therefore making methane a  
17 promising target for climate mitigation measures  
18 seeking near-term benefits;

19           (6) the various near-term benefits from pre-  
20 venting and reducing methane emissions include pro-  
21 tection of vulnerable regions and climate elements  
22 such as the Arctic, northern permafrost, ice sheets  
23 and alpine glaciers;

1           (7) protection of such regions and elements is  
2           a key means of preventing potentially dangerous cli-  
3           mate feedbacks;

4           (8) anthropogenic methane emissions result pri-  
5           marily from agricultural activities, landfills, oil and  
6           natural gas systems, coal mines, wastewater treat-  
7           ment, and mobile and stationary combustion;

8           (9) it is technically and economically feasible to  
9           prevent methane emissions or capture methane and  
10          reuse the methane for energy purposes, thereby re-  
11          ducing the climate impacts of methane as well as  
12          smog pollution; and

13          (10) the United States has initiated and led the  
14          international Methane to Markets Partnership, fo-  
15          cusing on cost-effective, near-term methane recovery  
16          from underground coal mines, landfills, natural gas  
17          and oil systems, wastewater treatment, and animal  
18          waste management.

19          (b) SENSE OF THE SENATE.—It is the sense of the  
20          Senate that the United States should redouble efforts to  
21          maximize the cost-effective energy, economic, environ-  
22          mental, and public health benefits of preventing and recov-  
23          ering anthropogenic methane emissions, including—

- 1           (1) expanding the involvement of the United  
2 States with and sponsorship of the Methane to Mar-  
3 kets Partnership, including efforts—
- 4                 (A) to involve new country partners;
- 5                 (B) to scale up successful efforts to ad-  
6 dress methane emissions; and
- 7                 (C) to research additional methods for pre-  
8 venting and capturing methane emissions from  
9 existing sources and sources not yet addressed;
- 10           (2) working with developed and developing  
11 countries to raise awareness of options and cobene-  
12 fits and to enhance the efforts of the countries to re-  
13 duce methane emissions as a means of securing—
- 14                 (A) economic growth;
- 15                 (B) access to energy;
- 16                 (C) improved air and water quality;
- 17                 (D) enhanced industrial safety; and
- 18                 (E) reduced climate impacts, including de-  
19 velopment of national methane action plans;
- 20           (3) broadening the cooperation of the United  
21 States with the private sector in efforts to reduce  
22 emissions through improved management practices  
23 and use and deployment of cost-effective tech-  
24 nologies; and



1           (4) cooperating with the World Bank, regional  
2           development banks, and other multilateral develop-  
3           ment and aid institutions to promote methods for  
4           addressing methane emissions within existing cli-  
5           mate, public health, development, and energy pro-  
6           grams.

7           **PART IV—STUDY ON FAST MITIGATION**

8           **STRATEGIES**

9           **SEC. 2231. INTERAGENCY STUDY ON FAST MITIGATION**

10           **STRATEGIES.**

11           (a) IN GENERAL.—The Administrator, in consulta-  
12           tion with Secretary of State and the Secretary of Energy,  
13           shall establish an interagency process—

14           (1) to conduct a review of existing and potential  
15           policies and measures that promote fast mitigation  
16           of greenhouse gas emissions focusing on noncarbon  
17           dioxide climate-forcing gases; and

18           (2) not later than 2 years after the date of en-  
19           actment of this Act, to submit to Congress a report  
20           of the findings of the review conducted under para-  
21           graph (1).

22           (b) CONTENTS OF REVIEW.—As part of the review  
23           under subsection (a), the interagency process shall con-  
24           sider—

1           (1) policies and measures that could be imple-  
2           mented, and the estimated cost of the policies and  
3           measures, to achieve greater reductions in potent  
4           noncarbon dioxide climate-forcing gases;

5           (2) the public health and environmental cobene-  
6           fits achievable from reductions in climate-forcing  
7           gases, taking into consideration the report on black  
8           carbon issued by the Administrator under section  
9           2311;

10          (3) carbon negative strategies or actions that  
11          remove carbon pollution from the atmosphere at a  
12          level greater than carbon pollution is emitted into  
13          the atmosphere on a lifecycle basis; and

14          (4) advancements in research and development  
15          within the field of fast-action mitigation tech-  
16          nologies, including advancements that could increase  
17          Arctic and urban albedo.

18          (c) RECOMMENDATIONS.—The report required under  
19          subsection (a)(2) shall include recommendations on what  
20          further steps, if any, should be taken to implement fast  
21          mitigation measures, including whether additional institu-  
22          tional capacity is required.

1 **Subtitle D—Ensuring Regulatory**  
2 **Predictability for Greenhouse**  
3 **Gases**

4 **SEC. 2301. CRITERIA POLLUTANTS.**

5 Section 108(a) of the Clean Air Act (42 U.S.C.  
6 7408(a)) is amended—

7 (1) in paragraph (1) by striking “For the pur-  
8 pose” and inserting “Subject to paragraph (3), for  
9 the purpose”; and

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

11 “(3) LIMITATION.—Beginning on the date of  
12 enactment of the American Power Act, the Adminis-  
13 trator may not add to the list under subparagraph  
14 (A) any greenhouse gas on the basis of the effect of  
15 the greenhouse gas on climate change or ocean acidi-  
16 fication.”.

17 **SEC. 2302. STANDARDS OF PERFORMANCE FOR GREEN-**  
18 **HOUSE GASES.**

19 Section 111 of the Clean Air Act (42 U.S.C. 7411)  
20 is amended—

21 (1) in subsection (d)(1), by striking “(ii) to  
22 which a standard of performance under this section  
23 would” and inserting “(ii) to which a standard of  
24 performance under this section or emission limita-  
25 tion under section 801 would”; and

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

2 “(k) STANDARDS OF PERFORMANCE.—

3 “(1) DEFINITIONS.—In this subsection, the  
4 terms ‘capped greenhouse gas emissions’, ‘uncapped  
5 greenhouse gas emissions’, and ‘capped source’ have  
6 the meanings given the terms ‘capped emissions’,  
7 ‘uncapped emissions’, and ‘capped source’, respec-  
8 tively, in title VII.

9 “(2) CAPPED SOURCES.—

10 “(A) IN GENERAL.—Except as provided in  
11 subparagraph (B), no standard of performance  
12 shall be established under this section for  
13 capped greenhouse gas emissions from a capped  
14 source unless the Administrator determines that  
15 the standards are appropriate because of effects  
16 that do not include climate change effects.

17 “(B) EXCEPTION.—Subparagraph (A)  
18 shall not apply to covered EGUs (as defined in  
19 section 801(a)) that are not subject to emission  
20 limits under section 801.

21 “(C) AIR POLLUTANTS THAT ARE NOT A  
22 GREENHOUSE GAS.—In promulgating a stand-  
23 ard of performance under this section for the  
24 emission from capped sources of any air pollut-  
25 ant that is not a greenhouse gas, the Adminis-





1           “(b) DEFINITIONS.—In this section, the terms  
2 ‘standard or limitation respecting emissions of air pollut-  
3 ants’ and ‘requirement respecting control or abatement of  
4 air pollution’ include any provision to limit greenhouse gas  
5 emissions, require surrender to the State or a political  
6 subdivision of a State of emission allowances or offset  
7 credits established or issued under this Act, or require the  
8 use of such allowances or credits as a means of dem-  
9 onstrating compliance with requirements established by a  
10 State or political subdivision of a State.”.

11 **SEC. 2306. NEW SOURCE REVIEW.**

12           Section 169(1) of the Clean Air Act (42 U.S.C.  
13 7479(1)) is amended in the last sentence by inserting “,  
14 and any facility that is initially permitted or modified after  
15 January 1, 2009, on the basis of the emission by the facil-  
16 ity of any greenhouse gas” before the period at the end.

17 **SEC. 2307. PERMIT PROGRAMS.**

18           Section 502(a) of the Clean Air Act (42 U.S.C.  
19 7661a(a)) is amended—

20                   (1) by designating the first, second, and third  
21 sentences as paragraphs (1), (2), and (3), respec-  
22 tively; and

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

24                   “(4) GREENHOUSE GAS EMISSIONS.—Notwith-  
25 standing any other provision of this title or title III,

1 no stationary source shall be required to apply for,  
2 or operate pursuant to, a permit under this title  
3 solely on the basis of the emission by the stationary  
4 source of a greenhouse gas that is only regulated  
5 under this Act due to the impact of the greenhouse  
6 gas on climate change.”.

## 7 **Subtitle E—Regulation of** 8 **Greenhouse Gas Markets**

### 9 **SEC. 2401. DEFINITIONS.**

10 (a) IN GENERAL.—Section 1a of the Commodity Ex-  
11 change Act (7 U.S.C. 1a) is amended—

12 (1) by redesignating paragraphs (3) through  
13 (6), (7) through (20), (21) through (29), and (30)  
14 through (34) as paragraphs (4) through (7), (9)  
15 through (22), (28) through (36), and (38) through  
16 (42), respectively;

17 (2) by inserting after paragraph (2) the fol-  
18 lowing:

19 “(3) CARBON DIOXIDE EQUIVALENT.—The  
20 term ‘carbon dioxide equivalent’ means, for each  
21 greenhouse gas, the quantity of the greenhouse gas  
22 that makes the same contribution to global warming  
23 as 1 metric ton of carbon dioxide, as determined in  
24 accordance with section 711 or 712 of the Clean Air  
25 Act.”;



1           (3) by inserting after paragraph (7) (as redesignated by paragraph (1)) the following:

2           “(8) COMPLIANCE ENTITY.—The term ‘compliance entity’ means an entity that is subject to section 722 of the Clean Air Act or a designated affiliate.”;

3           (4) in paragraph (16) (as redesignated by paragraph (1)), by striking “is not” and all that follows through the period at the end and inserting the following: “is not—

4                   “(A) an excluded commodity;

5                   “(B) an agricultural commodity; or

6                   “(C) a regulated carbon instrument.”;

7           (5) by inserting after paragraph (22) (as redesignated by paragraph (1)) the following:

8           “(23) GREENHOUSE GAS.—The term ‘greenhouse gas’ means any gas designated as a greenhouse gas by the Administrator of the Environmental Protection Agency under section 711 of the Clean Air Act.

9           “(24) GREENHOUSE GAS ALLOWANCE.—The term ‘greenhouse gas allowance’ means an allowance issued by the Administrator of the Environmental Protection Agency pursuant to title VII of the Clean Air Act.

1           “(25) GREENHOUSE GAS CLEARING ORGANIZA-  
2           TION.—The term ‘greenhouse gas clearing organiza-  
3           tion’ means a derivatives clearing organization that  
4           has been approved to provide payment, settlement,  
5           or clearing for greenhouse gas instruments subject  
6           to section 5b-1.

7           “(26) GREENHOUSE GAS INSTRUMENT.—The  
8           term ‘greenhouse gas instrument’ means—

9                   “(A) a greenhouse gas allowance; or

10                   “(B) any other type of instrument or a  
11           subset of such instrument that may be des-  
12           ignated as a greenhouse gas instrument by the  
13           Administrator of the Environmental Protection  
14           Agency.

15           “(27) GREENHOUSE GAS INSTRUMENT TRADING  
16           ORGANIZATION.—The term ‘greenhouse gas instru-  
17           ment trading organization’ means an electronic trad-  
18           ing facility registered with the Commission under  
19           section 5h.”; and

20           (6) in paragraph (36) (as redesignated by para-  
21           graph (1))—

22                   (A) in subparagraph (D), by striking “;  
23           and” and inserting a semicolon;

1 (B) in subparagraph (E), by striking the  
2 period at the end and inserting a semicolon;  
3 and

4 (C) by adding at the end the following:

5 “(F) a greenhouse gas trading facility reg-  
6 istered under this Act; and

7 “(G) a greenhouse gas clearing organiza-  
8 tion registered under section 5b-1.”; and

9 (7) by inserting after paragraph (36) (as reded-  
10 igned by paragraph (1)) the following:

11 “(37) REGULATED GREENHOUSE GAS MARKET  
12 PARTICIPANT.—The term ‘regulated greenhouse gas  
13 market participant’ means a person other than a  
14 compliance entity as specified in regulations promul-  
15 gated by the Commission, in conjunction with the  
16 Administrator of the Environmental Protection  
17 Agency and the Secretary of the Treasury, based on  
18 an assessment of the market structure and a deter-  
19 mination that additional participants are necessary  
20 for a liquid and well-functioning market that would  
21 ensure not more than a reasonable rate of economic  
22 return.”.

23 (b) CONFORMING AMENDMENTS.—

1           (1) Section 2(e)(2)(B)(i)(II) of the Commodity  
2 Exchange Act (7 U.S.C. 2(e)(2)(B)(i)(II)) is amend-  
3 ed—

4           (A) in item (cc)—

5                 (i) in subitem (AA), by striking “sec-  
6 tion 1a(20)” and inserting “section 1a”;  
7 and

8                 (ii) in subitem (BB), by striking “sec-  
9 tion 1a(20)” and inserting “section 1a”;  
10 and

11           (B) in item (dd), by striking “section  
12 1a(12)(A)(ii)” and inserting “section  
13 1a(14)(A)(ii)”.

14           (2) Section 4m(3) of the Commodity Exchange  
15 Act (7 U.S.C. 6m(3)) is amended by striking “sec-  
16 tion 1a(6)” and inserting “section 1a”.

17           (3) Section 4q(a)(1) of the Commodity Ex-  
18 change Act (7 U.S.C. 6o-1(a)(1)) is amended by  
19 striking “section 1a(4)” and inserting “section  
20 1a(5)”.

21           (4) Section 5(e)(1) of the Commodity Exchange  
22 Act (7 U.S.C. 7(e)(1)) is amended by striking “sec-  
23 tion 1a(4)” and inserting “section 1a(5)”.

24           (5) Section 5a(b)(2)(F) of the Commodity Ex-  
25 change Act (7 U.S.C. 7a(b)(2)(F)) is amended by

1 striking “section 1a(4)” and inserting “section  
2 1a(5)”.

3 (6) Section 5b(a) of the Commodity Exchange  
4 Act (7 U.S.C. 7a–1(a)) is amended, in the matter  
5 preceding paragraph (1), by striking “section 1a(9)”  
6 and inserting “section 1a”.

7 (7) Section 5c(e)(2)(B) of the Commodity Ex-  
8 change Act (7 U.S.C. 7a–2(e)(2)(B)) is amended by  
9 striking “section 1a(4)” and inserting “section  
10 1a(5)”.

11 (8) Section 6(g)(5)(B)(i) of the Securities Ex-  
12 change Act of 1934 (15 U.S.C. 78f(g)(5)(B)(i)) is  
13 amended—

14 (A) in subclause (I), by striking “section  
15 1a(12)(B)(ii)” and inserting “section  
16 1a(14)(B)(ii)”; and

17 (B) in subclause (II), by striking “section  
18 1a(12)” and inserting “section 1a(14)”.

19 (9)(A) Section 402 of the Legal Certainty for  
20 Bank Products Act of 2000 (7 U.S.C. 27) is amend-  
21 ed—

22 (i) in subsection (a)(7), by striking “sec-  
23 tion 1a(20)” and inserting “section 1a”;

24 (ii) in subsection (b)(2), by striking “sec-  
25 tion 1a(12)” and inserting “section 1a”;

1 (iii) in subsection (c), by striking “section  
2 1a(4)” and inserting “section 1a”; and

3 (iv) in subsection (d)—

4 (I) in the matter preceding paragraph  
5 (1), by striking “section 1a(4)” and insert-  
6 ing “section 1a(5)”;

7 (II) in paragraph (1)—

8 (aa) in subparagraph (A), by  
9 striking “section 1a(12)” and insert-  
10 ing “section 1a”; and

11 (bb) in subparagraph (B), by  
12 striking “section 1a(33)” and insert-  
13 ing “section 1a”; and

14 (III) in paragraph (2)—

15 (aa) in subparagraph (A), by  
16 striking “section 1a(10)” and insert-  
17 ing “section 1a”;

18 (bb) in subparagraph (B), by  
19 striking “section 1a(12)(B)(ii)” and  
20 inserting “section 1a(14)(B)(ii)”;

21 (cc) in subparagraph (C), by  
22 striking “section 1a(12)” and insert-  
23 ing “section 1a(14)”;

1 (dd) in subparagraph (D), by  
2 striking “section 1a(13)” and insert-  
3 ing “section 1a”

4 (B) Section 404(1) of the Legal Certainty for  
5 Bank Products Act of 2000 (7 U.S.C. 27b(1)) is  
6 amended by striking “section 1a(4)” and inserting  
7 “section 1a”.

8 **SEC. 2402. JURISDICTION OF COMMISSION; RESTRICTION**  
9 **OF FUTURES TRADING.**

10 (a) JURISDICTION OF COMMISSION.—Section  
11 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C.  
12 2(a)(1)(A)) is amended in the first sentence—

13 (1) by striking “or market, and” and inserting  
14 “or market,”; and

15 (2) by inserting before the period at the end the  
16 following: “, and greenhouse gas instruments traded  
17 or executed on a greenhouse gas instrument trading  
18 organization”.

19 (b) RESTRICTION OF FUTURES TRADING.—Section  
20 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) is  
21 amended by adding at the end the following:

22 “(6) RESTRICTION OF AUTHORITY.—The Com-  
23 mission may not grant exemptions pursuant to this  
24 subsection from any provision of the American  
25 Power Act or an amendment made by that Act relat-

1 ing to an agreement, contract, or transaction in a  
2 greenhouse gas instrument.”.

3 **SEC. 2403. SWAP TRANSACTIONS.**

4 Section 2(g) of the Commodity Exchange Act (7  
5 U.S.C. 2(g)) is amended, in the matter preceding para-  
6 graph (1), by inserting “or a greenhouse gas instrument”  
7 after “an agricultural commodity”.

8 **SEC. 2404. EXCESSIVE SPECULATION.**

9 Section 4a of the Commodity Exchange Act (7 U.S.C.  
10 6a) is amended—

11 (1) by striking “SEC. 4a. (a) Excessive specula-  
12 tion” and inserting the following:

13 **“SEC. 4a. EXCESSIVE SPECULATION.**

14 **“(a) BURDEN ON INTERSTATE COMMERCE; ESTAB-  
15 LISHMENT OF POSITION LIMITS.—**

16 **“(1) IN GENERAL.—**Excessive speculation”;

17 (2) in subsection (a) (as amended by paragraph  
18 (1)), by adding at the end the following:

19 **“(2) TRADING LIMITS.—**

20 **“(A) IN GENERAL.—**Consistent with the  
21 purposes and standards described in paragraph  
22 (1), the Commission shall, from time to time,  
23 after due notice and opportunity for hearing, by  
24 rule, regulation, or order, establish limits on the  
25 quantity of trading that may be done in green-



1 house gas instruments, or the quantity of the  
2 instruments that may be owned, held, or trad-  
3 ed, as the Commission, in consultation with the  
4 Administrator of the Environmental Protection  
5 Agency and the heads of other appropriate Fed-  
6 eral agencies, determines to be necessary and in  
7 the public interest.

8 “(B) DETERMINATION.—In determining  
9 whether a person has exceeded a limit described  
10 in subparagraph (A)—

11 “(i) the instruments held and trading  
12 done by any person directly or indirectly  
13 controlled by the person that is the subject  
14 of the determination shall be included with  
15 the instruments held or owned and trading  
16 done by the person; and

17 “(ii) the limits on instruments owned  
18 or held, and trading done, shall apply to  
19 instruments owned or held by, and trading  
20 done by, 2 or more persons acting pursu-  
21 ant to an expressed or implied agreement  
22 or understanding, the same as if the in-  
23 struments were owned or held by, or the  
24 trading were done by, a single person.”;

1           (3) in subsection (b), in the matter preceding  
2 paragraph (1), by striking “order, fix” and inserting  
3 “order under subsection (a)(1), fix”;

4           (4) in subsection (c), in the first sentence, by  
5 striking “subsection (a) of this section” and insert-  
6 ing “subsection (a)(1)”;

7           (5) in subsection (e)—

8                 (A) by striking “(e) Nothing in this sec-  
9 tion” and inserting the following:

10           “(e) EFFECT.—

11                 “(1) IN GENERAL.—Nothing in this section”;

12           and

13                 (B) by adding at the end the following:

14                 “(2) ADOPTION OF TRADING LIMITS ON GREEN-  
15 HOUSE GAS INSTRUMENTS.—Nothing in this section  
16 shall prohibit or impair the adoption by a green-  
17 house gas instrument trading organization of any  
18 bylaw, rule, regulation, or resolution establishing  
19 limits on the quantity of—

20                         “(A) trading that may be done in green-  
21 house gas instruments; or

22                         “(B) the instruments that may be owned  
23 or held by any person.

24                 “(3) LIMITS.—If the Commission establishes a  
25 limit under subsection (a)(2), any limit established

1 by the greenhouse gas instrument trading organiza-  
2 tion described in paragraph (2) shall not be higher  
3 than the limit established by the Commission.

4 “(4) VIOLATION.—

5 “(A) IN GENERAL.—It shall be a violation  
6 of this Act for any person to violate any limit  
7 established by a greenhouse gas instrument  
8 trading organization described in paragraph (2)  
9 if the limit has been approved by the Commis-  
10 sion or certified pursuant to section 5c(c)(1).

11 “(B) EFFECT.—Section 9(a)(5) shall apply  
12 only to a person who knowingly violates a limit  
13 described in subparagraph (A).”; and

14 (6) by adding at the end the following:

15 “(f) REQUIREMENTS.—

16 “(1) IN GENERAL.—The Commission shall, in  
17 each rule, regulation, or order promulgated under  
18 subsection (a)(2), establish a reasonable time (not to  
19 exceed 10 days) after the date of promulgation of  
20 the rule, regulation, or order.

21 “(2) PROHIBITION.—After the period described  
22 in paragraph (1), and until the rule, regulation, or  
23 order is suspended, modified, or revoked, it shall be  
24 unlawful for any person directly or indirectly to buy  
25 or sell, or agree to buy or sell, or to own, hold, or

1 trade, greenhouse gas instruments in excess of any  
2 limit established by the Commission in the rule, reg-  
3 ulation, or order.”.

4 **SEC. 2405. FRAUD PROHIBITION.**

5 Section 4b(a)(2) of the Commodity Exchange Act (7  
6 U.S.C. 6b(a)(2)) is amended, in the matter preceding sub-  
7 paragraph (A), by inserting “or a greenhouse gas instru-  
8 ment,” after “future delivery,”.

9 **SEC. 2406. PROHIBITED TRANSACTIONS.**

10 Section 4c(a)(1) of the Commodity Exchange Act (7  
11 U.S.C. 6c(a)(1)) is amended, in the matter preceding sub-  
12 paragraph (A), by inserting “greenhouse gas instrument,  
13 or any” after “purchase or sale of any”.

14 **SEC. 2407. MANIPULATION PROHIBITION.**

15 (a) **EXCLUSION OF CERTAIN PERSONS.**—Section 6(c)  
16 of the Commodity Exchange Act (7 U.S.C. 9) is amended,  
17 in the first sentence, by striking “in interstate commerce,”  
18 and inserting “in interstate commerce (including a green-  
19 house gas instrument),”.

20 (b) **MANIPULATIONS OR OTHER VIOLATIONS.**—Sec-  
21 tion 6(d) of the Commodity Exchange Act (7 U.S.C. 13b)  
22 is amended, in the first sentence, in the matter preceding  
23 the proviso, by striking “in interstate commerce,” and in-  
24 serting “in interstate commerce (including a greenhouse  
25 gas instrument),”.

1 (c) VIOLATIONS.—Section 9(a)(2) of the Commodity  
2 Exchange Act (7 U.S.C. 13(a)(2)) is amended by striking  
3 “in interstate commerce,” and inserting “in interstate  
4 commerce (including a greenhouse gas instrument),”.

5 **SEC. 2408. TRADING OF GREENHOUSE GAS INSTRUMENTS.**

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

8 “(e) REQUIREMENTS FOR GREENHOUSE GAS IN-  
9 STRUMENT TRADING.—

10 “(1) GREENHOUSE GAS INSTRUMENT TRAD-  
11 ING.—Except as provided in paragraph (2), it shall  
12 be unlawful for any person to offer to enter into,  
13 execute, confirm the execution of, or conduct an of-  
14 fice or a business for the purpose of soliciting or ac-  
15 cepting an order for, or otherwise dealing in, an  
16 agreement, contract, or transaction in a greenhouse  
17 gas instrument, unless the person—

18 “(A) is either a regulated greenhouse gas  
19 market participant or a compliance entity;

20 “(B) is registered with the Commission;

21 “(C) conducts the trading of the person on  
22 or subject to the rules of a greenhouse gas in-  
23 strument trading organization;

24 “(D) conducts activities of the person in  
25 compliance with any rule, regulation, or order

1 governing greenhouse gas allowance short sales  
2 promulgated by the Commission pursuant to  
3 section 5i; and

4 “(E) clears the trades of the person  
5 through a greenhouse gas clearing organization.

6 “(2) OTHERWISE REGULATED TRANS-  
7 ACTIONS.—The prohibition described in paragraph  
8 (1) shall not apply to—

9 “(A) the issuance, auction, or retirement  
10 of a greenhouse gas instrument by or through  
11 the Administrator of the Environmental Protec-  
12 tion Agency under the American Power Act;  
13 and

14 “(B) an agreement, contract, or trans-  
15 action in a greenhouse gas instrument that—

16 “(i) is traded or executed on a des-  
17 ignated contract market; and

18 “(ii) does not provide for the physical  
19 delivery of the greenhouse gas instru-  
20 ment.”.

21 **SEC. 2409. REGISTRATION FOR REGULATED GREENHOUSE**  
22 **GAS MARKET PARTICIPANTS AND COMPLI-**  
23 **ANCE ENTITIES.**

24 The Commodity Exchange Act is amended by insert-  
25 ing after section 4q (7 U.S.C. 6o-1) the following:

1 **“SEC. 4r. REGISTRATION FOR REGULATED GREENHOUSE**  
2 **GAS MARKET PARTICIPANTS AND COMPLI-**  
3 **ANCE ENTITIES.**

4 “(a) REGISTRATION.—

5 “(1) IN GENERAL.—Regulated greenhouse gas  
6 market participants and compliance entities shall  
7 register by filing a registration application with the  
8 Commission.

9 “(2) APPLICATION.—

10 “(A) IN GENERAL.—An application de-  
11 scribed in paragraph (1) shall—

12 “(i) be submitted to the Commission  
13 in such form and in such manner as the  
14 Commission may require; and

15 “(ii) provide such information and  
16 facts as the Commission may determine to  
17 be necessary that relates to the business in  
18 which the applicant is or will be engaged.

19 “(B) REPORTING REQUIREMENTS.—A per-  
20 son, if registered as a regulated greenhouse gas  
21 market participant or compliance entity, shall  
22 continue to report and furnish to the Commis-  
23 sion such information pertaining to the business  
24 of the person as the Commission may require.

1           “(3) EXPIRATION.—Each registration under  
2 this section shall expire at such time as the Commis-  
3 sion may, by rule or regulation, prescribe.

4           “(4) RULES; EXEMPTIONS.—

5           “(A) RULES.—The Commission may pre-  
6 scribe rules relating to regulated greenhouse  
7 gas market participants and compliance enti-  
8 ties, including rules that limit the activities of  
9 regulated greenhouse gas market participants  
10 and compliance entities.

11           “(B) EXEMPTIONS.—The Commission may  
12 provide conditional or unconditional exemptions  
13 from any rule or requirement prescribed under  
14 this paragraph for regulated greenhouse gas  
15 market participants and compliance entities.

16           “(5) TRANSITION.—Not later than 1 year after  
17 the date of enactment of the American Power Act,  
18 the Commission shall ensure that rules adopted  
19 under this subsection provide for the registration of  
20 regulated greenhouse gas market participants and  
21 compliance entities.

22           “(6) STATUTORY DISQUALIFICATION.—Except  
23 to the extent otherwise specifically provided by rule,  
24 regulation, or order, it shall be unlawful for a regu-  
25 lated greenhouse gas market participant or compli-



1       ance entity to permit any person associated with a  
2       regulated greenhouse gas market participant or com-  
3       pliance entity who is subject to a statutory disquali-  
4       fication to effect or be involved in effecting trades on  
5       behalf of the regulated greenhouse gas market par-  
6       ticipant or compliance entity if the regulated green-  
7       house gas market participant or compliance entity  
8       knows, or in the exercise of reasonable care, should  
9       know, of the statutory disqualification.

10       “(b) BUSINESS CONDUCT STANDARDS.—Each regu-  
11       lated greenhouse gas market participant and compliance  
12       entity shall ensure the conformance of the greenhouse gas  
13       market participant or compliance entity to each business  
14       conduct standard that the Commission may prescribe by  
15       rule or regulation that addresses—

16               “(1) the prevention of fraud, manipulation, and  
17       other abusive practices involving greenhouse gas in-  
18       struments;

19               “(2) the diligent supervision of the business of  
20       the greenhouse gas market participant or compliance  
21       entity;

22               “(3) the adherence to all applicable position  
23       limits;

24               “(4) greenhouse gas allowance short sales;

1           “(5) recordkeeping, reporting, and disclosure  
2 requirements; and

3           “(6) such other matters as the Commission  
4 shall determine to be necessary or appropriate.

5           “(c) RULEMAKING.—Not later than 1 year after the  
6 [date of enactment] of the American Power Act, the Com-  
7 mission shall adopt rules applicable to persons that are  
8 registered as regulated greenhouse gas market partici-  
9 pants and compliance entities under this section.”.

10 **SEC. 2410. GREENHOUSE GAS INSTRUMENT TRADING OR-**  
11 **GANIZATIONS.**

12           The Commodity Exchange Act is amended by insert-  
13 ing after section 5g (7 U.S.C. 7b-2) the following:

14 **“SEC. 5h. GREENHOUSE GAS INSTRUMENT TRADING ORGA-**  
15 **NIZATIONS.**

16           “(a) REGISTRATION.—

17           “(1) IN GENERAL.—A person may not operate  
18 a greenhouse gas instrument trading organization  
19 unless the greenhouse gas instrument trading orga-  
20 nization is registered with the Commission.

21           “(2) REQUIREMENT.—Greenhouse gas instru-  
22 ment trading organizations shall be established and  
23 operated in accordance with this section.

24           “(b) APPLICATION.—A person requesting registra-  
25 tion as a greenhouse gas instrument trading organization

1 shall submit to the Commission an application in such  
2 form and containing such information as the Commission  
3 may require.

4 “(c) REQUIREMENTS FOR TRADING.—

5 “(1) IN GENERAL.—A registered greenhouse  
6 gas instrument trading organization may make  
7 available for trading to any regulated greenhouse  
8 gas market participant or compliance entity any  
9 greenhouse gas instrument.

10 “(2) RULES FOR TRADING THROUGH THE OR-  
11 GANIZATION.—Not later than 1 year after the date  
12 of the enactment of the American Power Act, the  
13 Commission shall adopt rules to allow greenhouse  
14 gas instruments to be traded on or through the fa-  
15 cilities of a greenhouse gas instrument trading orga-  
16 nization.

17 “(3) TRADING BY CONTRACT MARKETS.—A  
18 board of trade that operates a contract market shall,  
19 to the extent that the board of trade also operates  
20 a greenhouse gas instrument trading organization  
21 and uses the same electronic trade execution system  
22 for trading on the contract market and the green-  
23 house gas instrument trading organization, identify  
24 whether the electronic trading is taking place on the

1 contract market or the greenhouse gas instrument  
2 trading organization.

3 “(d) CORE PRINCIPLES FOR GREENHOUSE GAS IN-  
4 STRUMENT TRADING ORGANIZATIONS.—

5 “(1) COMPLIANCE REQUIREMENT.—

6 “(A) IN GENERAL.—To be registered as,  
7 and to maintain registration as, a greenhouse  
8 gas instrument trading organization, a green-  
9 house gas instrument trading organization shall  
10 comply with—

11 “(i) the core principles specified in  
12 this section; and

13 “(ii) any requirement that the Com-  
14 mission may impose by rule or regulation  
15 pursuant to section 8a(5).

16 “(B) DISCRETION.—Except as the Com-  
17 mission determines otherwise by rule or regula-  
18 tion, a greenhouse gas instrument trading orga-  
19 nization shall have reasonable discretion in es-  
20 tablishing the manner in which the greenhouse  
21 gas instrument trading organization complies  
22 with core principles described in subparagraph  
23 (A)(i).

24 “(2) COMPLIANCE WITH RULES.—A greenhouse  
25 gas instrument trading organization shall—

1           “(A) monitor and enforce compliance with  
2           any of the rules of the greenhouse gas instru-  
3           ment trading organization, including the terms  
4           and conditions of the greenhouse gas instru-  
5           ments traded on or through the organization  
6           and any limitations on access to the organiza-  
7           tion; and

8           “(B) establish and enforce trading and  
9           participation rules that will deter abuses and  
10          have the capacity to detect, investigate, and en-  
11          force those rules, including means to—

12                   “(i) provide market participants with  
13                   impartial access to the market; and

14                   “(ii) capture information that may be  
15                   used in establishing whether rule violations  
16                   have occurred.

17          “(3) GREENHOUSE GAS INSTRUMENTS NOT  
18          READILY SUBJECT TO MANIPULATION.—A green-  
19          house gas instrument trading organization shall per-  
20          mit trading only in greenhouse gas instruments that  
21          are not readily subject to manipulation.

22          “(4) MONITORING OF TRADING.—A greenhouse  
23          gas instrument trading organization shall—

24                   “(A) establish and enforce rules or terms  
25                   and conditions defining, or specifications detail-

1 ing, trading procedures to be used in entering  
2 and executing orders traded on or through the  
3 facilities of the greenhouse gas instrument trad-  
4 ing organization;

5 “(B) monitor trading in greenhouse gas in-  
6 struments on or through the greenhouse gas in-  
7 strument trading organization to prevent ma-  
8 nipulation and price distortion through surveil-  
9 lance, compliance, and disciplinary practices  
10 and procedures; and

11 “(C) conduct real-time monitoring of trad-  
12 ing, including methods for comprehensive and  
13 accurate trade reconstructions, and such other  
14 methods as are determined to be appropriate by  
15 the Commission.

16 “(5) ABILITY TO OBTAIN INFORMATION.—A  
17 greenhouse gas instrument trading organization  
18 shall—

19 “(A) establish and enforce rules that will  
20 allow the greenhouse gas instrument trading or-  
21 ganization to obtain any necessary information  
22 to carry out any of the functions described in  
23 this section;

24 “(B) provide the information to the Com-  
25 mission on request; and

1           “(C) have the capacity to carry out such  
2           international information-sharing agreements as  
3           the Commission may require.

4           “(6) FAIR AND EQUITABLE TRADING.—A  
5           greenhouse gas instrument trading organization  
6           shall establish and enforce rules to ensure fair and  
7           equitable trading through the trading organization.

8           “(7) DISCIPLINARY PROCEDURES.—A green-  
9           house gas instrument trading organization shall es-  
10          tablish disciplinary procedures that allow the green-  
11          house gas instrument trading organization to dis-  
12          cipline, suspend, or expel members or market par-  
13          ticipants that violate the rules of the trading organi-  
14          zation, or similar methods for performing the same  
15          functions, including delegation of the functions to  
16          third parties.

17          “(8) TRADING LIMITATIONS OR ACCOUNT-  
18          ABILITY.—

19                 “(A) IN GENERAL.—A greenhouse gas in-  
20                 strument trading organization shall adopt for  
21                 each of the contracts of the greenhouse gas in-  
22                 strument trading organization made available  
23                 for trading on the trading organization, as ap-  
24                 propriate to reduce the potential threat of mar-

1 ket manipulation, position limitations and posi-  
2 tion accountability levels.

3 “(B) MONITORING AND ENFORCEMENT OF  
4 LIMITATIONS.—The greenhouse gas instrument  
5 trading organization shall monitor and enforce  
6 any limitations on trading in greenhouse gas in-  
7 struments that may be fixed by—

8 “(i) the Commission; or

9 “(ii) the greenhouse gas instrument  
10 trading organization.

11 “(9) EMERGENCY AUTHORITY.—A greenhouse  
12 gas instrument trading organization shall adopt and  
13 enforce rules to provide for the exercise of emer-  
14 gency authority, in consultation or cooperation with  
15 the Commission, as appropriate, including the au-  
16 thority—

17 “(A) to limit, suspend, or curtail trading in  
18 any greenhouse gas instrument; and

19 “(B) to require compliance entities or reg-  
20 ulated greenhouse gas market participants—

21 “(i) to comply with financial or secu-  
22 rity measures; or

23 “(ii) take such other action as the  
24 Commission determines to be necessary  
25 and in the public interest.



1           “(10) AVAILABILITY OF GENERAL INFORMA-  
2           TION.—A greenhouse gas instrument trading organi-  
3           zation shall make available to market authorities,  
4           regulated greenhouse gas market participants, com-  
5           pliance entities, and the public information con-  
6           cerning—

7                   “(A) the mechanisms for executing trans-  
8                   actions on or through the greenhouse gas in-  
9                   strument trading organization; and

10                   “(B) the rules and regulations of the  
11                   greenhouse gas instrument trading organiza-  
12                   tion.

13           “(11) REAL TIME PUBLICATION OF TRADING  
14           INFORMATION.—In real time, to the maximum ex-  
15           tent practicable, a greenhouse gas instrument trad-  
16           ing organization shall provide the public with infor-  
17           mation on bids, offers, settlement prices, volume,  
18           and opening and closing ranges for all greenhouse  
19           gas instruments traded on or through the green-  
20           house gas instrument trading organization.

21           “(12) EXECUTION OF TRANSACTIONS.—A  
22           greenhouse gas instrument trading organization  
23           shall provide a competitive, open, and efficient mar-  
24           ket and a mechanism for executing transactions on

1 or through the greenhouse gas instrument trading  
2 organization.

3 “(13) SECURITY OF TRADE INFORMATION.—A  
4 greenhouse gas instrument trading organization  
5 shall maintain rules and procedures to provide for  
6 the recording and safe storage of all identifying  
7 trade information in a manner that enables the  
8 greenhouse gas instrument trading organization to  
9 use the information—

10 “(A) to assist in the prevention of cus-  
11 tomer and market abuses; and

12 “(B) to provide evidence of violations of  
13 the rules of the greenhouse gas instrument  
14 trading organization.

15 “(14) FINANCIAL INTEGRITY OF TRANS-  
16 ACTIONS.—A greenhouse gas instrument trading or-  
17 ganization shall establish and enforce rules and pro-  
18 cedures to provide for the financial integrity of any  
19 contract traded on or through the greenhouse gas  
20 instrument trading organization (including the clear-  
21 ance and settlement of the transactions with a  
22 greenhouse gas clearing organization).

23 “(15) PROTECTION OF MARKET PARTICI-  
24 PANTS.—A greenhouse gas instrument trading orga-  
25 nization shall establish and enforce rules to protect

1 market participants from abusive practices com-  
2 mitted by any party acting as an agent for the par-  
3 ticipants.

4 “(16) DISPUTE RESOLUTION.—A greenhouse  
5 gas instrument trading organization shall establish  
6 and enforce rules relating to, and providing facilities  
7 for, alternative dispute resolution as appropriate for  
8 market participants.

9 “(17) GOVERNANCE FITNESS STANDARDS.—A  
10 greenhouse gas instrument trading organization  
11 shall establish and enforce appropriate fitness stand-  
12 ards for—

13 “(A) directors;

14 “(B) members of any disciplinary com-  
15 mittee;

16 “(C) members of the greenhouse gas in-  
17 strument trading organization; and

18 “(D) any other person with direct access to  
19 the greenhouse gas instrument trading organi-  
20 zation, including any person affiliated with any  
21 of the persons described in this paragraph.

22 “(18) CONFLICTS OF INTEREST.—A greenhouse  
23 gas instrument trading organization shall—

24 “(A) establish and enforce rules to mini-  
25 mize conflicts of interest in the decision-making

1 process of the greenhouse gas instrument trad-  
2 ing organization relating to the operation of the  
3 greenhouse gas instrument trading organiza-  
4 tion; and

5 “(B) establish a process for resolving any  
6 such conflict of interest.

7 “(19) COMPOSITION OF BOARDS OF MUTUALLY  
8 OWNED TRADING FACILITIES.—In the case of a mu-  
9 tually owned greenhouse gas instrument trading or-  
10 ganization, the greenhouse gas instrument trading  
11 organization shall ensure that the composition of the  
12 governing board reflects market participants.

13 “(20) RECORDKEEPING AND REPORTING.—A  
14 greenhouse gas instrument trading organization  
15 shall—

16 “(A) maintain records of all activities re-  
17 lated to the business of the greenhouse gas in-  
18 strument trading organization, including a com-  
19 plete audit trail, in a form and manner accept-  
20 able to the Commission for a period of 5 years;  
21 and

22 “(B) report to the Commission all informa-  
23 tion required by the Commission to perform the  
24 responsibilities of the Commission under this  
25 Act.

1           “(21) ANTITRUST CONSIDERATIONS.—Unless  
2           appropriate to achieve the purposes of this Act, a  
3           greenhouse gas instrument trading organization  
4           shall avoid—

5                   “(A) adopting any rules or taking any ac-  
6                   tions that result in any unreasonable restraint  
7                   of trade; or

8                   “(B) imposing any material anticompeti-  
9                   tive burden on trading on or through the green-  
10                  house gas instrument trading organization.”.

11 **SEC. 2411. GREENHOUSE GAS CLEARING ORGANIZATIONS.**

12           The Commodity Exchange Act is amended by insert-  
13           ing after section 5b (7 U.S.C. 7a–1) the following:

14 **“SEC. 5b–1. GREENHOUSE GAS CLEARING ORGANIZATIONS.**

15           “(a) IN GENERAL.—It shall be unlawful for any per-  
16           son, directly or indirectly, to make use of the mails or any  
17           means or instrumentality of interstate commerce to per-  
18           form the functions of a greenhouse gas clearing organiza-  
19           tion unless the person is—

20                   “(1) registered with the Commission as a de-  
21                   rivatives clearing organization; and

22                   “(2) approved by the Commission to provide  
23                   payment, settlement, or clearing for greenhouse gas  
24                   instruments.

25           “(b) APPLICATION.—

1           “(1) REGISTERED DERIVATIVES CLEARING OR-  
2           GANIZATIONS.—A registered derivatives clearing or-  
3           ganization that requests Commission approval to  
4           provide payment, settlement, or clearing for green-  
5           house gas instruments shall submit to the Commis-  
6           sion an application for approval in such form and  
7           containing such information as the Commission may  
8           require.

9           “(2) OTHER PERSONS.—A person that is not a  
10          registered derivatives clearing organization and that  
11          requests Commission approval to provide payment,  
12          settlement, or clearing for greenhouse gas instru-  
13          ments shall—

14                 “(A) register as a derivatives clearing or-  
15                 ganization pursuant to section 5b(e); and

16                 “(B) submit to the Commission an applica-  
17                 tion for approval in such form and containing  
18                 such information as the Commission may re-  
19                 quire.”.

20   **SEC. 2412. GREENHOUSE GAS ALLOWANCE SHORT SALES.**

21          The Commodity Exchange Act is amended by insert-  
22          ing after section 5h (as added by section 2410) the fol-  
23          lowing:

1 **“SEC. 5i. SHORT SALE TRANSACTIONS.**

2 “No person shall offer to enter into, enter into, or  
3 confirm the execution of, any short sale of a regulated  
4 greenhouse gas instrument except pursuant to a rule or  
5 regulation of the Commission that allows the short sale  
6 under such terms and conditions as the Commission shall  
7 prescribe in consultation with the Administrator of the  
8 Environmental Protection Agency.”.

9 **SEC. 2413. GREENHOUSE GAS MARKET EMERGENCY AND**  
10 **SUSPENSION AUTHORITY.**

11 The Commodity Exchange Act is amended by insert-  
12 ing after section 8d (7 U.S.C. 12d) the following:

13 **“SEC. 8e. GREENHOUSE GAS MARKET EMERGENCY AND**  
14 **SUSPENSION AUTHORITY.**

15 “(a) DEFINITION OF GREENHOUSE GAS MARKET  
16 EMERGENCY.—The term ‘greenhouse gas market emer-  
17 gency’ means—

18 “(1) a major market disturbance characterized  
19 by or constituting—

20 “(A) sudden and excessive fluctuations of  
21 prices of greenhouse gas instruments (or a sub-  
22 stantial threat of such sudden and excessive  
23 fluctuations) that threaten fair and orderly  
24 markets; or

25 “(B) a substantial disruption of the safe or  
26 efficient operation of the national system for

1 clearance and settlement of transactions in  
2 greenhouse gas instruments (or a substantial  
3 threat of such a disruption); or

4 “(2) a major disturbance that substantially dis-  
5 rupts, or threatens to substantially disrupt—

6 “(A) the functioning of markets in green-  
7 house gas instruments, or any significant por-  
8 tion or segment of the markets; or

9 “(B) the transmission or processing of  
10 transactions in greenhouse gas instruments.

11 “(b) TRADING SUSPENSIONS.—If the Commission  
12 determines that the public interest so requires, the Com-  
13 mission may, by order, summarily suspend all trading of  
14 greenhouse gas instruments on any greenhouse gas instru-  
15 ment trading organization for a period not to exceed 90  
16 calendar days.

17 “(c) GREENHOUSE GAS MARKET EMERGENCY OR-  
18 DERS.—

19 “(1) IN GENERAL.—In consultation with other  
20 relevant agencies, the Commission, in a greenhouse  
21 gas market emergency, may by order summarily  
22 take such action to alter, supplement, suspend, or  
23 impose requirements or restrictions with respect to  
24 any matter or action subject to regulation by the  
25 Commission or an entity registered under this Act,



1 as the Commission determines is necessary and in  
2 the public interest—

3 “(A) to maintain or restore fair and or-  
4 derly markets in greenhouse gas instruments;  
5 or

6 “(B) to ensure prompt, accurate, and safe  
7 clearance and settlement of transactions in  
8 greenhouse gas instruments.

9 “(2) EFFECTIVE PERIOD.—A greenhouse gas  
10 market emergency order of the Commission under  
11 this section—

12 “(A) shall continue in effect for the period  
13 specified by the Commission;

14 “(B) may be extended in accordance with  
15 paragraph (3); and

16 “(C) except as provided in paragraph (3),  
17 may not continue in effect for more than 10  
18 business days, including extensions.

19 “(3) EXTENSION.—A greenhouse gas market  
20 emergency order of the Commission may be extended  
21 to continue in effect for more than 10 business days,  
22 but in no event may continue in effect for more than  
23 30 calendar days, if, at the time of the extension,  
24 the Commission determines that—

1           “(A) the greenhouse gas market emergency  
2           situation still exists; and

3           “(B) the continuation of the order for  
4           more than 10 business days is necessary in the  
5           public interest to attain an objective described  
6           in subparagraph (A) or (B) of paragraph (1).

7           “(4) EXEMPTION.—In exercising the authority  
8           provided by this section, the Commission shall not  
9           be required to comply with section 553 of title 5,  
10          United States Code.

11          “(d) COMPLIANCE WITH ORDERS.—No person shall  
12          effect any transaction in, or induce the purchase or sale  
13          of, any greenhouse gas instrument in contravention of a  
14          greenhouse gas market emergency order of the Commis-  
15          sion, unless the order has been stayed, modified, or set  
16          aside as provided in subsection (e).

17          “(e) LIMITATIONS ON REVIEW OF ORDERS.—

18                 “(1) IN GENERAL.—A greenhouse gas market  
19                 emergency order of the Commission shall be subject  
20                 to review by the United States Court of Appeals for  
21                 the District of Columbia Circuit.

22                 “(2) BASIS.—A review of a greenhouse gas  
23                 market emergency order shall be based on an exam-  
24                 ination of all the information before the Commission  
25                 at the time at which the order was issued.

1           “(3) STANDARD FOR FINDINGS.—A reviewing  
2           court shall not enter a stay, writ of mandamus, or  
3           similar relief unless the court finds, after notice and  
4           hearing, that the action of the Commission was arbitrary,  
5           capricious, an abuse of discretion, or otherwise  
6           not in accordance with law.”.

7   **SEC. 2414. TERRITORIAL APPLICATION.**

8           Section 12 of the Commodity Exchange Act (7 U.S.C.  
9   16) is amended by adding at the end the following:

10          “(h) IN GENERAL.—The provisions of this Act re-  
11          lated to greenhouse gas instruments that were enacted by  
12          the American Power Act, including any rule or regulation  
13          under those provisions, shall not apply to activities outside  
14          the United States unless the activities—

15                 “(1) have a direct and significant connection  
16                 with activities in or effect on United States com-  
17                 merce; or

18                 “(2) contravene such rules or regulations as the  
19                 Commission may prescribe as appropriate to prevent  
20                 the evasion of any provision of this Act that was en-  
21                 acted by the American Power Act.”.

22   **SEC. 2415. MEMORANDUM AND INFORMATION SHARING.**

23           Section 12 of the Commodity Exchange Act (7 U.S.C.  
24   16) (as amended by section 2414) is amended by adding  
25   at the end the following:

1           “(i) MEMORANDUM OF UNDERSTANDING AND INFOR-  
2 MATION SHARING.—

3           “(1) IN GENERAL.—Not later than 1 year after  
4 the date of enactment of this subsection and con-  
5 sistent with this Act and the American Power Act,  
6 the Commission, the Administrator of the Environ-  
7 mental Protection Agency, the Federal Energy Reg-  
8 ulatory Commission, the Secretary of the Treasury,  
9 and the Secretary of Agriculture shall enter into a  
10 memorandum of understanding to establish proce-  
11 dures—

12           “(A) to share information that may be re-  
13 quested for enforcement, surveillance, or such  
14 other purposes within the scope of the jurisdic-  
15 tion of the requesting agency (subject to the  
16 same restrictions on disclosure that are applica-  
17 ble to the agency initially holding the informa-  
18 tion);

19           “(B) to review the respective enforcement  
20 and market oversight authorities of the agen-  
21 cies;

22           “(C) to apply the respective authorities of  
23 the agencies in a manner that—

24           “(i) ensures effective and coordinated  
25 regulation in the public interest; and

1                   “(ii) avoids any gaps in the exercise of  
2                   jurisdiction by the agencies; and

3                   “(D) to ensure that the respective enforce-  
4                   ment mechanisms and sanctions authorities of  
5                   the agencies are sufficient to deter and punish  
6                   violations of this Act and the American Power  
7                   Act.

8                   “(2) REPORTING.—Not later than 1 year after  
9                   the date of enactment of this subsection, the heads  
10                  of the agencies specified in paragraph (1) shall sub-  
11                  mit to the appropriate committees of Congress a re-  
12                  port that—

13                  “(A) describes the extent to which the ex-  
14                  isting authorities of the agency are sufficient to  
15                  enforce this Act and the American Power Act;  
16                  and

17                  “(B) includes recommendations as to any  
18                  additional authorities that the agencies con-  
19                  siders necessary to provide effective regulation  
20                  and enforcement of this Act and the American  
21                  Power Act.

22                  “(j) INFORMATION SHARING.—

23                  “(1) IN GENERAL.—Not later than 1 year after  
24                  the date of enactment of this subsection, the Com-  
25                  mission and the Administrator of the Environmental

1 Protection Agency shall enter into a memorandum of  
2 understanding to make available to the Adminis-  
3 trator such information available to the Commission  
4 as will enable the Administrator to determine the  
5 ownership of greenhouse gas instruments on a real-  
6 time basis.

7 “(2) MINIMUM REQUIREMENTS.—The memo-  
8 randum of understanding described in paragraph (1)  
9 shall include, at a minimum, provisions regarding  
10 the treatment of proprietary and trading informa-  
11 tion.”.

12 **SEC. 2416. CONFORMING AMENDMENTS.**

13 (a) Section 4p(a) of the Commodity Exchange Act  
14 (7 U.S.C. 6p(a)) is amended in the third sentence by in-  
15 serting “greenhouse gas instrument trading organiza-  
16 tions,” after “under section 17 of this Act,”.

17 (b) Section 5c of the Commodity Exchange Act (7  
18 U.S.C. 7a–2) is amended—

19 (1) in subsections (a)(1) and (d)(1), by insert-  
20 ing “5h,” after “5a(d),” each place it appears; and

21 (2) in subsection (b), by inserting “greenhouse  
22 gas instrument trading organization,” after “deriva-  
23 tives transaction execution facility,” each place it ap-  
24 pears.

1 (c) Section 8a of the Commodity Exchange Act (7  
2 U.S.C. 12a) is amended—

3 (1) in paragraph (1), by inserting “compliance  
4 entities and regulated greenhouse gas market par-  
5 ticipants,” after “associated persons of commodity  
6 pool operators,”;

7 (2) in paragraph (2)(E)(i), by inserting after  
8 “the Clean Air Act (42 U.S.C. 7401 et seq.), the  
9 Federal Water Pollution Control Act (33 U.S.C.  
10 1251 et seq.), the Endangered Species Act of 1973  
11 (16 U.S.C. 1531 et seq.), the National Environ-  
12 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),  
13 the Federal Insecticide, Fungicide, and Rodenticide  
14 Act (7 U.S.C. 136 et seq.), the Safe Drinking Water  
15 Act (42 U.S.C. 300f et seq.), the Solid Waste Dis-  
16 posal Act (42 U.S.C. 6901 et seq.), the Toxic Sub-  
17 stances Control Act (15 U.S.C. 2601 et seq.), the  
18 Comprehensive Environmental Response, Compensa-  
19 tion, and Liability Act of 1980 (42 U.S.C. 9601 et  
20 seq.), the Natural Gas Act (15 U.S.C. 717 et seq.),  
21 the Federal Power Act (16 U.S.C. 791a et seq.), the  
22 Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et  
23 seq.), the Energy Policy Act of 2005 (42 U.S.C.  
24 15801 et seq.),” after “of the United States Code,”;

1           (3) in paragraph (3)(B)(i), by inserting “the  
2           Clean Air Act (42 U.S.C. 7401 et seq.), the Federal  
3           Water Pollution Control Act (33 U.S.C. 1251 et  
4           seq.), the Endangered Species Act of 1973 (16  
5           U.S.C. 1531 et seq.), the National Environmental  
6           Policy Act of 1969 (42 U.S.C. 4321 et seq.), the  
7           Federal Insecticide, Fungicide, and Rodenticide Act  
8           (7 U.S.C. 136 et seq.), the Safe Drinking Water Act  
9           (42 U.S.C. 300f et seq.), the Solid Waste Disposal  
10          Act (42 U.S.C. 6901 et seq.), the Toxic Substances  
11          Control Act (15 U.S.C. 2601 et seq.), the Com-  
12          prehensive Environmental Response, Compensation,  
13          and Liability Act of 1980 (42 U.S.C. 9601 et seq.),  
14          the Natural Gas Act (15 U.S.C. 717 et seq.), the  
15          Federal Power Act (16 U.S.C. 791a et seq.), the  
16          Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et  
17          seq.), the Energy Policy Act of 2005 (42 U.S.C.  
18          15801 et seq.),” after “of 1977,”; and

19          (4) in paragraph (7), by inserting—

20                 (A) “trading in greenhouse gas instru-  
21                 ments or” after “for the protection of persons”;  
22                 and

23                 (B) “, or greenhouse gas instruments trad-  
24                 ed,” after “future delivery”.



1 (d) Section 8c of the Commodity Exchange Act (7  
2 U.S.C. 12c) is amended by inserting “or greenhouse gas  
3 instrument trading organization” after “exchange” each  
4 place it appears.

5 (e) Section 15(a)(2)(B) of the Commodity Exchange  
6 Act (7 U.S.C. 19(a)(2)(B)) is amended by inserting “or  
7 greenhouse gas markets” after “futures markets”.

8 (f) Section 16(a) (7 U.S.C. 20(a)) is amended in the  
9 first sentence by inserting “or trading in greenhouse gas  
10 markets” after “subject of futures contracts”.

## 11 **Subtitle F—Miscellaneous**

### 12 **SEC. 2501. MISCELLANEOUS.**

13 Title VIII of the Clean Air Act (as amended by sec-  
14 tion 2212(a)) is amended by adding at the end the fol-  
15 lowing:

#### 16 **“SEC. 806. STATE PROGRAMS.**

17 “(a) GRANTS FOR SUPPORT OF AIR POLLUTION  
18 CONTROL PROGRAMS.—The Administrator may provide  
19 grants to air pollution control agencies pursuant to section  
20 105 for purposes of assisting in the implementation of pro-  
21 grams to address climate change established under the  
22 American Power Act.

23 “(b) CONSOLIDATED STATE PLANNING.—

24 “(1) IN GENERAL.—A State, local, or tribal  
25 government may meet planning and other require-

1       ments applicable to the governments under this Act  
2       by submitting a consolidated plan that describes how  
3       the government will implement or meet the require-  
4       ments, in lieu of submitting separate plans or re-  
5       ports under the applicable provisions of this Act.

6               “(2) ADMINISTRATION.—A government submit-  
7       ting a consolidated plan may use a reasonable por-  
8       tion of any allowances or other funding the govern-  
9       ment receives under this Act to prepare and submit  
10      to the applicable Federal agencies a consolidated  
11      plan that—

12              “(A) identifies existing State, local, or trib-  
13      al laws (including regulations) and programs  
14      that meet the minimum standards or goals es-  
15      tablished under this Act;

16              “(B) establishes a schedule for adopting  
17      any new or revised regulations needed to meet  
18      the minimum standards or goals;

19              “(C) identifies the applicable agencies and  
20      the respective responsibilities of the agencies for  
21      implementing the plan; and

22              “(D) describes how the allowances or other  
23      funding provided under this Act will be used to  
24      implement the plan and achieve the goals and

1 purposes of the applicable provisions of this  
2 Act.

3 “(c) STATE CAP AND TRADE PROGRAMS.—

4 “(1) DEFINITION OF CAP AND TRADE PRO-  
5 GRAM.—

6 “(A) IN GENERAL.—In this section, the  
7 term ‘cap-and-trade program’ means a system  
8 of greenhouse gas regulation under which a  
9 State or political subdivision of a State—

10 “(i) issues a limited number of  
11 tradable instruments in the nature of emis-  
12 sion allowances; and

13 “(ii) requires sources within the juris-  
14 diction of the State or political subdivision  
15 to surrender those tradeable instruments  
16 for each unit of greenhouse gas emitted by  
17 the sources during a compliance period.

18 “(B) EXCLUSIONS.—The term ‘cap-and-  
19 trade program’ does not include, among other  
20 things—

21 “(i) a target or limit on greenhouse  
22 gas emissions adopted by a State or polit-  
23 ical subdivision that is implemented other  
24 than through the issuance by the State or  
25 political subdivision of a limited number of

1 tradable instruments in the nature of emis-  
2 sion allowances and the requirement to  
3 surrender the tradeable instruments;

4 “(ii) any other standard, limit, regula-  
5 tion, or program to reduce greenhouse gas  
6 emissions that is not implemented through  
7 the issuance by the State or political sub-  
8 division of a limited number of tradeable  
9 instruments in the nature of emission al-  
10 lowances and the requirement to surrender  
11 the tradeable instruments;

12 “(iii) any fleet-wide motor vehicle  
13 emission requirement that allows greater  
14 emissions with increased vehicle produc-  
15 tion; or

16 “(iv) any requirement that fuels or  
17 other products meet an average pollution  
18 emission rate or lifecycle greenhouse gas  
19 standard.

20 “(2) PROHIBITION.—Effective January 1 of the  
21 first calendar year for which the Administrator allo-  
22 cates allowances pursuant to section 781, no State  
23 or political subdivision of a State may implement or  
24 enforce a cap-and-trade program.

1 **“SEC. 807. FORESTRY SECTOR GREENHOUSE GAS AC-**  
2 **COUNTING.**

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 and woody biomass on other land,  
8 including—

9 “(1) sequestration, including sequestration re-  
10 sulting from natural forest growth or other natural  
11 ecosystem processes, forest management practices,  
12 afforestation, or reforestation;

13 “(2) emissions resulting from forest manage-  
14 ment practices, timber harvest, deforestation, or con-  
15 version between forest types or to cropland or other  
16 nonforested uses; and

17 “(3) transfers of carbon through forest prod-  
18 ucts from the forest sector to other sectors, includ-  
19 ing the waste, manufacturing and milling, and en-  
20 ergy sectors, and transfers of forest products to and  
21 from other countries.

22 “(b) SCALE OF ACCOUNTING.—Accounting under  
23 subsection (a) shall be provided, at a minimum, for—

24 “(1) Federal, other public, tribal, and private  
25 land of ownerships larger than 5,000 acres on which  
26 forestry is regularly practiced; and

1           “(2) any forest land on which conversion de-  
2           scribed in subsection (a)(2) occurs.

3           “(c) BASIS OF ACCOUNTING.—Accounting under sub-  
4           section (a) shall be based on information available from  
5           existing sources, including information—

6           “(1) collected for tax purposes;

7           “(2) from the Forest Inventory Analysis of the  
8           Forest Service;

9           “(3) collected for regulatory purposes; and

10           “(4) collected as part of standard industry  
11           practices, such as industry updates on inventories of  
12           timber.

13           “(d) AUTHORITY OF ADMINISTRATOR.—

14           “(1) IN GENERAL.—Nothing in this section au-  
15           thorizes the Administrator to require new generation  
16           of data by forest land owners.

17           “(2) NEED FOR ADDITIONAL INFORMATION.—If  
18           the Administrator determines that additional infor-  
19           mation not available from current sources is nec-  
20           essary to carry out the purposes of this section, the  
21           Administrator shall submit to Congress a report that  
22           describes the necessary information and new author-  
23           ity that would be required to collect that information  
24           and recommendations for modification to existing  
25           Federal data collection programs.

1 **“SEC. 808. STUDIES ON IMPACTS OF RENEWABLE BIOMASS**  
2 **USE.**

3 “(a) ENVIRONMENTAL PROTECTION.—Not later than  
4 6 years after the date of enactment of the American Power  
5 Act, and every 5 years thereafter, the Administrator, in  
6 consultation with the Secretary of Agriculture and the  
7 Secretary of the Interior, shall conduct a study and report  
8 to Congress on the impacts to date and likely future im-  
9 pacts of the requirements of title VII on matters relating  
10 to the use and combustion of renewable biomass and gas  
11 or liquid fuel derived from renewable biomass, including—

12 “(1) the quantity of greenhouse gas emissions  
13 or attributable greenhouse gas emissions from the  
14 combustion of renewable biomass-based fuels or bio-  
15 mass by covered entities;

16 “(2) the net greenhouse gas benefits of using  
17 renewable biomass, including direct and indirect  
18 emissions, but excluding emissions for which any  
19 covered entity is otherwise required to hold allow-  
20 ances;

21 “(3) other environmental issues, including air  
22 and water quality, acreage and function of waters,  
23 landscape-level water quality, and soil productivity  
24 and environmental quality, in each region of the  
25 United States; and

1           “(4) resource conservation issues, including soil  
2           conservation, water availability, and ecosystem  
3           health and biodiversity, including impacts on forests,  
4           grassland, wetland, and wildlife habitat.

5           “(b) FOOD SUPPLY.—Not later than 6 years after  
6           the date of enactment of this title, and every 5 years there-  
7           after, the Secretary of Agriculture, in consultation with  
8           the Secretary of the Interior and the Administrator, shall  
9           conduct a study and report to Congress on the impacts  
10          to date and likely future impacts of the requirements of  
11          title VII on food production as a result of the use of re-  
12          newable biomass and gas or liquid fuel derived from re-  
13          newable biomass, including the cost of food and the impact  
14          on each industry associated with the production of feed  
15          grains, livestock, food, and forest products.

16          “(c) PUBLIC PARTICIPATION AND AVAILABILITY.—In  
17          conducting the studies under this section, the Adminis-  
18          trator and the Secretary of Agriculture shall—

19                 “(1) consult with States, Indian tribes, and  
20                 other interested stakeholders;

21                 “(2) make available, and seek public comment  
22                 on, a draft version of the study results; and

23                 “(3) make the final study results available to  
24                 the public.



1           “(d) RECOMMENDATIONS.—Based on the studies  
2 conducted under this section and other available informa-  
3 tion, the Administrator shall submit to Congress, as part  
4 of the study required under subsection (a), recommenda-  
5 tions on whether (and, if so, how) the compliance obliga-  
6 tions under section 722 should be modified to require cov-  
7 ered entities to hold allowances for greenhouse gas emis-  
8 sions associated with the combustion of renewable biomass  
9 and gas or liquid fuel derived from renewable biomass.

10 **“SEC. 809. REVIEW OF DEFINITION OF RENEWABLE BIO-**  
11 **MASS.**

12           “(a) NATIONAL ACADEMY OF SCIENCES REPORT.—  
13 Not later than 1 year after the date of enactment of the  
14 American Power Act, the Administrator and the Secretary  
15 of Agriculture shall enter into an arrangement with the  
16 National Academy of Sciences under which the Academy  
17 shall conduct a study to evaluate how sources of renewable  
18 biomass contribute to the goals of increasing the energy  
19 independence of the United States, protecting the environ-  
20 ment, and reducing greenhouse gas pollution.

21           “(b) RECOMMENDATIONS FOR NON-FEDERAL  
22 LAND.—After reviewing the report required by subsection  
23 (a), the Administrator, with the concurrence with the Sec-  
24 retary of Agriculture, shall submit to Congress rec-  
25 ommendations concerning whether (and if so, how) to

1 modify the non-Federal land portion of the definition of  
2 ‘renewable biomass’ in section 700 in order to advance the  
3 goals of increasing the energy independence of the United  
4 States, protecting the environment, and reducing green-  
5 house gas pollution.

6 “(c) FEDERAL LAND.—The Secretary of the Interior,  
7 the Secretary of Agriculture and the Administrator shall  
8 conduct a joint scientific review to evaluate how sources  
9 of biomass from Federal lands could contribute to the  
10 goals of increasing the energy independence of the United  
11 States, protecting the environment, and reducing green-  
12 house gas pollution.

13 “(d) RECOMMENDATIONS FOR FEDERAL LAND.—  
14 Based on the scientific review, the Secretary of the Inte-  
15 rior, the Secretary of Agriculture, and the Administrator  
16 shall submit to Congress recommendations concerning  
17 whether (and if so, how) to modify the Federal lands por-  
18 tion of the definition of ‘renewable biomass’ in section 700  
19 in order to advance the goals of increasing the energy  
20 independence of the United States, protecting the environ-  
21 ment, and reducing greenhouse gas pollution.”.

22 **SEC. 2502. ENFORCEMENT.**

23 (a) PETITION FOR REVIEW; REMAND.—Section  
24 307(b) of the Clean Air Act (42 U.S.C. 7607(b)) is  
25 amended—

1           (1) in paragraph (1), by inserting after the  
2           third sentence the following: “Any person may file a  
3           petition for review of action by the Administrator as  
4           provided in this subsection.”; and

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

6           “(3) REMAND.—If the court determines that  
7           any action of the Administrator is arbitrary, capri-  
8           cious, or otherwise unlawful, the court may remand  
9           the action, without vacatur, if vacatur would impair  
10          or delay protection of the environment or public  
11          health or otherwise undermine the timely achieve-  
12          ment of the purposes of this Act.

13          “(4) FINAL ACTION BY ADMINISTRATOR.—

14                 “(A) IN GENERAL.—If the court deter-  
15                 mines that any action of the Administrator is  
16                 arbitrary, capricious, or otherwise unlawful, and  
17                 remands the matter to the Administrator, the  
18                 Administrator shall complete final action on re-  
19                 mand within an expeditious time period that is  
20                 the shorter of the period originally allowed for  
21                 the action or 1 year, unless the court on motion  
22                 determines that a shorter or longer period is  
23                 necessary, appropriate, and consistent with the  
24                 purposes of this Act.

1                   “(B) JURISDICTION.—The United States  
2                   Court of Appeals for the appropriate circuit  
3                   shall have jurisdiction to enforce a deadline for  
4                   action on remand under this paragraph.”.

5           (b) PETITION FOR RECONSIDERATION.—Section  
6 307(d)(7)(B) of the Clean Air Act (42 U.S.C.  
7 7607(d)(7)(B)) is amended—

8                   (1) by inserting after the second sentence the  
9                   following: “If a petition for reconsideration is filed,  
10                  the Administrator shall take final action on the peti-  
11                  tion, including promulgation of final action revising  
12                  or determining not to revise the action for which re-  
13                  consideration is sought, not later than 150 days  
14                  after the date on which the petition is received by  
15                  the Administrator, or the petition shall be deemed to  
16                  be denied for the purpose of judicial review.”; and

17                  (2) by striking “If the Administrator refuses to  
18                  convene such a proceeding, such person may seek re-  
19                  view of such refusal in the United States court of  
20                  appeals for the appropriate circuit (as provided in  
21                  subsection (b) of this section).” and inserting the  
22                  following: “The person may seek judicial review of  
23                  such a denial, or of any other final action, by the  
24                  Administrator, in response to a petition for reconsid-  
25                  eration, in the United States Court of Appeals for

1 the appropriate circuit (as provided in subsection  
2 (b)).”.

3 **SEC. 2503. CONFORMING AMENDMENTS.**

4 (a) FEDERAL ENFORCEMENT.—Section 113 of the  
5 Clean Air Act (42 U.S.C. 7413) is amended—

6 (1) in subsection (a)(3), by striking “or title  
7 VI,” and inserting “title VI, title VII, or title VIII”;

8 (2) in subsection (b)—

9 (A) in the matter preceding paragraph (1),  
10 by striking “or a major stationary source” and  
11 inserting “a major stationary source, covered  
12 entity, or covered EGU under title VIII”; and

13 (B) in paragraph (2), by striking “or title  
14 VI” and inserting “title VI, title VII, or title  
15 VIII”;

16 (3) in subsection (c)—

17 (A) in the first sentence of paragraph (1),  
18 by striking “or title VI (relating to strato-  
19 spheric ozone control),” and inserting “title VI,  
20 title VII, or title VIII,”; and

21 (B) in the first sentence of paragraph (3),  
22 by striking “or VI” and inserting “VI, VII, or  
23 VIII”;

24 (4) in subsection (d)(1)(B), by striking “or VI”  
25 and inserting “VI, VII, or VIII”;

1           (5) in subsection (f), in the first sentence, by  
2           striking “or VI” and inserting “VI, VII, or VIII”;  
3           and

4           (6) by adding at the end the following:

5           “(i) DEFINITION OF ADMINISTRATOR.—In this sec-  
6           tion, the term ‘Administrator’ includes the head of a Fed-  
7           eral agency responsible for administering provisions of  
8           title VII with respect to the provisions.”.

9           (b) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
10          tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is  
11          amended by striking “purpose (i)” and all that follows  
12          through “(iii)” and inserting “purpose of developing or as-  
13          sisting in the development of any implementation plan  
14          under section 110 or 111(d), any standard of performance  
15          under section 111, any emission standard under section  
16          112, or any regulation under title VII or VIII, for the pur-  
17          pose of determining whether any person is in violation of  
18          any such standard or any requirement of such a plan, or  
19          for the purpose of”.

20          (c) ENFORCEMENT.—Section 304(f) of the Clean Air  
21          Act (42 U.S.C. 7604(f)) is amended—

22                 (1) in paragraph (3), by striking “or” at the  
23                 end;

24                 (2) in paragraph (4), by striking the period at  
25                 the end and inserting “; or”; and

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

2 “(5) any requirement of title VII or VIII.”.

3 (d) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL  
4 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.  
5 7607) is amended—

6 (1) in subsection (a), by striking “, or section  
7 306” and inserting “section 306, or title VII or  
8 VIII”;

9 (2) in subsection (b)(1)—

10 (A) by striking “,” and inserting “,” in  
11 each place it appears; and

12 (B) in the first sentence, by striking “, or  
13 under section 120,” and inserting “or 120, any  
14 final action under title VII or VIII,”;

15 (3) in subsection (d)(1), by striking subpara-  
16 graph (S) and inserting the following:

17 “(S) the promulgation or revision of any  
18 regulation under title VII or VIII,”; and

19 (4) by adding at the end the following:

20 “(i) DEFINITION OF ADMINISTRATOR.—In this sec-  
21 tion, the term ‘Administrator’ includes the head of a Fed-  
22 eral agency responsible for administering provisions of  
23 title VII with respect to the provisions.”.

1 (e) TECHNICAL AMENDMENT.—Title IV of the Clean  
2 Air Act (relating to noise pollution) (42 U.S.C. 7641 et  
3 seq.)—

4 (1) is amended by redesignating sections 401  
5 through 403 as sections 901 through 903, respec-  
6 tively; and

7 (2) is redesignated as title IX and moved to ap-  
8 pear at the end of that Act.

### 9 **TITLE III—CONSUMER**

### 10 **PROTECTION**

### 11 **Subtitle A—Investing in Low-car-** 12 **bon Electricity and Energy Effi-** 13 **ciency for Consumer Protection**

#### 14 **SEC. 3001. ELECTRICITY CONSUMERS.**

15 Part G of title VII of the Clean Air Act (as added  
16 by section 2101(a)) is amended by inserting after section  
17 781 the following:

#### 18 **“SEC. 782. ELECTRICITY CONSUMERS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COAL-FUELED UNIT.—The term ‘coal-  
21 fueled unit’ means a utility unit that derives at least  
22 85 percent of the heat input of the unit from—

23 “(A) coal;

24 “(B) petroleum coke; or

25 “(C) any combination of those 2 fuels.



1           “(2) ELECTRICITY LOCAL DISTRIBUTION COM-  
2           PANY.—The term ‘electricity local distribution com-  
3           pany’ means an electric utility—

4                   “(A) that has a legal, regulatory, or con-  
5                   tractual obligation to deliver electricity directly  
6                   to retail consumers in the United States, re-  
7                   gardless of whether that entity or another enti-  
8                   ty sells the electricity as a commodity to those  
9                   retail consumers; and

10                   “(B) the retail rates of which, except in  
11                   the case of an electric cooperative, are regulated  
12                   or established by—

13                           “(i) a State regulatory authority;

14                           “(ii) a State or political subdivision  
15                           (or an agency or instrumentality of, or cor-  
16                           poration wholly owned by, a State or polit-  
17                           ical subdivision); or

18                           “(iii) an Indian tribe pursuant to trib-  
19                           al law.

20           “(3) INDEPENDENT POWER PRODUCTION FA-  
21           CILITY.—The term ‘independent power production  
22           facility’ means a facility—

23                   “(A) that is used for the generation of  
24                   electric energy, at least 80 percent of which is  
25                   sold at wholesale; and

1           “(B) the sales of the output of which are  
2 not subject to retail rate regulation or setting  
3 of retail rates by—

4           “(i) a State regulatory authority;

5           “(ii) a State or political subdivision  
6 (or an agency or instrumentality of, or cor-  
7 poration wholly owned by, a State or polit-  
8 ical subdivision);

9           “(iii) an electric cooperative; or

10           “(iv) an Indian tribe pursuant to trib-  
11 al law.

12           “(4) LONG-TERM CONTRACT GENERATOR.—

13           “(A) IN GENERAL.—The term ‘long-term  
14 contract generator’ means a qualifying small  
15 power production facility, a qualifying cogenera-  
16 tion facility, an independent power production  
17 facility, or a facility for the production of elec-  
18 tric energy for sale to others that is owned and  
19 operated by an electric cooperative that is—

20           “(i) a covered entity; and

21           “(ii) as of the date of enactment of  
22 this title—

23           “(I) a facility with 1 or more  
24 sales or tolling agreements executed  
25 before March 1, 2007, that govern the

1 electricity sales of the facility and pro-  
2 vide for sales at a price (whether fixed  
3 or determined pursuant to a formula)  
4 for electricity that does not allow for  
5 recovery of the costs of compliance  
6 with the limitation on greenhouse gas  
7 emissions under this title, subject to  
8 the condition that the agreement shall  
9 not be between any entities that were  
10 affiliates at the time at which the  
11 agreement was entered into; or

12 “(II) a facility consisting of 1 or  
13 more cogeneration units that make  
14 useful thermal energy available to an  
15 industrial or commercial process with  
16 1 or more sales agreements executed  
17 before March 1, 2007, that govern the  
18 useful thermal energy sales of the fa-  
19 cility and provide for sales at a price  
20 (whether fixed or determined pursu-  
21 ant to a formula) for useful thermal  
22 energy that does not allow for recov-  
23 ery of the costs of compliance with the  
24 limitation on greenhouse gas emis-  
25 sions under this title, subject to the

1 condition that the agreement shall not  
2 be between any entities that were af-  
3 filiates at the time at which the agree-  
4 ment was entered into.

5 “(B) AFFILIATE.—In this paragraph, the  
6 term ‘affiliate’, with respect to a covered entity,  
7 means another entity that—

8 “(i) directly or indirectly owned or  
9 controlled the covered entity;

10 “(ii) was owned or controlled by the  
11 covered entity; or

12 “(iii) had 50 percent or more of the  
13 equity interests of the entity under com-  
14 mon ownership or control with the covered  
15 entity.

16 “(5) MERCHANT COAL UNIT.—The term ‘mer-  
17 chant coal unit’ means a coal-fueled unit that—

18 “(A) is, or is part of, a covered entity;

19 “(B) is not owned by a Federal, State, or  
20 regional agency or power authority; and

21 “(C) generates electricity solely for sale to  
22 others, subject to the condition that all or a  
23 portion of those sales shall be made by a sepa-  
24 rate 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 (or an agency or instrumentality  
10                  of, or corporation wholly owned by, a  
11                  State or political subdivision);

12                  “(III) an electric cooperative; or

13                  “(IV) an Indian tribe pursuant  
14                  to tribal law.

15                  “(6) MERCHANT COAL UNIT SALES.—The term  
16                  ‘merchant coal unit sales’ means sales to others of  
17                  electricity generated by a merchant coal unit that  
18                  are made by the owner or leaseholder described in  
19                  paragraph (11)(C).

20                  “(7) NEW COAL-FUELED UNIT.—The term ‘new  
21                  coal-fueled unit’ means a coal-fueled unit that com-  
22                  menced operation during the period beginning on  
23                  January 1, 2009, and ending on January 1, 2013.

1           “(8) NEW MERCHANT COAL UNIT.—The term  
2           ‘new merchant coal unit’ means a merchant coal  
3           unit—

4                   “(A) that commenced operation during the  
5                   period beginning on January 1, 2009, and end-  
6                   ing on January 1, 2013; and

7                   “(B) the actual, onsite construction of  
8                   which commenced prior to January 1, 2009.

9           “(9) QUALIFIED HYDROPOWER.—The term  
10           ‘qualified hydropower’ means—

11                   “(A) energy produced from increased effi-  
12                   ciency achieved, or additions of capacity made,  
13                   on or after January 1, 1988, at a hydroelectric  
14                   facility that was placed in service before that  
15                   date (but not including additional energy gen-  
16                   erated as a result of operational changes not di-  
17                   rectly associated with efficiency improvements  
18                   or capacity additions); or

19                   “(B) energy produced from generating ca-  
20                   pacity added to a dam on or after January 1,  
21                   1988, subject to the conditions that, as certified  
22                   by the Federal Energy Regulatory Commis-  
23                   sion—

24                           “(i) the dam was—



1            vation at any given location and time that  
2            would have occurred in the absence of the  
3            hydroelectric project is maintained, subject  
4            to any license or exemption requirements  
5            that require changes in water surface ele-  
6            vation for the purpose of improving the en-  
7            vironmental quality of the affected water-  
8            way.

9            “(10) QUALIFYING SMALL POWER PRODUCTION  
10          FACILITY; QUALIFYING COGENERATION FACILITY.—  
11          The terms ‘qualifying small power production facil-  
12          ity’ and ‘qualifying cogeneration facility’ have the  
13          meanings given those terms in section 3 of the Fed-  
14          eral Power Act (16 U.S.C. 796).

15          “(11) RENEWABLE ENERGY RESOURCE.—The  
16          term ‘renewable energy resource’ means each of the  
17          following:

18                “(A) Wind energy.

19                “(B) Solar energy.

20                “(C) Geothermal energy.

21                “(D) Renewable biomass.

22                “(E) Biogas derived exclusively from re-  
23          newable biomass.

24                “(F) Biofuels derived exclusively from re-  
25          newable biomass.



1 “(G) Qualified hydropower.

2 “(H) Marine and hydrokinetic renewable  
3 energy (as defined in section 632 of the Energy  
4 Independence and Security Act of 2007 (42  
5 U.S.C. 17211)).

6 “(12) STATE REGULATORY AUTHORITY.—The  
7 term ‘State regulatory authority’ has the meaning  
8 given that term in section 3 of the Public Utility  
9 Regulatory Policies Act of 1978 (16 U.S.C. 2602).

10 “(13) USEFUL THERMAL ENERGY.—The term  
11 ‘useful thermal energy’ has the meaning given that  
12 term in section 371 of the Energy Policy and Con-  
13 servation Act (42 U.S.C. 6341).

14 “(b) ELECTRICITY LOCAL DISTRIBUTION COMPA-  
15 NIES.—

16 “(1) DISTRIBUTION OF ALLOWANCES.—

17 “(A) IN GENERAL.—Subject to subpara-  
18 graph (B), the Administrator shall distribute to  
19 electricity local distribution companies for the  
20 benefit of retail ratepayers the quantity of emis-  
21 sion allowances allocated for the following vin-  
22 tage year pursuant to section 781(a)(1).

23 “(B) WITHHOLDING ALLOWANCES.—

24 “(i) IN GENERAL.—Notwithstanding  
25 subparagraph (A), subject to the condition

1 described in clause (ii), the Administrator  
2 shall withhold from distribution under this  
3 paragraph a quantity of emission allow-  
4 ances equal to the lesser of—

5 “(I) 14.3 percent of the quantity  
6 of emission allowances allocated under  
7 section 781(a)(1) for the relevant vin-  
8 tage year; and

9 “(II) 105 percent of the emission  
10 allowances of the relevant vintage year  
11 that the Administrator anticipates will  
12 be distributed to merchant coal units  
13 and long-term contract generators  
14 under subsections (e) and (d).

15 “(ii) CONDITION.—The condition re-  
16 ferred to in clause (i) is the condition that  
17 the Administrator shall be authorized to  
18 distribute future vintage year emission al-  
19 lowances available to long-term contract  
20 generators under subsection (d) in the case  
21 of a shortfall of emission allowances during  
22 any vintage year, subject to subsection  
23 (d)(2).

24 “(C) REMAINING EMISSION ALLOW-  
25 ANCES.—Unless the Administrator is required

1 to distribute all of the emission allowances with-  
2 held under subparagraph (A) under subsections  
3 (c) and (d), the Administrator shall distribute  
4 any remaining emission allowances to electricity  
5 local distribution companies in accordance with  
6 this subsection.

7 “(2) DISTRIBUTION BASED ON EMISSIONS.—

8 “(A) IN GENERAL.—For each vintage year,  
9 the Administrator shall distribute 75 percent of  
10 the emission allowances available for distribu-  
11 tion under paragraph (1), after reserving emis-  
12 sion allowances for distribution under sub-  
13 sections (c) and (d), among individual elec-  
14 tricity local distribution companies on a pro  
15 rata basis, based on the annual average carbon  
16 dioxide emissions attributable to generation of  
17 electricity delivered at retail by each electricity  
18 local distribution company during the base pe-  
19 riod determined under subparagraph (B).

20 “(B) BASE PERIOD.—

21 “(i) VINTAGE YEAR 2013.—For vin-  
22 tage year 2013, the base period of an elec-  
23 tricity local distribution company shall  
24 be—

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1                   “(I) calendar years 2006 through  
2                   2008;

3                   “(II) any 3 consecutive calendar  
4                   years occurring between January 1,  
5                   1999, and December 31, 2008, that  
6                   the electricity local distribution com-  
7                   pany selects, subject to the condition  
8                   that the electricity local distribution  
9                   company shall timely inform the Ad-  
10                  ministrators of that selection; or

11                  “(III) calendar year 2012, in the  
12                  case of an electricity local distribution  
13                  company that—

14                   “(aa) is located outside of  
15                   the Pacific Northwest (as defined  
16                   in section 3 of the Pacific North-  
17                   west Electric Power Planning  
18                   and Conservation Act (16 U.S.C.  
19                   839a)) and purchased long-term  
20                   excess Federal power and Hun-  
21                   gry Horse Reservation power  
22                   from the Bonneville Power Ad-  
23                   ministration; and

24                   “(bb) will no longer have  
25                   long-term excess Federal power

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1 or Hungry Horse Reservation  
2 power from the Bonneville Power  
3 Administration after October 1,  
4 2011.

5 “(ii) VINTAGE YEARS 2014 AND  
6 THEREAFTER.—For vintage years 2014  
7 and thereafter, the base period shall be—

8 “(I) the base period selected  
9 under clause (i); or

10 “(II) calendar year 2012, in the  
11 case of—

12 “(aa) an electricity local dis-  
13 tribution company that owns, co-  
14 owns, or purchases through a  
15 power purchase agreement  
16 (whether directly or through a  
17 cooperative arrangement) a sub-  
18 stantial portion of the electricity  
19 generated by a new coal-fueled  
20 unit, subject to the condition that  
21 the electricity local distribution  
22 company shall timely inform the  
23 Administrator of the election to  
24 use calendar year 2012 as the  
25 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)), that pur-  
8                   chased long-term excess Federal  
9                   power and Hungry Horse Res-  
10                  ervation power from the Bonne-  
11                  ville Power Administration, and  
12                  that will no longer have long-  
13                  term excess Federal power or  
14                  Hungry Horse Reservation power  
15                  from the Bonneville Power Ad-  
16                  ministration after October 1,  
17                  2011, subject to the condition  
18                  that the small local distribution  
19                  company shall timely inform the  
20                  Administrator of the election to  
21                  use calendar year 2012 as the  
22                  base period.

23                   “(C) DETERMINATION OF EMISSIONS.—

24                   “(i) DETERMINATION FOR 1999  
25                   THROUGH 2008.—

1                   “(I) IN GENERAL.—As part of  
2                   the regulations promulgated pursuant  
3                   to subsection (e), the Administrator,  
4                   after consultation with the Energy In-  
5                   formation Administration, shall deter-  
6                   mine the annual quantity of carbon  
7                   dioxide emissions attributable to gen-  
8                   eration of electricity delivered at retail  
9                   by each electricity local distribution  
10                  company for each of calendar years  
11                  1999 through 2008, taking into ac-  
12                  count electricity generation, electricity  
13                  purchases, and electricity sales of the  
14                  electricity local distribution company.

15                  “(II) ADJUSTMENT.—In the case  
16                  of an electricity local distribution com-  
17                  pany that owns, co-owns, or purchases  
18                  through a power purchase agreement  
19                  (whether directly or through a cooper-  
20                  ative arrangement) a substantial por-  
21                  tion of the electricity generated by, a  
22                  coal-fueled unit that commenced oper-  
23                  ation during the period beginning on  
24                  January 1, 2006, and ending on De-  
25                  cember 31, 2008, the Administrator

1 shall adjust the emissions attributable  
2 to the retail deliveries of that elec-  
3 tricity local distribution company dur-  
4 ing calendar years 2006 through 2008  
5 to reflect the emissions that would  
6 have occurred if the unit were in oper-  
7 ation during the entirety of that 3-  
8 year period.

9 “(ii) ADJUSTMENTS FOR NEW COAL-  
10 FUELED UNITS.—

11 “(I) VINTAGE YEAR 2013.—For  
12 purposes of emission allowance dis-  
13 tributions for vintage year 2013, in  
14 the case of any electricity local dis-  
15 tribution company that owns, co-owns,  
16 or purchases through a power pur-  
17 chase agreement (whether directly or  
18 through a cooperative arrangement) a  
19 substantial portion of the electricity  
20 generated by, a new coal-fueled unit,  
21 the Administrator shall adjust the  
22 emissions attributable to the retail de-  
23 liveries of that electricity local dis-  
24 tribution company during the applica-  
25 ble base period to reflect the emis-



1                   sions that would have occurred if the  
2                   new coal-fueled unit were in operation  
3                   during that period.

4                   “(II) VINTAGE YEAR 2014 AND  
5                   THEREAFTER.—

6                   “(aa) IN GENERAL.—Not  
7                   later than necessary for use in  
8                   making emission allowance dis-  
9                   tributions under this subsection  
10                  for vintage year 2014, the Ad-  
11                  ministrators shall determine, for  
12                  any electricity local distribution  
13                  company that owns, co-owns, or  
14                  purchases through a power pur-  
15                  chase agreement (whether di-  
16                  rectly or through a cooperative  
17                  arrangement) a substantial por-  
18                  tion of the electricity generated  
19                  by a new coal-fueled unit and has  
20                  selected calendar year 2012 as  
21                  the base period pursuant to sub-  
22                  paragraph (B)(ii)(II), the quan-  
23                  tity of carbon dioxide emissions  
24                  attributable to generation of elec-  
25                  tricity delivered at retail by that

1 electricity local distribution com-  
2 pany during calendar year 2012.

3 “(bb) ADJUSTMENT.—If the  
4 relevant new coal-fueled unit was  
5 not yet operational by January 1,  
6 2012, the Administrator shall ad-  
7 just the determination under  
8 item (aa) to reflect the emissions  
9 that would have occurred if the  
10 unit were in operation for all of  
11 calendar year 2012.

12 “(iii) CALCULATION OF ANNUAL  
13 QUANTITY OF EMISSIONS.—

14 “(I) IN GENERAL.—The annual  
15 quantity of carbon dioxide emissions  
16 attributable to the generation of elec-  
17 tricity delivered at retail by an electric  
18 local distribution company shall be  
19 based on the quantity and type of fos-  
20 sil fuel-based electricity delivered at  
21 retail by the electric local distribution  
22 company and appropriate emission  
23 factors for the carbon dioxide emis-  
24 sions for each of the following types of  
25 power supply:

1                   “(aa) OWNED ELECTRICITY  
2                   GENERATION.—The Adminis-  
3                   trator shall determine the aver-  
4                   age emission factor associated  
5                   with generation owned and used  
6                   by the electricity local distribu-  
7                   tion company and the proportion  
8                   of overall retail deliveries served  
9                   by output from that generation.  
10                  If the total generation output as-  
11                  sociated with the generation of  
12                  an electricity local distribution  
13                  company exceeds the retail deliv-  
14                  eries of the company, after ad-  
15                  justments for transmission and  
16                  distribution line losses, the an-  
17                  nual quantity of carbon dioxide  
18                  emissions of the company shall  
19                  be based solely on the generation  
20                  delivered by the company to re-  
21                  tail customers.

22                  “(bb) POWER PURCHASE  
23                  CONTRACTS.—For electricity that  
24                  an electricity local distribution  
25                  company procured through power

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1 purchase contracts with a re-  
2 maining term of 10 years or  
3 longer as of 2013 that tied the  
4 purchased electricity to a par-  
5 ticular generation source, the Ad-  
6 ministrator shall use the emission  
7 factor for that particular source  
8 for the electricity purchased from  
9 that source and delivered at re-  
10 tail.

11 “(cc) OTHER PURCHASED  
12 POWER.—For any retail deliv-  
13 eries not covered by items (aa)  
14 and (bb), the Administrator shall  
15 use the emission factor for the  
16 North American Electric Reli-  
17 ability Council region or regions  
18 in which the electric local dis-  
19 tribution company is located.

20 “(II) EMISSION FACTORS FOR  
21 NERC REGIONS.—In determining the  
22 emission factor for a North American  
23 Electric Reliability Council region, to  
24 the maximum extent practicable, the  
25 Administrator shall not include emis-

1           sions associated with electricity from  
2           generation for which the Adminis-  
3           trator calculates an emission factor  
4           under item (aa) or (bb) of subclause  
5           (I). In carrying out this subclause, the  
6           Administrator may apply different  
7           methodologies in different regions, if  
8           appropriate to obtain the most accu-  
9           rate emission factor estimate.

10                   “(III) DATA LIMITATIONS.—  
11           Each determination under this clause  
12           shall be as precise as practicable, tak-  
13           ing into account the nature of data  
14           currently available and the nature of  
15           markets and regulation in effect in  
16           various regions of the United States.  
17           To the extent that the Administrator  
18           determines it would be useful in mak-  
19           ing determinations under this clause,  
20           the Administrator shall exercise the  
21           authority under section 114 to require  
22           electricity local distribution companies  
23           or other entities to report information,  
24           without regard to chapter 35 of title  
25           44, United States Code.

1 “(3) DISTRIBUTION BASED ON DELIVERIES.—

2 “(A) INITIAL FORMULA.—Except as pro-  
3 vided in subparagraph (B), for each vintage  
4 year, the Administrator shall distribute 25 per-  
5 cent of the emission allowances available for  
6 distribution under paragraph (1), after reserv-  
7 ing emission allowances for distribution under  
8 subsections (c) and (d), among individual elec-  
9 tricity local distribution companies on a pro  
10 rata basis, based on the average annual retail  
11 electricity deliveries of each electricity local dis-  
12 tribution company for calendar years 2006  
13 through 2008, unless the owner or operator of  
14 the electricity local distribution company—

15 “(i) selects another 3 consecutive cal-  
16 endar-year-period occurring during the pe-  
17 riod beginning on January 1, 1999, and  
18 ending on December 31, 2008; and

19 “(ii) timely notifies the Administrator  
20 of that selection.

21 “(B) UPDATING.—

22 “(i) IN GENERAL.—Before distrib-  
23 uting emission allowances for vintage year  
24 2015 under this paragraph, and once every  
25 3 years thereafter, the Administrator shall

1 update the distribution formula under this  
2 paragraph to reflect changes in the service  
3 territory of each electricity local distribu-  
4 tion company since the most recent for-  
5 mula was established.

6 “(ii) DISTRIBUTION.—For each 3-year  
7 period described in clause (i), the Adminis-  
8 trator shall distribute emission allowances  
9 on a pro rata basis among individual elec-  
10 tricity local distribution companies, based  
11 on the product obtained by multiplying—

12 “(I) the average annual deliveries  
13 per customer of each electricity local  
14 distribution company for—

15 “(aa) calendar years 2006  
16 through 2008; or

17 “(bb) the alternative 3-con-  
18 secutive-calendar-year period se-  
19 lected by the electricity local dis-  
20 tribution company under sub-  
21 paragraph (A); and

22 “(II) the number of customers of  
23 the electricity local distribution com-  
24 pany during the most recent calendar

1                   year for which the formula is updated  
2                   under this subparagraph.

3                   “(4) PROHIBITION AGAINST EXCESS DISTRIBUTIONS.—  
4                   TIONS.—

5                   “(A) IN GENERAL.—The regulations promulgated under subsection (e) shall ensure  
6                   that, notwithstanding paragraphs (2) and (3),  
7                   no electricity local distribution company shall  
8                   receive, pursuant to this section (including subparagraph (B)), a quantity of emission allowances that is greater than the annual quantity  
9                   of carbon dioxide emissions attributable to the  
10                  generation of electricity delivered by the company at retail, calculated pursuant to subsection  
11                  (b)(2)(B), for 2008 or any of calendar years  
12                  1999 through 2007, as selected by the electric  
13                  local distribution company, on the condition  
14                  that the company timely informs the Administrator of the selection.  
15  
16  
17  
18  
19

20                  “(B) DISTRIBUTION.—Any emission allowances withheld from distribution to an electricity local distribution company pursuant to  
21                  this paragraph shall be distributed among all  
22                  remaining electricity local distribution compa-  
23  
24



1           nies on a pro rata basis, based on emissions  
2           pursuant to paragraph (2).

3           “(C) CARRYOVER.—Any allowances allo-  
4           cated for the benefit and protection of elec-  
5           tricity consumers pursuant to section 781(a)(1),  
6           but not distributed due to the limitation under  
7           subparagraph (A), shall be—

8                   “(i) added to the emission allowances  
9                   to be distributed pursuant to section  
10                  781(a)(1) for the following year; and

11                   “(ii) distributed in accordance with  
12                  this subsection.

13           “(5) USE OF ALLOWANCES.—

14                   “(A) RATEPAYER BENEFIT.—

15                   “(i) IN GENERAL.—Emission allow-  
16                   ances distributed to an electricity local dis-  
17                   tribution company under this subsection—

18                           “(I) shall be used exclusively for  
19                           the benefit of the retail ratepayers of  
20                           the electricity local distribution com-  
21                           pany; and

22                           “(II) may not be used to support  
23                           electricity sales or deliveries to indi-  
24                           viduals or entities other than those  
25                           ratepayers.

1                   “(ii) SHAREHOLDERS.—For purposes  
2                   of this subsection, income or profits to  
3                   shareholders of an electricity local distribu-  
4                   tion company shall not constitute ratepayer  
5                   benefits.

6                   “(B) RATEPAYER CLASSES.—In using  
7                   emission allowances distributed under this sub-  
8                   section for the benefit of ratepayers, an elec-  
9                   tricity local distribution company shall ensure  
10                  that ratepayer benefits are distributed—

11                  “(i) among ratepayer classes on a pro  
12                  rata basis, based on electricity deliveries to  
13                  each class; and

14                  “(ii) equitably among individual rate-  
15                  payers within each ratepayer class.

16                  “(C) LIMITATION.—

17                  “(i) IN GENERAL.—An electricity local  
18                  distribution company shall not use the  
19                  value of emission allowances distributed  
20                  under this subsection to provide to any  
21                  ratepayer a rebate that is based solely on  
22                  the quantity of electricity delivered to the  
23                  ratepayer.

24                  “(ii) REQUIREMENT.—To the extent  
25                  that an electricity local distribution com-

1           pany uses the value of emission allowances  
2           distributed under this subsection to provide  
3           rebates, the electricity local distribution  
4           company, to the maximum extent prac-  
5           ticable, shall provide the rebates—

6                           “(I) with regard to the fixed por-  
7                           tion of ratepayer bills; or

8                           “(II) as a fixed credit or rebate  
9                           on electricity bills.

10                   “(D) RESIDENTIAL AND INDUSTRIAL  
11                   RATEPAYERS.—Notwithstanding subparagraph  
12                   (C), if compliance with the requirements of this  
13                   title results (or would otherwise result) in an  
14                   increase in electricity costs for residential or in-  
15                   dustrial retail ratepayers of an electricity local  
16                   distribution company, the electricity local dis-  
17                   tribution company shall pass through—

18                           “(i) to residential retail ratepayers, as  
19                           a class, the pro rata share (based on deliv-  
20                           eries to each ratepayer class) of the value  
21                           of the emission allowances that reduce  
22                           electricity cost impacts on those rate-  
23                           payers; and

24                           “(ii) to industrial ratepayers, as a  
25                           class, the pro rata share (based on deliv-

1           eries to each ratepayer class) of the value  
2           of the emission allowances that reduce  
3           electricity cost impacts on those rate-  
4           payers, based on the quantity of electricity  
5           delivered to individual industrial retail  
6           ratepayers.

7           “(E) GUIDELINES.—As part of the regula-  
8           tions promulgated under subsection (e), the Ad-  
9           ministrators, after consultation with State and  
10          tribal regulatory authorities, shall prescribe  
11          guidelines for the implementation of the re-  
12          quirements of this paragraph, including—

13                 “(i) requirements to ensure that resi-  
14                 dential and industrial retail ratepayers re-  
15                 ceive a pro rata share of the value of the  
16                 emission allowances distributed to each  
17                 electricity local distribution company pur-  
18                 suant to this subsection; and

19                 “(ii) requirements for measurement,  
20                 verification, reporting, and approval of  
21                 methods used to ensure the use of emission  
22                 allowance value to benefit retail ratepayers.

23          “(6) REGULATORY PROCEEDINGS.—

24                 “(A) REQUIREMENT.—No electricity local  
25                 distribution company shall be eligible to receive

1 emission allowances under this subsection un-  
2 less the State regulatory authority with author-  
3 ity over the retail rates of the electricity local  
4 distribution company, or the entity with author-  
5 ity to regulate or establish retail electricity  
6 rates of an electricity local distribution company  
7 not regulated by a State regulatory authority,  
8 has—

9 “(i) after public notice and an oppor-  
10 tunity for comment, promulgated a regula-  
11 tion or completed a rate proceeding (or the  
12 equivalent, in the case of a ratemaking en-  
13 tity other than a State regulatory author-  
14 ity) that provides for the full implementa-  
15 tion of the requirements of paragraph (5);  
16 and

17 “(ii) made available to the Adminis-  
18 trator and the public a report describing,  
19 in adequate detail, the manner in which  
20 the requirements of paragraph (5) will be  
21 implemented.

22 “(B) UPDATING.—The Administrator shall  
23 require, as a condition of continued receipt of  
24 emission allowances under this subsection by an

1 electricity local distribution company, that, not  
2 less frequently than once every 5 years—

3 “(i) after public notice and an oppor-  
4 tunity for comment—

5 “(I) a new regulation shall be  
6 promulgated; or

7 “(II) a rate proceeding be com-  
8 pleted; and

9 “(ii) a new report shall be made avail-  
10 able to the Administrator and the public,  
11 pursuant to subparagraph (A).

12 “(7) PLANS AND REPORTING.—

13 “(A) REGULATIONS.—As part of the regu-  
14 lations promulgated under subsection (e), the  
15 Administrator shall prescribe requirements gov-  
16 erning plans and reports to be submitted in ac-  
17 cordance with this paragraph.

18 “(B) PLANS.—

19 “(i) IN GENERAL.—Not later than  
20 April 30, 2012, and every 5 years there-  
21 after through 2027, each electricity local  
22 distribution company shall submit to the  
23 Administrator a plan, approved by the  
24 State regulatory authority or other entity  
25 charged with regulating or establishing the

1 retail rates of the electricity local distribu-  
2 tion company, describing the measures to  
3 be carried out by the electricity local dis-  
4 tribution company for the disposition of  
5 the value of emission allowances to be re-  
6 ceived pursuant to this subsection, in ac-  
7 cordance with the requirements of this  
8 subsection.

9 “(ii) INCLUSIONS.—A plan under  
10 clause (i) shall include a description of the  
11 manner in which the electricity local dis-  
12 tribution company will provide to industrial  
13 retail ratepayers a pro rata share of the  
14 value of the emission allowances.

15 “(C) REPORTS.—Not later than June 30,  
16 2014, and annually thereafter through 2031,  
17 each electricity local distribution company shall  
18 submit to the Administrator and the relevant  
19 State regulatory authority or other entity  
20 charged with regulating or establishing the re-  
21 tail electricity rates of the electricity local dis-  
22 tribution company, a report describing the dis-  
23 position of the value of any emission allowances  
24 received by the electricity local distribution

1           company during the preceding calendar year  
2           pursuant to this subsection, including—

3                   “(i) a description of sales, transfer,  
4                   exchange, or use by the company for com-  
5                   pliance with obligations under this title, of  
6                   any such emission allowances;

7                   “(ii) the monetary value received by  
8                   the electricity local distribution company,  
9                   whether in money or in some other form,  
10                  from the sale, transfer, or exchange of any  
11                  such emission allowances;

12                  “(iii) the manner in which the disposi-  
13                  tion by the electricity local distribution  
14                  company of any such emission allowances  
15                  complies with the requirements of this sub-  
16                  section, including each of the requirements  
17                  of paragraph (5), including the require-  
18                  ment that industrial retail ratepayers re-  
19                  ceive a pro rata share of the value of the  
20                  emission allowances; and

21                  “(iv) such other information as the  
22                  Administrator may require pursuant to  
23                  subparagraph (A).

24                  “(D) PUBLICATION.—The Administrator  
25                  shall make available to the public all plans and



1 reports submitted under this subsection, includ-  
2 ing by publishing the plans and reports on the  
3 Internet.

4 “(8) AUDIT REPORTS.—

5 “(A) ADMINISTRATOR.—

6 “(i) IN GENERAL.—For calendar year  
7 2013 and each calendar year thereafter,  
8 the Administrator shall audit a representa-  
9 tive sample of electricity local distribution  
10 companies to ensure that emission allow-  
11 ances distributed under this subsection  
12 have been used exclusively for the benefit  
13 of retail ratepayers and that electricity  
14 local distribution companies are complying  
15 with the requirements of this subsection,  
16 including the requirement that residential  
17 and industrial retail ratepayers receive a  
18 pro rata share of the value of the emission  
19 allowances.

20 “(ii) ASSESSMENT.—In conducting  
21 the audit under clause (i), the Adminis-  
22 trator shall assess the degree to which elec-  
23 tric local distribution companies have  
24 maintained a marginal electricity price sig-  
25 nal while protecting consumers on total

1 cost using the value of emission allow-  
2 ances.

3 “(iii) SELECTION.—In selecting elec-  
4 tricity local distribution companies for  
5 audit under this subparagraph, the Admin-  
6 istrator shall take into account any cred-  
7 ible evidence of noncompliance with the ap-  
8 plicable requirements.

9 “(iv) PUBLICATION.—The Adminis-  
10 trator shall make available to the public a  
11 report describing the results of each audit  
12 conducted under this subparagraph, in-  
13 cluding by publishing the report on the  
14 Internet.

15 “(B) GAO AUDIT REPORT.—

16 “(i) IN GENERAL.—Not later than  
17 April 30, 2016, and every 3 years there-  
18 after through 2027, the Comptroller Gen-  
19 eral of the United States, incorporating re-  
20 sults from the most recent audit report of  
21 the Administrator under subparagraph (A)  
22 and other relevant information (including  
23 distribution company reports), shall con-  
24 duct an in-depth evaluation and make  
25 available to the public a report on the in-

1 vestments made pursuant to paragraph  
2 (5).

3 “(ii) PUBLICATION.—Each report  
4 under clause (i) shall—

5 “(I) be made available to the  
6 State regulatory authority, or the en-  
7 tity with authority to regulate or es-  
8 tablish retail electricity rates in the  
9 case of an electricity distribution com-  
10 pany that is not regulated by a State  
11 regulatory authority; and

12 “(II) include a description of how  
13 the electricity local distribution com-  
14 panies covered by the audit meet or  
15 fail to meet the requirement of para-  
16 graph (5), including for investments  
17 made in cost-effective end-use energy  
18 efficiency programs, the lifetime and  
19 annual energy saving benefits, and ca-  
20 pacity benefits of those programs.

21 “(C) ADMINISTRATOR COST CONTAINMENT  
22 REPORT.—

23 “(i) IN GENERAL.—Not later than  
24 April 30, 2015, and every 3 years there-  
25 after through 2026, the Administrator

1 shall submit to Congress a report con-  
2 taining—

3 “(I) an evaluation of the disposi-  
4 tion of the value of emission allow-  
5 ances received pursuant to this sub-  
6 section; and

7 “(II) recommendations of ways  
8 to more effectively direct the value of  
9 allowances to reduce costs for con-  
10 sumers, contain the overall costs of  
11 the greenhouse gas emissions reduc-  
12 tion program, and meet the pollution  
13 reduction targets of this Act.

14 “(ii) PUBLICATION.—The Adminis-  
15 trator shall make the reports under clause  
16 (i) available to the public, including by  
17 publishing the reports on the Internet.

18 “(9) STUDY.—

19 “(A) IN GENERAL.—Not later than 1 year  
20 after the date of enactment of this title, the Ad-  
21 ministrator shall submit to Congress a report  
22 on the projected effect of the allowance dis-  
23 tribution system under this section on retail  
24 electricity rates for the customers of regulated  
25 utilities with wholesale power sales.

1           “(B) REQUIREMENTS OF REPORT.—The  
2           report submitted under subparagraph (A) shall  
3           include, as appropriate, an analysis of and rec-  
4           ommendations for alternative distribution for-  
5           mulas for the allowances allocated for the ben-  
6           efit of electricity consumers.

7           “(10) ENFORCEMENT.—A violation of any re-  
8           quirement of this subsection shall be a violation of  
9           this Act. Each emission allowance the value of which  
10          is used in violation of the requirements of this sub-  
11          section shall be a separate violation.

12          “(c) MERCHANT COAL UNITS.—

13                 “(1) QUALIFYING EMISSIONS.—

14                         “(A) IN GENERAL.—The qualifying emis-  
15                         sions for a merchant coal unit for a calendar  
16                         year shall be equal to the product obtained by  
17                         multiplying—

18                                 “(i) subject to subparagraph (B), the  
19                                 number of megawatt hours of merchant  
20                                 coal unit sales generated by the merchant  
21                                 coal unit during the calendar year; and

22                                 “(ii) the average carbon dioxide emis-  
23                                 sions per megawatt hour generated by the  
24                                 unit during the base period under para-  
25                                 graph (2).

1           “(B) MEGAWATT HOURS.—The number of  
2           megawatt hours of merchant coal unit sales  
3           generated by a merchant coal unit during a cal-  
4           endar year for purposes of subparagraph (A)(i)  
5           shall be reduced based on the portion of the  
6           carbon dioxide emissions of the unit that are—

7                   “(i) captured and sequestered during  
8                   the calendar year; or

9                   “(ii) attributable to the combustion or  
10                  gasification of biomass, to the extent that  
11                  the owner or operator of the unit is not re-  
12                  quired to hold emission allowances for the  
13                  emissions.

14           “(2) BASE PERIOD.—For purposes of this sub-  
15           section, the base period for a merchant coal unit  
16           shall be—

17                   “(A) calendar years 2006 through 2008; or

18                   “(B) in the case of a new merchant coal  
19           unit—

20                   “(i) the first full calendar year of op-  
21                   eration of the unit, if the unit commences  
22                   operation before January 1, 2012;

23                   “(ii) calendar year 2012, if the unit  
24                   commences operation during the period be-

1           ginning on January 1, 2012, and ending  
2           on September 30, 2012; or

3           “(iii) calendar year 2013, if the unit  
4           commences operation during the period be-  
5           ginning on October 1, 2012, and ending on  
6           December 31, 2012.

7           “(3) PHASE-DOWN SCHEDULE.—The Adminis-  
8           trator shall identify an annual phase-down factor ap-  
9           plicable to distributions to merchant coal units for  
10          each of vintage years 2013 through 2029 that cor-  
11          responds to the overall decline in the quantity of  
12          emission allowances allocated to the electricity sector  
13          for those vintage years pursuant to section  
14          781(a)(1), which shall—

15               “(A) for vintage year 2013, be equal to  
16               1.0; and

17               “(B) for each of vintage years 2014  
18               through 2029, be equal to the quotient of—

19                       “(i) the quantity of emission allow-  
20                       ances allocated under section 781(a)(1) for  
21                       the vintage year; divided by

22                       “(ii) the quantity of emission allow-  
23                       ances allocated under section 781(a)(1) for  
24                       vintage year 2013.

1           “(4) DISTRIBUTION OF EMISSION ALLOW-  
2           ANCES.—Not later than March 1, 2014, and annu-  
3           ally thereafter through 2030, the Administrator  
4           shall distribute emission allowances of the preceding  
5           vintage year to the owner or operator of each mer-  
6           chant coal unit described in subsection (a)(11)(C) in  
7           a quantity equal to the product obtained by multi-  
8           plying—

9                   “(A) 0.5;

10                   “(B) the qualifying emissions for the mer-  
11           chant coal unit for the preceding calendar year,  
12           as determined under paragraph (1); and

13                   “(C) the phase-down factor for the pre-  
14           ceding calendar year, as identified under para-  
15           graph (3).

16           “(5) ADJUSTMENT.—

17                   “(A) STUDY.—Not later than 5 years after  
18           the date of enactment of the American Power  
19           Act, the Administrator, in consultation with the  
20           Federal Energy Regulatory Commission, shall  
21           conduct a study to determine whether the allo-  
22           cation formula under paragraph (3) results  
23           in—

24                           “(i) windfall profits to merchant coal  
25                           generators; or



1                   “(ii) substantially disparate treatment  
2                   of merchant coal generators operating in  
3                   different markets or regions.

4                   “(B) REGULATION.—If the Administrator,  
5                   in consultation with the Federal Energy Regu-  
6                   latory Commission, makes a positive determina-  
7                   tion under subparagraph (A), the Administrator  
8                   shall promulgate regulations, by not later than  
9                   18 months after date of completion of the study  
10                  under subparagraph (A), to provide for the ad-  
11                  justment of the allocation formula under para-  
12                  graph (3) to mitigate, to the maximum extent  
13                  practicable, the windfall profits and disparate  
14                  treatment, as applicable.

15                  “(6) LIMITATION ON ALLOWANCES.—

16                  “(A) IN GENERAL.—Notwithstanding para-  
17                  graph (4) or (5) and subject to subparagraph  
18                  (B), for each vintage year, the Administrator  
19                  shall distribute under this subsection not more  
20                  than 10 percent of the total quantity of emis-  
21                  sion allowances available for the vintage year  
22                  for distribution to the electricity sector under  
23                  section 781(a)(1).

24                  “(B) PRO RATA DISTRIBUTION.—If the  
25                  quantity of emission allowances that would oth-

1           erwise be distributed pursuant to paragraph (4)  
2           or (5) for any vintage year would exceed the  
3           limitation described in subparagraph (A), the  
4           Administrator shall distribute 10 percent of the  
5           total quantity of emission allowances available  
6           for distribution under section 781(a)(1) for the  
7           relevant vintage year on a pro rata basis among  
8           merchant coal generators based on the applica-  
9           ble formula under paragraph (4) or (5).

10           “(7) ELIGIBILITY.—The owner or operator of a  
11           merchant coal unit shall not be eligible to receive  
12           emission allowances under this subsection for any  
13           vintage year for which the owner or operator has  
14           elected to receive emission allowances for the same  
15           unit under subsection (d).

16           “(8) COMPETITIVE EFFECTS.—If the Adminis-  
17           trator determines that, in any State that has adopt-  
18           ed retail electricity competition without requiring  
19           separation of ownership of generation from elec-  
20           tricity distribution, the distribution of allowances to  
21           merchant coal units is likely to adversely affect com-  
22           petition between generation provided by merchant  
23           coal units and generation provided by entities that  
24           own both distribution and generation, the Adminis-  
25           trator may, to the extent necessary to address the

1       adverse competitive effects, treat coal-fueled units in  
2       that State as merchant coal units even if the coal-  
3       fueled units are owned by an entity that is subject  
4       to retail rate regulation or setting of retail rates as  
5       described in subsection (a)(5)(C)(ii).

6       “(d) LONG-TERM CONTRACT GENERATORS.—

7               “(1) DISTRIBUTION.—Not later than March 1,  
8       2014, and annually thereafter through 2030, the  
9       Administrator shall distribute to the owner or oper-  
10      ator of each long-term contract generator a quantity  
11      of emission allowances of the preceding vintage year  
12      that is equal to the sum of—

13               “(A) the number of tons of carbon dioxide  
14      emitted as a result of a qualifying electricity  
15      sales agreement referred to in subsection  
16      (a)(10)(B)(i); and

17               “(B) the incremental number of tons of  
18      carbon dioxide emitted solely as a result of a  
19      qualifying thermal sales agreement referred to  
20      in subsection (a)(10)(B)(ii), subject to the con-  
21      dition that the Administrator shall not dis-  
22      tribute more than 1 emission allowance for the  
23      same ton of emissions.

24               “(2) LIMITATION ON ALLOWANCES.—

1           “(A) IN GENERAL.—Notwithstanding para-  
2 graph (1), for each vintage year, the Adminis-  
3 trator shall distribute under this subsection not  
4 more than 4.3 percent of the total quantity of  
5 emission allowances available for the vintage  
6 year for distribution to the electricity sector  
7 under section 781(a)(1).

8           “(B) FUTURE VINTAGE YEAR ALLOW-  
9 ANCES.—

10           “(i) IN GENERAL.—To the extent that  
11 any quantity of emission allowances that  
12 would otherwise be distributed pursuant to  
13 paragraph (1) would exceed 4.3 percent for  
14 any vintage year, the Administrator shall  
15 distribute future vintage year emission al-  
16 lowances reserved for long-term contract  
17 generators under this section to satisfy the  
18 shortfall, subject to projections by the Ad-  
19 ministrator of required emission allowance  
20 needs for long-term contract generators  
21 during future vintage years.

22           “(ii) MAINTENANCE OF YEAR.—Fu-  
23 ture vintage year emission allowances dis-  
24 tributed pursuant to this subsection shall

1 maintain the future vintage year assigned  
2 to those emission allowances.

3 “(C) SHORTFALL.—If the quantity of  
4 emission allowances that would otherwise be  
5 distributed pursuant to paragraph (1) for any  
6 vintage year would result in a shortfall based on  
7 a consideration of available emission allowances  
8 under this subsection over the entire allocation  
9 period, as determined by the Administrator, the  
10 Administrator shall distribute the emission al-  
11 lowances available for distribution under section  
12 781(a)(1) for that vintage year on a pro rata  
13 basis among long-term contract generators in  
14 accordance with paragraph (1).

15 “(3) ELIGIBILITY.—

16 “(A) FACILITY ELIGIBILITY.—The owner  
17 or operator of a facility shall cease to be eligible  
18 to receive emission allowances under this sub-  
19 section beginning on the earliest date on which  
20 the facility no longer meets each element of the  
21 definition of the term ‘long-term contract gener-  
22 ator’ contained in subsection (a).

23 “(B) CONTRACT ELIGIBILITY.—The owner  
24 or operator of a facility shall cease to be eligible  
25 to receive emission allowances under this sub-

1 section based on an electricity or thermal sales  
2 agreement referred to in subsection (a)(10)(B)  
3 beginning on the earliest date on which the  
4 agreement—

5 “(i) expires;

6 “(ii) is terminated; or

7 “(iii) is amended in a manner that  
8 changes—

9 “(I) the location of the facility;

10 “(II) the price (whether a fixed  
11 price or price formula) for electricity  
12 or thermal energy sold under the  
13 agreement;

14 “(III) the quantity of electricity  
15 or thermal energy sold under the  
16 agreement; or

17 “(IV) the expiration or termi-  
18 nation date of the agreement.

19 “(4) DEMONSTRATION OF ELIGIBILITY.—To be  
20 eligible to receive emission allowance distributions  
21 under this subsection, the owner or operator of a  
22 long-term contract generator shall submit in writing  
23 to the Administrator, by not later than 180 days  
24 after the date of enactment of this title, or not later  
25 than September 30 of each vintage year for which

1 the generator intends to receive emission allowances,  
2 as applicable, each of the following:

3 “(A) A certificate of representation de-  
4 scribed in section 700(14).

5 “(B) An identification of each owner and  
6 each operator of the facility.

7 “(C) An identification of the units at the  
8 facility and the location of the facility.

9 “(D) A certification by the designated rep-  
10 resentative that the facility meets all the re-  
11 quirements of the definition of the term ‘long-  
12 term contract generator’ contained in sub-  
13 section (a).

14 “(E) The expiration date of each quali-  
15 fying electricity or thermal sales agreement re-  
16 ferred to in subsection (a)(10)(B).

17 “(F) A copy of each qualifying electricity  
18 or thermal sales agreement referred to in sub-  
19 section (a)(10)(B).

20 “(5) NOTIFICATION.—Not later than 30 days  
21 after the date on which a facility or agreement  
22 ceases to meet the eligibility requirements for dis-  
23 tribution of emission allowances pursuant to this  
24 subsection, as determined under paragraph (3), the  
25 designated representative of the facility shall notify

1 the Administrator in writing the date on which, and  
2 on what basis, the facility or agreement ceased to  
3 meet the requirements.

4 “(e) REGULATIONS.—Not later than 2 years after the  
5 date of enactment of this title, the Administrator, in con-  
6 sultation with the Federal Energy Regulatory Commis-  
7 sion, shall promulgate regulations to implement the re-  
8 quirements of this section.”.

9 **Subtitle B—Investing in Low-car-**  
10 **bon Heating and Energy Effi-**  
11 **ciency for Consumer Protection**

12 **SEC. 3101. NATURAL GAS CONSUMERS.**

13 Part G of title VII of the Clean Air Act (as amended  
14 by section 3001) is amended by inserting after section 782  
15 the following:

16 **“SEC. 783. NATURAL GAS CONSUMERS.**

17 “(a) DEFINITION OF COST-EFFECTIVE.—In this sec-  
18 tion, the term ‘cost-effective’, with respect to an energy  
19 efficiency program, means that the program meets the  
20 total resource cost test, which requires that the net  
21 present value of economic benefits over the life of the pro-  
22 gram (including avoided supply and delivery costs and de-  
23 ferred or avoided investments) shall be greater than the  
24 net present value of the economic costs over the life of



1 the program (including program costs and incremental  
2 costs borne by the energy consumer).

3 “(b) DISTRIBUTION.—

4 “(1) IN GENERAL.—Not later than June 30,  
5 2015, and annually thereafter through 2028, the  
6 Administrator shall distribute to natural gas local  
7 distribution companies for the benefit of retail rate-  
8 payers the quantity of emission allowances allocated  
9 for the following vintage year pursuant to section  
10 781(a)(2) based on the formula contained in para-  
11 graph (2).

12 “(2) FORMULA.—

13 “(A) INITIAL FORMULA.—Except as pro-  
14 vided in subparagraph (B), for each vintage  
15 year, the Administrator shall distribute emis-  
16 sion allowances among natural gas local dis-  
17 tribution companies on a pro rata basis based  
18 on the annual average retail natural gas deliv-  
19 eries of each natural gas local distribution com-  
20 pany for—

21 “(i) the period of calendar years 2006  
22 through 2008; or

23 “(ii) such other 3 consecutive cal-  
24 endar-year period occurring during the pe-  
25 riod beginning on January 1, 1999, and

1 ending on December 31, 2008, as the  
2 owner or operator of the natural gas local  
3 distribution company may select, subject to  
4 the condition that the owner or operator  
5 timely shall timely notify the Administrator  
6 of the selection.

7 “(B) UPDATING.—

8 “(i) IN GENERAL.—Before distrib-  
9 uting emission allowances for vintage year  
10 2019, and every 3 years thereafter, the  
11 Administrator shall update the distribution  
12 formula under this subsection to reflect  
13 changes in the service territory of each  
14 natural gas local distribution company  
15 since the establishment of the most recent  
16 formula.

17 “(ii) SUBSEQUENT PERIODS.—For  
18 each successive 3-year period, the Adminis-  
19 trator shall distribute emission allowances  
20 on a pro rata basis among natural gas  
21 local distribution companies based on the  
22 product obtained by multiplying—

23 “(I) the average annual natural  
24 gas deliveries per customer of each

1 natural gas local distribution company  
2 during—

3 “(aa) the period of calendar  
4 years 2006 through 2008; or

5 “(bb) such alternative 3 con-  
6 secutive calendar-year period as  
7 may be selected under paragraph  
8 (1); and

9 “(II) the number of customers of  
10 each natural gas local distribution  
11 company during the most recent cal-  
12 endar year for which the formula is  
13 updated under this paragraph.

14 “(c) USE OF ALLOWANCES.—

15 “(1) RATEPAYER BENEFIT.—

16 “(A) IN GENERAL.—Emission allowances  
17 distributed to a natural gas local distribution  
18 company under this section—

19 “(i) shall be used exclusively for the  
20 benefit of retail ratepayers of the natural  
21 gas local distribution company; and

22 “(ii) may not be used to support nat-  
23 ural gas sales or deliveries to individuals or  
24 entities other than those ratepayers.

1           “(B) SHAREHOLDERS.—For purposes of  
2           this section, income or profits to shareholders  
3           of a natural gas local distribution company  
4           shall not constitute ratepayer benefits.

5           “(2) RATEPAYER CLASSES.—In using emission  
6           allowances distributed under this section for the ben-  
7           efit of ratepayers, a natural gas local distribution  
8           company shall ensure that ratepayer benefits are  
9           distributed—

10           “(A) among ratepayer classes on a pro  
11           rata basis based on natural gas deliveries to  
12           each class; and

13           “(B) equitably among individual ratepayers  
14           within each ratepayer class.

15           “(3) LIMITATION.—

16           “(A) IN GENERAL.—A natural gas local  
17           distribution company shall not use the value of  
18           emission allowances distributed under this sec-  
19           tion to provide to any ratepayer a rebate that  
20           is based solely on the quantity of natural gas  
21           delivered to the ratepayer.

22           “(B) REQUIREMENT.—To the extent a  
23           natural gas local distribution company uses the  
24           value of emission allowances distributed under  
25           this section to provide rebates, the natural gas

1 local distribution company shall provide the re-  
2 bates, to the maximum extent practicable—

3 “(i) with regard to the fixed portion  
4 of ratepayer bills; or

5 “(ii) as a fixed creditor rebate on nat-  
6 ural gas bills.

7 “(4) ENERGY EFFICIENCY PROGRAMS.—

8 “(A) IN GENERAL.—The value of not less  
9 than 20 percent of the emission allowances dis-  
10 tributed to natural gas local distribution compa-  
11 nies pursuant to this section during any cal-  
12 endar year shall be used for cost-effective en-  
13 ergy efficiency programs for natural gas con-  
14 sumers.

15 “(B) AUTHORIZATION AND OVERSIGHT.—  
16 A program under subparagraph (A) shall be au-  
17 thorized and overseen by—

18 “(i) the State regulatory authority; or

19 “(ii) the entity with regulatory au-  
20 thority over retail natural gas rates in the  
21 case of a natural gas local distribution  
22 company that is not regulated by a State  
23 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 the natural gas  
3 local distribution company is required to hold emis-  
4 sion allowances under section 722, the customer  
5 shall 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) for purposes of this section.

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 the natural  
20 gas local distribution company, or the entity with  
21 authority to regulate retail rates of a natural gas  
22 local distribution company not regulated by a State  
23 regulatory authority, has—

24 “(A) promulgated a regulation or com-  
25 pleted a rate proceeding (or the equivalent, in

1 the case of a ratemaking entity other than a  
2 State regulatory authority) that provides for  
3 the full implementation of the requirements of  
4 subsection (c); and

5 “(B) made available to the Administrator  
6 and the public a report describing, in adequate  
7 detail, the manner in which the requirements of  
8 subsection (c) will be implemented.

9 “(2) UPDATING.—The Administrator shall re-  
10 quire, as a condition of continued receipt of emission  
11 allowances under this section, that a new regulation  
12 shall be promulgated or rate proceeding be com-  
13 pleted, and a new report shall be made available to  
14 the Administrator and the public, pursuant to para-  
15 graph (1) not less frequently than once every 5  
16 years.

17 “(e) PLANS AND REPORTING.—

18 “(1) REGULATIONS.—As part of the regulations  
19 promulgated under subsection (h), the Administrator  
20 shall prescribe requirements governing plans and re-  
21 ports to be submitted in accordance with this sub-  
22 section.

23 “(2) PLANS.—Not later than April 30, 2015,  
24 and every 5 years thereafter through 2025, each  
25 natural gas local distribution company shall submit

1 to the Administrator a plan, approved by the State  
2 regulatory authority or other entity charged with  
3 regulating the retail rates of the natural gas local  
4 distribution company, describing the manner in  
5 which the natural gas local distribution company will  
6 dispose of the value of emission allowances to be re-  
7 ceived pursuant to this section, in accordance with  
8 the requirements of this section.

9 “(3) REPORTS.—Not later than June 30, 2017,  
10 and annually thereafter through 2031, each natural  
11 gas local distribution company shall submit to the  
12 Administrator a report, approved by the relevant  
13 State regulatory authority or other entity charged  
14 with regulating the retail natural gas rates of the  
15 natural gas local distribution company, describing  
16 the disposition of the value of any emission allow-  
17 ances received by the natural gas local distribution  
18 company during the preceding calendar year pursu-  
19 ant to this subsection, including—

20 “(A) a description of sales, transfer, ex-  
21 change, or use by the company for compliance  
22 with obligations under this title, of any such  
23 emission allowances;

24 “(B) the monetary value received by the  
25 natural gas local distribution company, whether



1 in money or in some other form, from the sale,  
2 transfer, or exchange of emission allowances re-  
3 ceived by the natural gas local distribution com-  
4 pany under this section;

5 “(C) the manner in which the disposition  
6 by the natural gas local distribution company of  
7 emission allowances received under this sub-  
8 section complies with the requirements of this  
9 section, including each requirement of sub-  
10 section (c);

11 “(D) the cost-effectiveness of, and energy  
12 savings achieved by, energy efficiency programs  
13 supported through the emission allowances; and

14 “(E) such other information as the Admin-  
15 istrator may require pursuant to paragraph (1).

16 “(4) PUBLICATION.—The Administrator shall  
17 make available to the public all plans and reports  
18 submitted by natural gas local distribution compa-  
19 nies under this subsection, including by publishing  
20 the plans and reports on the Internet.

21 “(f) AUDITING.—

22 “(1) ADMINISTRATOR AUDIT REPORT.—

23 “(A) IN GENERAL.—For each calendar  
24 year, the Administrator shall audit a significant

1 representative sample of natural gas local dis-  
2 tribution companies to ensure that—

3 “(i) emission allowances distributed  
4 under this section have been used exclu-  
5 sively for the benefit of retail ratepayers;  
6 and

7 “(ii) the natural gas local distribution  
8 companies are complying with the require-  
9 ments of this section.

10 “(B) SELECTION.—In selecting natural  
11 gas local distribution companies for audit under  
12 this paragraph, the Administrator shall take  
13 into account any credible evidence of noncompli-  
14 ance with the applicable requirements.

15 “(C) PUBLICATION.—The Administrator  
16 shall make available to the public a report de-  
17 scribing the results of each audit under this  
18 paragraph, including by publishing the report  
19 on the Internet.

20 “(2) GAO AUDIT REPORT.—

21 “(A) IN GENERAL.—Not later April 30,  
22 2018, and every 3 years thereafter through cal-  
23 endar year 2026, the Comptroller General of  
24 the United States, incorporating results from  
25 the most recent audit reports of the Adminis-

1           trator under paragraph (1) and other relevant  
2           information (including distribution company re-  
3           ports), shall conduct an in-depth evaluation of,  
4           and make available to the public a report on,  
5           the investments made pursuant to subsection  
6           (c).

7           “(B) REQUIREMENTS.—Each report under  
8           subparagraph (A) shall—

9                   “(i) be made available to the State  
10                   regulatory authority or entity with author-  
11                   ity to regulate or set retail natural gas  
12                   rates, in the case of a natural gas distribu-  
13                   tion company that is not regulated by a  
14                   State regulatory authority; and

15                   “(ii) include a description how the dis-  
16                   tribution companies covered by the audit  
17                   meet or fail to meet the requirements of  
18                   subsection (c), including requirements  
19                   for—

20                           “(I) investments made in cost-ef-  
21                           fective end-use energy efficiency pro-  
22                           grams;

23                           “(II) the lifetime and annual en-  
24                           ergy saving benefits; and

1                   “(III) the capacity benefits of  
2                   those programs.

3                   “(3) ADMINISTRATOR COST CONTAINMENT RE-  
4                   PORT.—

5                   “(A) IN GENERAL.—Not later April 30,  
6                   2018, and every 3 years thereafter through cal-  
7                   endar year 2026, the Administrator shall sub-  
8                   mit to Congress a report containing—

9                   “(i) an evaluation of the disposition of  
10                  the value of emission allowances received  
11                  pursuant to this subsection; and

12                  “(ii) recommendations of methods to  
13                  more effectively direct the value of emis-  
14                  sion allowances—

15                  “(I) to reduce costs for con-  
16                  sumers;

17                  “(II) to contain the overall costs  
18                  of the greenhouse gas emissions re-  
19                  duction program; and

20                  “(III) to meet the greenhouse  
21                  gas emission reduction limitations of  
22                  section 703.

23                  “(B) PUBLICATION.—The Administrator  
24                  shall make available to the public each report

1 under subparagraph (A), including by pub-  
2 lishing the reports on the Internet.

3 “(g) ENFORCEMENT.—A violation of any require-  
4 ment of this section shall be a violation of this Act. Each  
5 emission allowance the value of which is used in violation  
6 of the requirements of this section shall be a separate vio-  
7 lation.

8 “(h) REGULATIONS.—Not later than January 1,  
9 2014, the Administrator, in consultation with the Federal  
10 Energy Regulatory Commission, shall promulgate regula-  
11 tions to implement the requirements of this section.”.

12 **SEC. 3102. HOME HEATING OIL AND PROPANE CONSUMERS.**

13 Part G of title VII of the Clean Air Act (as amended  
14 by section 3101) is amended by inserting after section 783  
15 the following:

16 **“SEC. 784. HOME HEATING OIL AND PROPANE CONSUMERS.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) CARBON CONTENT.—The term ‘carbon  
19 content’ means the quantity of carbon dioxide that  
20 would be emitted as a result of the combustion of a  
21 fuel.

22 “(2) COST-EFFECTIVE.—The term ‘cost-effec-  
23 tive’ has the meaning given the term in section  
24 783(a).

25 “(b) ALLOCATION.—

1           “(1) IN GENERAL.—The Administrator shall  
2           distribute among the States, in accordance with this  
3           section, the quantity of emission allowances allocated  
4           pursuant to section 781(a)(3).

5           “(2) PERCENTAGE.—The Administrator shall  
6           distribute a percentage of the emission allowances  
7           described in paragraph (2) determined by the Ad-  
8           ministrator, after consultation with the Secretary of  
9           the Interior, pursuant to subsection (f).

10          “(c) DISTRIBUTION AMONG STATES.—The Adminis-  
11          trator shall distribute emission allowances among the  
12          States under this section for each vintage year on a pro  
13          rata basis, based on the ratio that—

14                 “(1) the carbon content of home heating oil and  
15                 propane sold to consumers within each State during  
16                 the preceding year for residential or commercial  
17                 uses; bears to

18                 “(2) the carbon content of home heating oil and  
19                 propane sold to consumers within the United States  
20                 during the preceding year for residential or commer-  
21                 cial uses.

22          “(d) USE OF ALLOWANCES.—

23                 “(1) IN GENERAL.—States shall use emission  
24                 allowances distributed under this section exclusively  
25                 for the benefit of consumers of home heating oil or

1 propane for residential or commercial purposes, in-  
2 cluding through—

3 “(A) cost-effective energy efficiency pro-  
4 grams for consumers that use home heating oil  
5 or propane for residential or commercial pur-  
6 poses; or

7 “(B) rebates or other direct financial as-  
8 sistance programs for consumers of home heat-  
9 ing oil or propane used for residential or com-  
10 mercial purposes.

11 “(2) ADMINISTRATION AND DELIVERY MECHA-  
12 NISMS.—In administering the programs supported  
13 by this section, a State shall—

14 “(A) use not less than 50 percent of the  
15 value of emission allowances received under this  
16 section for cost-effective energy efficiency pro-  
17 grams to reduce the overall fuel costs to con-  
18 sumers;

19 “(B) to the maximum extent practicable,  
20 deliver consumer support under this section  
21 through existing energy efficiency and consumer  
22 energy assistance programs or delivery mecha-  
23 nisms, including, as appropriate, programs or  
24 mechanisms administered by parties other than  
25 the State; and

1           “(C) seek to coordinate the administration  
2           and delivery of energy efficiency and consumer  
3           energy assistance programs supported under  
4           this section, among other such programs and  
5           with existing programs for various fuel types, to  
6           deliver comprehensive, fuel-blind, coordinated  
7           programs to consumers.

8           “(e) REPORTING.—Each State that receives emission  
9           allowances under this section shall submit to the Adminis-  
10          trator, by not later than 1 year after the date of receipt  
11          of the emission allowances, a report, in accordance with  
12          such requirements as the Administrator may prescribe,  
13          that—

14                 “(1) describes the use by the State of emission  
15                 allowances distributed under this section, including a  
16                 description of the energy efficiency and consumer as-  
17                 sistance programs supported with the emission al-  
18                 lowances; and

19                 “(2) demonstrates the cost-effectiveness of, and  
20                 the energy savings achieved by, energy efficiency  
21                 programs supported under this section.

22           “(f) DISTRIBUTION TO INDIAN TRIBES.—Not later  
23          than 18 months after the date of enactment of this title,  
24          the Administrator, in consultation with the Secretary of  
25          the Interior and Indian tribes, shall promulgate regula-



1 tions establishing a program to distribute the emission al-  
2 lowances made available to Indian tribes under this sec-  
3 tion.

4 “(g) ENFORCEMENT.—

5 “(1) IN GENERAL.—If the Administrator deter-  
6 mines that a State or Indian tribe is not in compli-  
7 ance with this section, the Administrator may with-  
8 hold a portion of the emission allowances, the quan-  
9 tity of which is equal to up to twice the quantity of  
10 the emission allowances that the State or Indian  
11 tribe failed to use in accordance with the require-  
12 ments of this section, that the State or Indian tribe  
13 would otherwise be eligible to receive under this title  
14 for subsequent vintage years.

15 “(2) WITHHELD ALLOWANCES.—

16 “(A) STATES.—The emission allowances  
17 withheld from a State pursuant to this sub-  
18 section shall be distributed among the remain-  
19 ing States on a pro rata basis in accordance  
20 with the formula contained in subsection (c).

21 “(B) INDIAN TRIBES.—The emission allow-  
22 ances withheld from an Indian tribe pursuant  
23 to this subsection shall be distributed among  
24 the remaining Indian tribes on a pro rata basis

1           in accordance with the program established  
2           under subsection (f).”.

### 3           **Subtitle C—Consumer Relief**

#### 4   **SEC. 3201. FUNDING FOR WORKING FAMILIES REFUNDABLE** 5           **RELIEF PROGRAM.**

6           For each of calendar years 2013 through 2029, there  
7 will be available for the working families refundable relief  
8 program, established under section 36D of subpart C of  
9 part IV of subchapter A of chapter 1 of the Internal Rev-  
10 enue Code of 1986 (as added by section 3202), an amount  
11 equal to the proceeds from auctioning, pursuant to section  
12 790 of the Clean Air Act (as added by section 2101), 2.5  
13 percent of emission allowances established for each year  
14 under section 721(a) of the Clean Air Act (as added by  
15 section 2001).

#### 16   **SEC. 3202. REFUNDABLE CREDIT FOR WORKING FAMILIES** 17           **RELIEF.**

18           (a) IN GENERAL.—Subpart C of part IV of sub-  
19 chapter A of chapter 1 of the Internal Revenue Code of  
20 1986 is amended by inserting after section 36C the fol-  
21 lowing new section:

#### 22   **“SEC. 36D. WORKING FAMILIES RELIEF.**

23           “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
24 gible taxpayer, there shall be allowed as a credit against

1 the tax imposed by this subtitle for the taxable year an  
2 amount equal to the working families relief amount.

3 “(b) LIMITATION BASED ON HOUSEHOLD INCOME.—

4 “(1) IN GENERAL.—The amount allowable as a  
5 credit under subsection (a) (determined without re-  
6 gard to this subsection) for the taxable year shall be  
7 reduced (but not below zero) by 0.5 percent for  
8 every \$10 by which the taxpayer’s household income  
9 for the taxable year exceeds the credit cap amount  
10 for the calendar year in which such taxable year be-  
11 gins.

12 “(2) CREDIT CAP AMOUNT.—The credit cap  
13 amount for any calendar year is the amount which  
14 is equal to the excess of—

15 “(A) 250 percent of the poverty line (with-  
16 in the meaning of section 2110(c)(5) of the So-  
17 cial Security Act) for the size of the family in-  
18 volved for such calendar year, over

19 “(B) \$2,000.

20 “(3) ROUNDING.—Solely for purposes of para-  
21 graph (1), if the eligible taxpayer’s adjusted gross  
22 income or the credit cap amount is not a multiple  
23 of \$10, such amount shall be rounded to the next  
24 highest multiple of \$10.

1           “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-  
2 tion—

3           “(1) IN GENERAL.—The term ‘eligible taxpayer’  
4 means an individual whose household income for the  
5 taxable year is not less than the amount which is  
6 equal to the excess of—

7           “(A) 150 percent of the poverty line (with-  
8 in the meaning of section 2110(c)(5) of the So-  
9 cial Security Act) for the size of the family in-  
10 volved for the calendar year in which such tax-  
11 able year begins, over

12           “(B) \$1,000.

13           “(2) EXCEPTIONS.—The term ‘eligible tax-  
14 payer’ shall not include—

15           “(A) any individual with respect to whom  
16 a deduction under section 151 is allowable to  
17 another taxpayer for a taxable year beginning  
18 in the calendar year in which the individual’s  
19 taxable year begins, or

20           “(B) any nonresident alien individual.

21           “(d) WORKING FAMILIES RELIEF AMOUNT.—For  
22 purposes of this section—

23           “(1) IN GENERAL.—The working families relief  
24 amount with respect to any eligible taxpayer for any  
25 taxable year is an amount equal to—

1           “(A) the relief amount for the calendar  
2 year in which such taxable year begins, multi-  
3 plied by

4           “(B) the scale factor applicable to the eli-  
5 gible taxpayer’s family size.

6           “(2) RELIEF AMOUNT.—

7           “(A) IN GENERAL.—The relief amount  
8 with respect to any calendar year is the amount  
9 which will provide that the aggregate credits al-  
10 lowed under this section with respect to all eli-  
11 gible taxpayers for taxable years beginning in  
12 such calendar year equal the amount which is  
13 provided in section 3201 of the American Power  
14 Act for such calendar year.

15           “(B) SECRETARIAL DETERMINATION.—  
16 The relief amount for each calendar year shall  
17 be determined by the Secretary based on the ex-  
18 pected revenues from section 3201 of the Amer-  
19 ican Power Act for each such calendar year.

20           “(C) ADJUSTMENT OF RELIEF  
21 AMOUNTS.—If, after the close of any calendar  
22 year, the Secretary determines that the amount  
23 of the aggregate credits allowed under this sec-  
24 tion with respect to all eligible taxpayers for  
25 taxable years beginning in such calendar year

1           differed significantly from the amount equal to  
 2           the funding provided by section 3201 of the  
 3           American Power Act for such calendar year, the  
 4           Secretary may adjust the relief amount for the  
 5           immediately succeeding calendar year either up  
 6           or down in order to account for such difference.

7           “(3) SCALE FACTOR.—The scale factor with re-  
 8           spect to any eligible taxpayer for any taxable year  
 9           shall be determined in accordance with the following  
 10          table:

<b>“If the taxpayer’s</b>	
<b>family size for the taxable</b>	
<b>year is:</b>	<b>The scale factor is:</b>
1 .....	1.0
2 .....	1.35
3 .....	1.69
4 .....	2.04
5 or more .....	2.38

11          “(e) HOUSEHOLD INCOME.—The term ‘household in-  
 12          come’ means, with respect to any eligible taxpayer, an  
 13          amount equal to the sum of—

14                 “(1) the adjusted gross income of the taxpayer,  
 15          plus

16                 “(2) the aggregate adjusted gross incomes of all  
 17          other individuals who are taken into account in de-  
 18          termining the taxpayer’s family size under sub-  
 19          section (f) and who were required to file a return of  
 20          the tax imposed by section 1 for the taxable year.

21          “(f) FAMILY SIZE.—

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1           “(1) IN GENERAL.—The family size with re-  
2           spect to any taxpayer shall be equal to the number  
3           of individuals for whom the taxpayer is allowed a de-  
4           duction under section 151 for the taxable year.

5           “(2) IDENTIFICATION NUMBER REQUIRE-  
6           MENT.—The family size determined under para-  
7           graph (1) shall not include any individual (including  
8           the taxpayer) whose social security account number  
9           is not included on the return of tax for the taxable  
10          year.

11          “(g) TREATMENT.—The value of the credit provided  
12          under this section shall not be considered income or re-  
13          sources for any purpose under any Federal, State, or local  
14          law (including a law relating to an income tax or public  
15          assistance program (including health care, cash aid, child  
16          care, nutrition programs, and housing assistance)) and no  
17          participating State or political subdivision of a State shall  
18          decrease any assistance otherwise provided 1 or more indi-  
19          viduals because of the receipt of a credit under this sec-  
20          tion.

21          “(h) TERMINATION.—This section shall not apply to  
22          any taxable year beginning after December 31, 2029.”.

23          (b) CONFORMING AMENDMENTS.—

1           (1) Section 6211 of the Internal Revenue Code  
2           of 1986 is amended by inserting “36D,” before  
3           “53(e)”.

4           (2) Paragraph (2) of section 1324(b) of title  
5           31, United States Code, is amended by inserting  
6           “36D,” after “36C,”.

7           (c) CLERICAL AMENDMENT.—The table of sections  
8           for subpart C of part IV of subchapter A of chapter 1  
9           of the Internal Revenue Code of 1986 is amended by in-  
10          serting after the item relating to section 36C the following  
11          new item:

          “Sec. 36D. Working families relief.”.

12          (d) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to taxable years beginning after  
14          December 31, 2012.

15          **SEC. 3203. FUNDING FOR ENERGY REFUND PROGRAM.**

16          For calendar year 2013 and each calendar year there-  
17          after, there shall be available for the Energy Refund Pro-  
18          gram, established by title XXII of the Social Security Act  
19          (42 U.S.C. 301 et seq.) (as added by section 3204), an  
20          amount equal to the proceeds from auctioning, pursuant  
21          to section 790 of the Clean Air Act (as added by section  
22          2101), 12.5 percent of emission allowances established for  
23          each year under section 721(a) of the Clean Air Act (as  
24          added by section 2001).



1 **SEC. 3204. ENERGY REFUND PROGRAM.**

2 Title XXII of the Social Security Act (42 U.S.C. 301  
3 et seq.) is amended by adding at the end the following:

4 **“TITLE XXII—ENERGY REFUND**  
5 **PROGRAM**

6 **“SEC. 2201. ENERGY REFUND PROGRAM.**

7 “(a) IN GENERAL.—The Secretary, in consultation  
8 with the Commissioner of Social Security and the Sec-  
9 retary of Agriculture, shall formulate and administer the  
10 program provided for in this section, which shall be known  
11 as the ‘Energy Refund Program’, and under which eligible  
12 households are provided an energy refund.

13 “(b) ELIGIBILITY OF HOUSEHOLDS TO RECEIVE EN-  
14 ERGY REFUND.—Each eligible household shall be entitled  
15 to receive monthly cash payments under this section in  
16 an amount equal to the monthly energy refund amount  
17 determined under subsection (d).

18 “(c) ELIGIBILITY.—

19 “(1) ELIGIBLE HOUSEHOLDS.—A household  
20 shall be considered to be an eligible household for  
21 purposes of this section if—

22 “(A) the gross income of the household  
23 does not exceed 150 percent of the poverty line;

24 “(B) the State agency for the State in  
25 which the household is located determines that  
26 the household is participating in—

1           “(i) the Supplemental Nutrition As-  
2           sistance Program authorized by the Food  
3           and Nutrition Act of 2008 (7 U.S.C. 2011  
4           et seq.);

5           “(ii) the Food Distribution Program  
6           on Indian Reservations authorized by sec-  
7           tion 4(b) of such Act (7 U.S.C. 2013(b));  
8           or

9           “(iii) the program for nutrition assist-  
10          ance in Puerto Rico or American Samoa  
11          under section 19 of such Act (7 U.S.C.  
12          2028);

13          “(C) the household consists of a single in-  
14          dividual or a married couple, and—

15               “(i) receives the subsidy described in  
16               section 1860D–14 of this Act (42 U.S.C.  
17               1395w–114); or

18               “(ii)(I) participates in the program  
19               under title XVIII of this Act; and

20               “(II) meets the income requirements  
21               described in section 1860D–14(a)(1) or  
22               (a)(2) of this Act (42 U.S.C. 1395w–  
23               114(a)(1) or (a)(2)); or

24          “(D) the household consists of a single in-  
25          dividual or a married couple, and receives bene-

1 fits under the supplemental security income  
2 program under title XVI of this Act (42 U.S.C.  
3 1381–1383f).

4 “(2) LIMITATION.—Notwithstanding any other  
5 provision of law, the Secretary shall provide refunds  
6 to United States citizens, United States nationals,  
7 and individuals lawfully residing in the United  
8 States who qualify for a refund under paragraph  
9 (1)(A), and shall establish procedures to ensure that  
10 other individuals do not receive refunds.

11 “(3) NATIONAL STANDARDS.—The Secretary  
12 shall consult with the Secretary of Agriculture and  
13 establish uniform national standards of eligibility en-  
14 suring that States may co-administer the energy re-  
15 fund program with the Supplemental Nutrition As-  
16 sistance Program in accordance with the provisions  
17 of this section. No State agency shall impose any  
18 other standard or requirement as a condition of eli-  
19 gibility or refund receipt under the program. Assist-  
20 ance in the Energy Refund Program shall be fur-  
21 nished promptly to all eligible households who make  
22 application for such participation or are already en-  
23 rolled in any program referred to in paragraph (1).

24 “(d) MONTHLY ENERGY REFUND AMOUNT.—

1           “(1) ESTIMATED ANNUAL REFUND.—Not later  
2 than August 31 of each relevant fiscal year, the En-  
3 ergy Information Administration shall estimate, pur-  
4 suant to a method that is appropriate for such pur-  
5 poses, the annual total loss in purchasing power that  
6 will result from the American Power Act in the next  
7 fiscal year for households of each size with gross in-  
8 come equal to 150 percent of the poverty line, based  
9 on the projected total market value of all compliance  
10 costs (including, but not limited to, the emissions al-  
11 lowances used to demonstrate compliance with sec-  
12 tion 722 of the Clean Air Act in the next fiscal year)  
13 excluding—

14           “(A) costs that are not projected to be in-  
15 curred by households as a result of allowances  
16 freely allocated and intended for residential  
17 consumer assistance pursuant to sections 782  
18 through 784 of the Clean Air Act);

19           “(B) the amount of the increase in house-  
20 holds’ energy consumption that is financed by  
21 higher cost of living adjustments to Federal  
22 benefits that result from increased carbon costs;  
23 and

1           “(C) the amount of the increase in house-  
2 holds’ energy consumption that is financed by  
3 section 3206 of the American Power Act.

4           “(2) MONTHLY ENERGY REFUND.—Subject to  
5 paragraph (3), the amount of the monthly energy re-  
6 fund for an eligible household under this section  
7 shall be—

8           “(A) if the household has 1, 2, 3, or 4  
9 members,  $\frac{1}{12}$  of the amount estimated under  
10 paragraph (1) for such fiscal year for a house-  
11 hold of the same size, rounded to the nearest  
12 whole dollar amount; or

13           “(B) if the household has 5 or more mem-  
14 bers,  $\frac{1}{12}$  of the arithmetic mean value of the  
15 amounts estimated under paragraph (1) for  
16 such fiscal year for households with 5 or more  
17 members, rounded to the nearest whole dollar  
18 amount.

19           “(3) ENSURING DEFICIT NEUTRALITY.—For  
20 any fiscal year after fiscal year 2026 in which the  
21 amounts that are available under sections 3203 and  
22 3206 of the American Power Act are not sufficient  
23 for purposes of funding the monthly energy refund  
24 described in paragraph (2), the Secretary shall di-  
25 rect State agencies to reduce, on a pro rata basis,

1 the amount of such refunds that are provided to eli-  
2 gible households.

3 “(e) DELIVERY MECHANISM.—

4 “(1) Subject to standards and an implementa-  
5 tion schedule set by the Secretary, the energy refund  
6 shall be provided in monthly installments via—

7 “(A) direct deposit into the eligible house-  
8 hold’s designated bank account;

9 “(B) the State’s electronic benefit transfer  
10 system; or

11 “(C) another Federal or State mechanism,  
12 if such a mechanism is approved by the Sec-  
13 retary.

14 “(2) The standards described under paragraph  
15 (1) shall—

16 “(A) protect the privacy of energy refund  
17 applicants and recipients;

18 “(B) provide energy refund recipients with  
19 choices, as appropriate, for delivery and receipt  
20 of refunds;

21 “(C) ensure ease of use and access to re-  
22 funds, including a prohibition on any fees  
23 charged for withdrawals or other related serv-  
24 ices;

1           “(D) protect, in a cost-effective manner,  
2           against improper access to energy refunds;

3           “(E) ensure interoperability of the Energy  
4           Refund Program between States and permit  
5           monitoring and investigations by authorized law  
6           enforcement agencies; and

7           “(F) include such standards, as deter-  
8           mined appropriate by the Secretary, to protect  
9           applicant and recipient households from fraud  
10          and abuse and promote effective and efficient  
11          administration of Energy Refund Program.

12          “(f) ADMINISTRATION.—

13           “(1) IN GENERAL.—The State agency of each  
14           participating State shall assume responsibility for  
15           the certification of applicant households and for the  
16           issuance of refunds and the control and account-  
17           ability thereof.

18           “(2) ADMINISTRATIVE COSTS.—Subject to such  
19           standards as determined appropriate by the Sec-  
20           retary, the Secretary shall reimburse each State  
21           agency for 100 percent of administrative costs.

22           “(3) PROCEDURES.—Under standards estab-  
23           lished by the Secretary, the State agency shall estab-  
24           lish procedures governing the administration of the  
25           Energy Refund Program that the State agency de-

1 termines best serve households in the State, includ-  
2 ing households with special needs, such as house-  
3 holds with elderly or disabled members, households  
4 in rural areas, homeless individuals, and households  
5 residing on reservations as defined in the Indian  
6 Child Welfare Act of 1978 and the Indian Financing  
7 Act of 1974. In carrying out this paragraph, a State  
8 agency—

9 “(A) shall provide timely, accurate, and  
10 fair service to applicants for, and participants  
11 in, the Energy Refund Program;

12 “(B) shall permit an applicant household  
13 to apply to participate in the program at the  
14 time that the household first contacts the State  
15 agency, and shall consider an application that  
16 contains the name, address, and signature of  
17 the applicant to be sufficient to constitute an  
18 application for participation;

19 “(C) shall screen any applicant household  
20 for the Supplemental Nutrition Assistance Pro-  
21 gram, the State’s medical assistance program  
22 under section XIX of this Act, the Children’s  
23 Health Insurance Program under section XXI  
24 of this Act, and a State program that provides  
25 basic assistance under a State program funded



1 under title IV of this Act or with qualified  
2 State expenditures as defined in section  
3 409(a)(7) of this Act for eligibility for the En-  
4 ergy Refund Program and, if eligible, shall en-  
5 roll such applicant household in the Energy Re-  
6 fund Program;

7 “(D) shall complete certification of and  
8 provide a refund to any eligible household not  
9 later than 30 days following its filing of an ap-  
10 plication;

11 “(E) shall use appropriate bilingual per-  
12 sonnel and materials in the administration of  
13 the program in those portions of the State in  
14 which a substantial number of members of low-  
15 income households speak a language other than  
16 English; and

17 “(F) shall utilize State agency personnel  
18 who are employed in accordance with the cur-  
19 rent standards for a Merit System of Personnel  
20 Administration or any standards later pre-  
21 scribed by the Office of Personnel Management  
22 pursuant to section 208 of the Intergovern-  
23 mental Personnel Act of 1970 (42 U.S.C. 4728)  
24 modifying or superseding such standards relat-  
25 ing to the establishment and maintenance of



1                   “(iii) Federal provision of energy re-  
2 funds would be more efficient and result in  
3 receipt of energy refunds by a greater  
4 number of eligible beneficiaries than deliv-  
5 ery of such refunds by the States.

6                   “(B) RECEIPT OF REFUNDS.—Any low-in-  
7 come beneficiary who receives an energy refund  
8 pursuant to the procedures developed under this  
9 paragraph shall not be eligible for an energy re-  
10 fund otherwise provided by a State agency  
11 under this section.

12                   “(5) REGULATIONS.—

13                   “(A) Except as provided in subparagraph  
14 (B), the Secretary shall issue such regulations  
15 consistent with this section as the Secretary  
16 deems necessary or appropriate for the effective  
17 and efficient administration of the Energy Re-  
18 fund Program, and shall promulgate all such  
19 regulations in accordance with the procedures  
20 set forth in section 553 of title 5, United States  
21 Code.

22                   “(B) Without regard to section 553 of title  
23 5 of such Code, the Secretary may by rule pro-  
24 mulgate as final, to be effective until not later  
25 than 2 years after the date of the enactment of

1           the American Power Act, any procedures that  
2           are substantially the same as the procedures  
3           governing the Supplemental Nutrition Assist-  
4           ance Program in section 273.2, 273.12, or  
5           273.15 of title 7, Code of Federal Regulations.

6           “(C) Notwithstanding paragraphs (2) and  
7           (3) of subsection (i), the Secretary shall pro-  
8           mulgate regulations requiring streamlined eligi-  
9           bility determinations for some or all households  
10          which include individuals receiving medical as-  
11          sistance under a State plan approved under  
12          title XIX or XXI of this Act or individuals re-  
13          ceiving premium credits for the purchase of  
14          qualified health insurance coverage pursuant to  
15          section 36B of the Internal Revenue Code of  
16          1986. The regulations shall institute procedures  
17          whereby the gross income and family size infor-  
18          mation used for determining eligibility under  
19          such provisions serve as the basis for deter-  
20          mining eligibility for the Energy Refund Pro-  
21          gram.

22          “(D) Notwithstanding any other provision  
23          of this section, the Secretary may authorize  
24          States to provide benefits under this section on  
25          a quarterly basis if the Secretary determines

1           that the amount of the benefits that would be  
2           provided on a monthly basis to households is in-  
3           sufficient to be efficiently paid on a monthly  
4           basis in light of the administrative expenses of  
5           the Energy Refund Program.

6           “(6) CONTROLLING LAW.—For purposes of any  
7           administrative or judicial action or proceeding initi-  
8           ated by a household to a provision arising under this  
9           section, including any procedures established by a  
10          State agency under paragraph (3) or any regulations  
11          issued by the Secretary under paragraph (4), such  
12          action or proceeding shall be subject to the following  
13          conditions:

14                 “(A) LIMITATION ON RECOVERY FOR  
15                 WRONGFUL OR ERRONEOUS WITHHOLDING OF  
16                 REFUNDS.—Any energy refunds that are deter-  
17                 mined to have been wrongfully or erroneously  
18                 withheld from a household shall be restored for  
19                 a period of not greater than 1 year prior to the  
20                 date that the underlying action or proceeding  
21                 was filed, or in the case of an action seeking re-  
22                 view of a final State agency determination, not  
23                 more than 1 year prior to the date of the filing  
24                 of a request with the State for the restoration  
25                 of such allotments or, in either case, not more

1           than 1 year prior to the date the State agency  
2           is notified or otherwise discovers the possible  
3           loss to a household.

4           “(B) RECORDS.—Any records maintained  
5           by a State agency under this section for the  
6           purpose of certification of applicant households,  
7           the issuance of energy refunds, or compliance  
8           with any requirements established by the Sec-  
9           retary shall be made available to a household to  
10          the extent necessary to carry out such action or  
11          proceeding and consistent with the privacy  
12          standards established under subsection  
13          (e)(2)(A).

14          “(C) REGULATIONS.—For purposes of any  
15          such administrative or judicial action, all par-  
16          ties shall be required to comply with any sub-  
17          stantive and procedural regulations established  
18          by the Secretary for the operation of the En-  
19          ergy Refund Program unless such regulations  
20          are not in accordance with law.

21          “(g) TREATMENT.—The value of the refund provided  
22          under this section shall not be considered income or re-  
23          sources for any purpose under any Federal, State, or local  
24          laws, including, but not limited to, laws relating to an in-  
25          come tax, or public assistance programs (including, but

1 not limited to, health care, cash aid, child care, nutrition  
2 programs, and housing assistance) and no participating  
3 State or political subdivision thereof shall decrease any as-  
4 sistance otherwise provided an individual or individuals be-  
5 cause of the receipt of a refund under this section.

6 “(h) PROGRAM INTEGRITY.—For purposes of ensur-  
7 ing program integrity and complying with the require-  
8 ments of the Improper Payment Information Act of 2002,  
9 the Secretary shall, to the maximum extent possible, rely  
10 on and coordinate with the quality control sample and re-  
11 view procedures of paragraphs (2), (3), (4), and (5) of  
12 section 16(c) of the Food and Nutrition Act of 2008 (7  
13 U.S.C. 2025(c)).

14 “(i) DEFINITIONS.—

15 “(1) ELECTRONIC BENEFIT TRANSFER SYS-  
16 TEM.—The term ‘electronic benefit transfer system’  
17 means a system by which household benefits or re-  
18 funds defined under subsection (e) are issued from  
19 and stored in a central databank via electronic ben-  
20 efit transfer cards.

21 “(2) GROSS INCOME.—The term ‘gross income’  
22 means the gross income of a household that is deter-  
23 mined in accordance with standards and procedures  
24 established under section 5 of the Food and Nutri-

1       tion Act of 2008 (7 U.S.C. 2014) and its imple-  
2       menting regulations.

3               “(3) HOUSEHOLD.—

4                       “(A) The term ‘household’ means—

5                               “(i) in subparagraphs (A) and (B) of  
6                               subsection (c)(1) of this section, except as  
7                               provided in subparagraph (C) of this para-  
8                               graph, an individual or a group of individ-  
9                               uals who are a household under section  
10                              3(n) of the Food and Nutrition Act of  
11                              2008 (7 U.S.C. 2012(n));

12                             “(ii) in subsection (c)(1)(C) of this  
13                             section, a single individual or married cou-  
14                             ple that receives benefits under section  
15                             1860D–14 of this Act (42 U.S.C. 1395w–  
16                             114) and is not an institutionalized indi-  
17                             vidual or couple (as defined in section  
18                             1902(q)(1)(B)); and

19                             “(iii) in subsection (c)(1)(D) of this  
20                             section, a single individual or married cou-  
21                             ple that receives benefits under the supple-  
22                             mental security income program under title  
23                             XVI of this Act (42 U.S.C. 1381–1383f)  
24                             and is not an institutionalized individual or  
25                             couple.



1           “(B) The Secretary shall establish rules  
2           for providing the energy refund in an equitable  
3           and administratively simple manner to house-  
4           holds where the group of individuals who live  
5           together includes members not all of whom are  
6           described in a single clause of subparagraph  
7           (A), or includes additional members not de-  
8           scribed in any such clause.

9           “(C) The Secretary shall establish rules re-  
10          garding the eligibility and delivery of the energy  
11          refund to groups of individuals described in sec-  
12          tion 3(n)(4) or (5) of the Food and Nutrition  
13          Act of 2008 (7 U.S.C. 2012(n)).

14          “(4) POVERTY LINE.—The term ‘poverty line’  
15          has the meaning given the term in section 673(2) of  
16          the Community Services Block Grant Act (42 U.S.C.  
17          9902(2)), including any revision required by that  
18          section.

19          “(5) STATE.—The term ‘State’ means the 50  
20          States, the District of Columbia, the Commonwealth  
21          of Puerto Rico, American Samoa, the United States  
22          Virgin Islands, Guam, and the Commonwealth of the  
23          Northern Mariana Islands.

24          “(6) STATE AGENCY.—The term ‘State agency’  
25          means an agency of State government, including the

1 local offices thereof, that has responsibility for ad-  
2 ministration of the 1 or more federally aided public  
3 assistance programs within the State, and in those  
4 States where such assistance programs are operated  
5 on a decentralized basis, the term shall include the  
6 counterpart local agencies administering such pro-  
7 grams.

8 “(7) OTHER TERMS.—Other terms not defined  
9 in this title shall have the same meaning applied in  
10 the Supplemental Nutrition Assistance Program au-  
11 thorized by the Food and Nutrition Act of 2008 (7  
12 U.S.C. 2011 et seq.) unless the Secretary finds for  
13 good cause that application of a particular definition  
14 would be detrimental to the purposes of the Energy  
15 Refund Program.”.

16 **SEC. 3205. STUDY ON MECHANISMS FOR DELIVERING UNI-**  
17 **VERSAL REFUND.**

18 Not later than December 31, 2022, the Comptroller  
19 General of the United States shall complete and submit  
20 to Congress a study on the feasibility of administering  
21 consumer refunds on a per capita basis by means of a  
22 monthly electronic transfer, including an evaluation of  
23 whether—

24 (1) all households in the United States could be  
25 registered for that purpose;

1           (2) a consumer refund could be delivered elec-  
2           tronically, with the amount of the refund increasing  
3           with the size of the household;

4           (3) the necessary information for such a refund  
5           is available to the Federal Government, and if not,  
6           by what means that information could be collected  
7           and updated;

8           (4) the benefit could be distributed on a month-  
9           ly or quarterly basis; and

10          (5) for low-income households, the universal re-  
11          fund provided under section 36E of the Internal  
12          Revenue Code of 1986 could be combined and deliv-  
13          ered through the same mechanism as low-income re-  
14          lief being delivered through the Energy Refund Pro-  
15          gram established under title XXII of the Social Se-  
16          curity Act.

17 **SEC. 3206. ESTABLISHMENT OF UNIVERSAL TRUST FUND.**

18          (a) IN GENERAL.—Beginning in calendar year 2026,  
19 there is established in the Treasury of the United States  
20 a fund, to be known as the “Universal Trust Fund”, in  
21 which the Administrator shall deposit proceeds from the  
22 auction, pursuant to section 790, of allowances allocated  
23 under section 781(a)(5) of the Clean Air Act.

24          (b) USE OF FUNDS.—Of the amounts deposited in  
25 the Universal Trust Fund for each calendar year—

1           (1) 25 percent shall be used for deficit reduc-  
2           tion; and

3           (2) 75 percent shall be used for the universal  
4           refund program established under section 36E of the  
5           Internal Revenue Code of 1986.

6 **SEC. 3207. UNIVERSAL REFUND.**

7           (a) IN GENERAL.—Subpart C of part IV of sub-  
8           chapter A of chapter 1 of the Internal Revenue Code of  
9           1986 is amended by inserting after section 36D the fol-  
10          lowing new section:

11 **“SEC. 36E. UNIVERSAL REFUND.**

12          “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
13          gible taxpayer, there shall be allowed as a credit against  
14          the tax imposed by this subtitle for the taxable year an  
15          amount equal to the universal relief amount.

16          “(b) ELIGIBLE TAXPAYER.—For purposes of this  
17          section, the term ‘eligible taxpayer’ means any individual  
18          except—

19                 “(1) any individual with respect to whom a de-  
20                 duction under section 151 is allowable to another  
21                 taxpayer for a taxable year beginning in the cal-  
22                 endar year in which the individual’s taxable year be-  
23                 gins, and

24                 “(2) any nonresident alien individual.

1           “(c) UNIVERSAL RELIEF AMOUNT.—For purposes of  
2 this section—

3           “(1) IN GENERAL.—The universal relief amount  
4 with respect to any eligible taxpayer for any taxable  
5 year is an amount equal to—

6           “(A) the relief amount for the calendar  
7 year in which such taxable year begins, multi-  
8 plied by

9           “(B) the scale factor applicable to the eli-  
10 gible taxpayer’s family size.

11           “(2) RELIEF AMOUNT.—

12           “(A) IN GENERAL.—The relief amount  
13 with respect to any calendar year is the amount  
14 which will provide that the aggregate credits al-  
15 lowed under this section with respect to all eli-  
16 gible taxpayers for taxable years beginning in  
17 such calendar year equal the amount which is  
18 provided by section 3206 of the American  
19 Power Act for the purpose of funding the uni-  
20 versal refund program.

21           “(B) SECRETARIAL DETERMINATION.—  
22 The relief amount for each calendar year shall  
23 be determined by the Secretary based on the ex-  
24 pected revenues to be provided by section 3206  
25 of the American Power Act for the purpose of

1 funding the universal refund program for each  
2 such calendar year.

3 “(C) ADJUSTMENT OF RELIEF  
4 AMOUNTS.—If, after the close of any calendar  
5 year, the Secretary determines that the amount  
6 of the aggregate credits allowed under this sec-  
7 tion with respect to all eligible taxpayers for  
8 taxable years beginning in such calendar year  
9 differed significantly from the amount provided  
10 by section 3206 of the American Power Act for  
11 the purpose of funding the universal refund  
12 program for such calendar year, the Secretary  
13 may adjust the relief amount for the imme-  
14 diately succeeding calendar year either up or  
15 down in order to account for such difference.

16 “(3) SCALE FACTOR.—The scale factor with re-  
17 spect to any eligible taxpayer for any taxable year  
18 shall be determined in accordance with the following  
19 table:

<b>“If the taxpayer’s family size for the taxable year is:</b>	<b>The scale factor is:</b>
1 .....	1.0
2 .....	1.35
3 .....	1.69
4 .....	2.04
5 or more .....	2.38

20 “(d) FAMILY SIZE.—

21 “(1) IN GENERAL.—The family size with re-  
22 spect to any taxpayer shall be equal to the number

1 of individuals for whom the taxpayer is allowed a de-  
2 duction under section 151 for the taxable year.

3 “(2) IDENTIFICATION NUMBER REQUIRE-  
4 MENT.—The family size determined under para-  
5 graph (1) shall not include any individual (including  
6 the taxpayer) whose social security account number  
7 is not included on the return of tax for the taxable  
8 year.

9 “(e) APPLICATION OF SECTION.—This section shall  
10 apply to taxable years beginning in calendar years after  
11 2025.

12 “(f) REBATES UNDER ENERGY REFUND PRO-  
13 GRAM.—In the case of an eligible taxpayer who is entitled  
14 to receive monthly cash payments under section 2201 of  
15 the Social Security Act for months during the taxable  
16 year, the Secretary shall prescribe rules by which the cred-  
17 it allowed by subsection (a) with respect to such taxpayer  
18 may be distributed through the same mechanism as the  
19 monthly cash payments under the Energy Refund Pro-  
20 gram under such section 2201, in lieu of such credit being  
21 allowed on the return of tax for the taxable year.

22 “(g) TREATMENT.—The value of the credit provided  
23 under this section shall not be considered income or re-  
24 sources for any purpose under any Federal, State, or local  
25 law (including a law relating to an income tax or public

1 assistance program (including health care, cash aid, child  
2 care, nutrition programs, and housing assistance)) and no  
3 participating State or political subdivision of a State shall  
4 decrease any assistance otherwise provided 1 or more indi-  
5 viduals because of the receipt of a credit under this sec-  
6 tion.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 6211 of the Internal Revenue Code  
9 of 1986 is amended by inserting “36E,” before  
10 “53(e)”.

11 (2) Paragraph (2) of section 1324(b) of title  
12 31, United States Code, is amended by inserting  
13 “36E,” after “36C,”.

14 (c) CLERICAL AMENDMENT.—The table of sections  
15 for subpart C of part IV of subchapter A of chapter 1  
16 of the Internal Revenue Code of 1986 is amended by in-  
17 serting after the item relating to section 36D the following  
18 new item:

“Sec. 36E. Universal refund.”.

19 (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2025.

22 **Subtitle D—Advocating for**  
23 **Consumers**

24 **SEC. 3301. OFFICE OF CONSUMER ADVOCACY.**

25 (a) DEFINITIONS.—In this section:



1           (1) **ADVISORY COMMITTEE.**—The term “Advi-  
2           sory Committee” means the Consumer Advocacy Ad-  
3           visory Committee established under subsection  
4           (c)(1).

5           (2) **COMMISSION.**—The term “Commission”  
6           means the Federal Energy Regulatory Commission.

7           (3) **ENERGY CUSTOMER.**—The term “energy  
8           customer” means a residential customer or a small  
9           commercial customer that receives products or serv-  
10          ices from a public utility or natural gas company  
11          under the jurisdiction of the Commission.

12          (4) **NATURAL GAS COMPANY.**—The term “nat-  
13          ural gas company” has the meaning given the term  
14          “natural-gas company” in section 2 of the Natural  
15          Gas Act (15 U.S.C. 717a).

16          (5) **OFFICE.**—The term “Office” means the Of-  
17          fice of Consumer Advocacy established by subsection  
18          (b)(1).

19          (6) **PUBLIC UTILITY.**—The term “public util-  
20          ity” has the meaning given the term in section  
21          201(e) of the Federal Power Act (16 U.S.C. 824(e)).

22          (7) **SMALL COMMERCIAL CUSTOMER.**—The term  
23          “small commercial customer” means a commercial  
24          customer that has a peak demand of not more than  
25          1,000 kilowatts per hour.

1 (b) OFFICE.—

2 (1) ESTABLISHMENT.—There is established an  
3 Office of Consumer Advocacy to serve as an advo-  
4 cate for the public interest.

5 (2) DIRECTOR.—

6 (A) APPOINTMENT.—The Office shall be  
7 headed by a Director appointed by the Presi-  
8 dent, by and with the advice and consent of the  
9 Senate.

10 (B) QUALIFICATIONS.—To be eligible for  
11 appointment under subparagraph (A), an indi-  
12 vidual shall—

13 (i) be a member of the Federal Bar;

14 and

15 (ii) have experience in public utility  
16 proceedings.

17 (3) DUTIES.—The Office may—

18 (A) represent, and appeal on behalf of, en-  
19 ergy customers on matters concerning rates or  
20 service of public utilities and natural gas com-  
21 panies under the jurisdiction of the Commis-  
22 sion—

23 (i) at hearings of the Commission;

24 (ii) in judicial proceedings in the  
25 courts of the United States; and

1 (iii) at hearings or proceedings of  
2 other Federal regulatory agencies and com-  
3 missions;

4 (B) monitor and review energy customer  
5 complaints and grievances on matters con-  
6 cerning rates or service of public utilities and  
7 natural gas companies under the jurisdiction of  
8 the Commission;

9 (C) investigate independently, or within the  
10 context of formal proceedings, the services pro-  
11 vided by, the rates charged by, and the valu-  
12 ation of the properties of, public utilities and  
13 natural gas companies under the jurisdiction of  
14 the Commission;

15 (D) develop means, such as public dissemi-  
16 nation of information, consultative services, and  
17 technical assistance, to ensure, to the maximum  
18 extent practicable, that the interests of energy  
19 consumers are adequately represented in the  
20 course of any hearing or proceeding described  
21 in subparagraph (A);

22 (E) collect data concerning rates or service  
23 of public utilities and natural gas companies  
24 under the jurisdiction of the Commission; and

1 (F) prepare and issue reports and rec-  
2 ommendations.

3 (4) COMPENSATION AND POWERS.—The Direc-  
4 tor may—

5 (A) employ and fix the compensation of  
6 such staff as the Director determines to be nec-  
7 essary; and

8 (B) procure temporary and intermittent  
9 services as needed.

10 (5) ACCESS TO INFORMATION.—Each depart-  
11 ment, agency, and instrumentality of the Federal  
12 Government shall provide to the Director any re-  
13 ports or other information that the Director deter-  
14 mines to be necessary to carry out the duties of the  
15 Director under this section.

16 (c) CONSUMER ADVOCACY ADVISORY COMMITTEE.—

17 (1) ESTABLISHMENT.—The Director shall es-  
18 tablish an advisory committee, to be known as the  
19 “Consumer Advocacy Advisory Committee”—

20 (A) to review public utility and natural gas  
21 company rates, services, and disputes; and

22 (B) to make recommendations to the Di-  
23 rector.

24 (2) COMPOSITION.—The Director shall appoint  
25 5 members to the Advisory Committee, including—

1 (A) 2 individuals that represent State Util-  
2 ity Consumer Advocates; and

3 (B) 1 individual from a nongovernmental  
4 organization to represent consumers.

5 (3) MEETINGS.—The Advisory Committee shall  
6 meet at such frequency as is required to carry out  
7 the duties of the Advisory Committee.

8 (4) REPORTS.—The Director shall provide for  
9 publication of recommendations of the Advisory  
10 Committee on the public website established for the  
11 Office.

12 (5) DURATION.—Notwithstanding any other  
13 provision of law (including Federal Advisory Com-  
14 mittee Act (5 U.S.C. App.)), the Advisory Com-  
15 mittee shall continue to operate during any period in  
16 which the Office exists.

17 (6) APPLICATION OF FACCA.—Except as other-  
18 wise specifically provided, the Advisory Committee  
19 shall be subject to the Federal Advisory Committee  
20 Act (5 U.S.C. App.).

21 (d) EFFECT ON STATE UTILITY CONSUMER ADVO-  
22 CATES.—Nothing in this section affects the rights or obli-  
23 gations of State Utility Consumer Advocates.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as are nec-  
3 essary to carry out this section.

4 **TITLE IV—JOB PROTECTION**  
5 **AND GROWTH**  
6 **Subtitle A—Protecting American**  
7 **Manufacturing Jobs and Pre-**  
8 **venting Carbon Leakage**

9 **SEC. 4001. ENSURING REAL REDUCTIONS IN INDUSTRIAL**  
10 **EMISSIONS.**

11 Title VII of the Clean Air Act (as added by section  
12 2001) is amended by inserting after part E the following:

13 **“PART F—ENSURING REAL REDUCTIONS IN**  
14 **INDUSTRIAL EMISSIONS**

15 **“SEC. 771. PURPOSES.**

16 “(a) PURPOSES OF PART.—The purposes of this part  
17 are—

18 “(1) to promote a strong global effort to signifi-  
19 cantly reduce greenhouse gas emissions, and,  
20 through the global effort, stabilize greenhouse gas  
21 concentrations in the atmosphere at a level that will  
22 prevent dangerous anthropogenic interference with  
23 the climate system; and

24 “(2) to prevent an increase in greenhouse gas  
25 emissions in countries other than the United States

1 as a result of direct and indirect compliance costs in-  
2 curred under this title.

3 “(b) PURPOSES OF SUBPART 1.—The purposes of  
4 subpart 1 are additionally—

5 “(1) to provide a rebate to the owners and op-  
6 erators of entities in domestic eligible industrial sec-  
7 tors for the greenhouse gas emission costs of the  
8 owners and operators incurred under this title, but  
9 not for costs associated with other related or unre-  
10 lated market dynamics;

11 “(2) to design the rebates in a manner that will  
12 prevent carbon leakage while also rewarding innova-  
13 tion and facility-level investments in energy effi-  
14 ciency performance improvements; and

15 “(3) to eliminate or reduce distribution of emis-  
16 sion allowances under subpart 1 when the distribu-  
17 tion is no longer necessary to prevent carbon leakage  
18 from eligible industrial sectors.

19 “(c) PURPOSES OF SUBPART 2.—The purposes of  
20 subpart 2 are additionally—

21 “(1) to ensure that foreign countries, and, in  
22 particular, fast-growing developing countries, take  
23 substantial action with respect to the greenhouse gas  
24 emissions of the countries consistent with the com-  
25 mitments listed in the Copenhagen Accord which

1 builds on the agreements reached in the Bali Action  
2 Plan developed under the United Nations Frame-  
3 work Convention on Climate Change, done at New  
4 York on May 9, 1992; and

5 “(2) to ensure that the measures described in  
6 subpart 2 are designed and implemented in a man-  
7 ner consistent with applicable international agree-  
8 ments to which the United States is a party.

9 **“SEC. 772. DEFINITIONS.**

10 “In this part:

11 “(1) CARBON LEAKAGE.—The term ‘carbon  
12 leakage’ means any substantial increase (as deter-  
13 mined by the Administrator) in greenhouse gas  
14 emissions by industrial entities located in other  
15 countries if the increase is caused by an incremental  
16 cost of production increase in the United States re-  
17 sulting from the implementation of this title.

18 “(2) COMMISSIONER.—The term ‘Commis-  
19 sioner’ means the Commissioner responsible for the  
20 U.S. Customs and Border Protection of the Depart-  
21 ment of Homeland Security.

22 “(3) COVERED GOOD.—The term ‘covered good’  
23 means a good that, as identified by the Adminis-  
24 trator by regulation, is—



1           “(A) entered under a heading or sub-  
2 heading of the Harmonized Tariff Schedule of  
3 the United States that corresponds to the  
4 NAICS code for an eligible industrial sector, as  
5 established in the concordance between NAICS  
6 codes and the Harmonized Tariff Schedule of  
7 the United States prepared by the United  
8 States Census Bureau; or

9           “(B) a manufactured item for consump-  
10 tion.

11           “(4) ELIGIBLE INDUSTRIAL SECTOR.—The  
12 term ‘eligible industrial sector’ means an industrial  
13 sector determined by the Administrator under sec-  
14 tion 773(b) to be eligible to receive emission allow-  
15 ance rebates under subpart 1.

16           “(5) INDUSTRIAL SECTOR.—

17           “(A) IN GENERAL.—The term ‘industrial  
18 sector’ means any sector that—

19                   “(i) is in the manufacturing sector (as  
20 defined in NAICS codes 31, 32, and 33);  
21 or

22                   “(ii) is part of, or an entire, sector  
23 that beneficiates or otherwise processes  
24 (including agglomeration) metal ores, in-

1                   cluding iron and copper ores, soda ash,  
2                   and phosphate.

3                   “(B) EXCLUSION.—The term ‘industrial  
4                   sector’ does not include any part of a sector  
5                   that extracts metal ores, soda ash, or phos-  
6                   phate.

7                   “(6) MANUFACTURED ITEM FOR CONSUMP-  
8                   TION.—

9                   “(A) IN GENERAL.—The term ‘manufac-  
10                  tured item for consumption’ means any good—

11                   “(i) that includes in substantial quan-  
12                   tities 1 or more goods like the goods pro-  
13                   duced by an eligible industrial sector;

14                   “(ii) with respect to which an inter-  
15                   national reserve allowance program pursu-  
16                   ant to subpart 2 is in effect with regard to  
17                   the eligible industrial sector and the quan-  
18                   tity of international reserve allowances is  
19                   not zero pursuant to section 777(b);

20                   “(iii) with respect to which the trade  
21                   intensity of the industrial sector that pro-  
22                   duces the good, as measured consistent  
23                   with section 773(b)(2)(A)(iii), is at least  
24                   15 percent; and

1                   “(iv) for which the domestic producers  
2                   of the good have demonstrated, and the  
3                   Administrator has determined, with the  
4                   concurrence of the Commissioner, that the  
5                   application of the international reserve al-  
6                   lowance program pursuant to subpart 2 is  
7                   technically and administratively feasible  
8                   and appropriate to achieve the purposes of  
9                   this part, taking into account the energy  
10                  and greenhouse gas intensity of the indus-  
11                  trial sector that produces the good, as  
12                  measured consistent with section  
13                  773(b)(2)(A)(ii), and the ability of the pro-  
14                  ducers to pass on cost increases and other  
15                  appropriate factors.

16                  “(B) DETERMINATION.—A determination  
17                  of the Administrator under subparagraph  
18                  (A)(iv) shall not be considered to be a deter-  
19                  mination of the President under section 776(b).

20                  “(7) NAICS.—The term ‘NAICS’ means the  
21                  North American Industrial Classification System of  
22                  2002.

23                  “(8) OUTPUT.—The term ‘output’ means the  
24                  total tonnage or other standard unit of production

1 (as determined by the Administrator) produced by  
2 an entity in an industrial sector.

3 **“Subpart 1—Emission Allowance Rebate Program**

4 **“SEC. 773. ELIGIBLE INDUSTRIAL SECTORS.**

5 “(a) LIST.—

6 “(1) INITIAL LIST.—

7 “(A) IN GENERAL.—Not later than June  
8 30, 2011, the Administrator shall publish in the  
9 Federal Register a list of eligible industrial sec-  
10 tors pursuant to subsection (b).

11 “(B) CONTENT.—The list shall include the  
12 amount of the emission allowance rebate per  
13 unit of production that shall be provided to en-  
14 tities in each eligible industrial sector in the fol-  
15 lowing 4 calendar years pursuant to section  
16 774.

17 “(2) SUBSEQUENT LISTS.—Not later than Feb-  
18 ruary 1, 2013, and every 4 years thereafter, the Ad-  
19 ministrator shall publish in the Federal Register an  
20 updated version of the list published under para-  
21 graph (1).

22 “(b) ELIGIBLE INDUSTRIAL SECTORS.—

23 “(1) IN GENERAL.—Not later than June 30,  
24 2011, the Administrator shall promulgate a rule des-  
25 ignating, based on the criteria under paragraph (2),

1 the industrial sectors eligible for emission allowance  
2 rebates under this part.

3 “(2) PRESUMPTIVELY ELIGIBLE INDUSTRIAL  
4 SECTORS.—

5 “(A) ELIGIBILITY CRITERIA.—

6 “(i) IN GENERAL.—An owner or oper-  
7 ator of an entity shall be eligible to receive  
8 emission allowance rebates under this part  
9 if the entity is in an industrial sector that  
10 is included in a 6-digit classification of the  
11 NAICS that meets the criteria in both  
12 clauses (ii) and (iii), or the criteria in  
13 clause (iv).

14 “(ii) ENERGY OR GREENHOUSE GAS  
15 INTENSITY.—As determined by the Admin-  
16 istrator, an industrial sector meets the cri-  
17 teria of this clause if the industrial sector  
18 has—

19 “(I) an energy intensity of at  
20 least 5 percent, calculated by divid-  
21 ing—

22 “(aa) the cost of purchased  
23 electricity and fuel costs of the  
24 sector; by

790

1 “(bb) the value of the ship-  
2 ments of the sector, based on  
3 data described in subparagraph  
4 (D); or

5 “(II) a greenhouse gas intensity  
6 of at least 5 percent, calculated by di-  
7 viding—

8 “(aa) the number 20 multi-  
9 plied by the number of tons of  
10 carbon dioxide equivalent green-  
11 house gas emissions (including  
12 direct emissions from fuel com-  
13 bustion, process emissions, and  
14 indirect emissions from the gen-  
15 eration of electricity used to  
16 produce the output of the sector)  
17 of the sector based on data de-  
18 scribed in subparagraph (D); by

19 “(bb) the value of the ship-  
20 ments of the sector, based on  
21 data described in subparagraph  
22 (D).

23 “(iii) TRADE INTENSITY.—As deter-  
24 mined by the Administrator, an industrial  
25 sector meets the criteria of this clause if

1 the industrial sector has a trade intensity  
2 of at least 15 percent, calculated by divid-  
3 ing—

4 “(I) the value of the total im-  
5 ports and exports of the sector; by

6 “(II) the value of the shipments  
7 plus the value of imports of the sec-  
8 tor, based on data described in sub-  
9 paragraph (D).

10 “(iv) VERY HIGH ENERGY OR GREEN-  
11 HOUSE GAS INTENSITY.—As determined by  
12 the Administrator, an industrial sector  
13 meets the criteria of this clause if the in-  
14 dustrial sector has an energy or green-  
15 house gas intensity, as calculated under  
16 subclause (I) or (II) of clause (ii), of at  
17 least 20 percent.

18 “(B) METAL AND PHOSPHATE PRODUC-  
19 TION CLASSIFIED UNDER MORE THAN 1 NAICS  
20 CODE.—For purposes of this section, the Ad-  
21 ministrator shall—

22 “(i) aggregate data for the  
23 beneficiation or other processing (including  
24 agglomeration) of metal ores, including  
25 iron and copper ores, soda ash, or phos-

1           phate with subsequent steps in the process  
2           of metal and phosphate manufacturing, re-  
3           gardless of the NAICS code under which  
4           the activity is classified; and

5           “(ii) aggregate data for the manufac-  
6           turing of steel with the manufacturing of  
7           steel pipe and tube made from purchased  
8           steel in a nonintegrated process.

9           “(C) EXCLUSION.—The petroleum refining  
10          sector shall not be considered an eligible indus-  
11          trial sector.

12          “(D) DATA SOURCES.—

13           “(i) ELECTRICITY AND FUEL COSTS,  
14          VALUE OF SHIPMENTS.—

15           “(I) IN GENERAL.—The Admin-  
16          istrator shall determine electricity and  
17          fuel costs and the value of shipments  
18          under this subsection from data from  
19          the United States Census Annual Sur-  
20          vey of Manufacturers.

21           “(II) AVERAGE DATA AVAIL-  
22          ABLE.—The Administrator shall use  
23          the average of data from as many of  
24          the years of 2004, 2005, and 2006 for  
25          which the data are available.



1                   “(III) AVERAGE DATA NOT  
2 AVAILABLE.—If data described in sub-  
3 clause (II) are unavailable, the Ad-  
4 ministrator shall make a determina-  
5 tion based on—

6                   “(aa) 2002 or 2006 data  
7 from the most detailed industrial  
8 classification level of the Manu-  
9 facturing Energy Consumption  
10 Survey of the Energy Informa-  
11 tion Administration (using 2006  
12 data if the data is available); and

13                   “(bb) the 2002 or 2007  
14 Economic Census of the United  
15 States (using 2007 data if the  
16 data is available).

17                   “(IV) DATA NOT AVAILABLE FOR  
18 SECTOR.—If data from the Manufac-  
19 turing Energy Consumption Survey or  
20 Economic Census are unavailable for  
21 any sector at the 6-digit classification  
22 level in the NAICS, the Administrator  
23 may extrapolate the information nec-  
24 essary to determine the eligibility of a  
25 sector under this paragraph from

1 available Manufacturing Energy Con-  
2 sumption Survey or Economic Census  
3 data pertaining to a broader indus-  
4 trial category classified in the NAICS.

5 “(V) DATA NOT AVAILABLE FOR  
6 PROCESSING.—If data relating to the  
7 beneficiation or other processing (in-  
8 cluding agglomeration) of metal ores  
9 (including iron and copper ores, soda  
10 ash, or phosphate) are not available  
11 from the specified data sources, the  
12 Administrator—

13 “(aa) shall use the best  
14 available Federal or State gov-  
15 ernment data; and

16 “(bb) may use, to the extent  
17 necessary, representative data  
18 submitted by entities that per-  
19 form the beneficiation or other  
20 processing (including agglomer-  
21 ation), in making a determina-  
22 tion.

23 “(VI) FUEL COST.—Fuel cost  
24 data shall not include the cost of fuel

1 used as feedstock by an industrial sec-  
2 tor.

3 “(ii) IMPORTS AND EXPORTS.—

4 “(I) IN GENERAL.—The Admin-  
5 istrator shall base the value of im-  
6 ports and exports under this sub-  
7 section on United States International  
8 Trade Commission data.

9 “(II) AVERAGE DATA AVAIL-  
10 ABLE.—The Administrator shall use  
11 the average of data from as many of  
12 the years of 2004, 2005, and 2006 for  
13 which the data are available.

14 “(III) AVERAGE DATA NOT  
15 AVAILABLE.—If data from the United  
16 States International Trade Commis-  
17 sion are unavailable for any sector at  
18 the 6-digit classification level in the  
19 NAICS, the Administrator may ex-  
20 trapolate the information necessary to  
21 determine the eligibility of a sector  
22 under this paragraph from available  
23 United States International Trade  
24 Commission data pertaining to a

1 broader industrial category classified  
2 in the NAICS.

3 “(iii) PERCENTAGES.—The Adminis-  
4 trator shall round the energy intensity,  
5 greenhouse gas intensity, and trade inten-  
6 sity percentages under subparagraph (A)  
7 to the nearest whole number.

8 “(iv) GREENHOUSE GAS EMISSION  
9 CALCULATIONS.—When calculating the  
10 tons of carbon dioxide equivalent green-  
11 house gas emissions for each sector under  
12 subparagraph (A)(ii)(II)(aa), the Adminis-  
13 trator—

14 “(I) shall use the best available  
15 data from as many of the years 2004,  
16 2005, and 2006 for which the data is  
17 available; and

18 “(II) may, to the extent nec-  
19 essary with respect to a sector, use  
20 economic and engineering models and  
21 the best available information on tech-  
22 nology performance levels for the sec-  
23 tor.

24 “(3) ADMINISTRATIVE DETERMINATION OF AD-  
25 DITIONAL ELIGIBLE INDUSTRIAL SECTORS.—

1           “(A) UPDATED TRADE INTENSITY DATA.—

2           The Administrator shall designate as eligible to  
3           receive emission allowance rebates under this  
4           part an industrial sector that—

5                   “(i) met the energy or greenhouse gas  
6                   intensity criteria in paragraph (2)(A)(ii) as  
7                   of the date of promulgation of the rule  
8                   under paragraph (1); and

9                   “(ii) meets the trade intensity criteria  
10                  established under paragraph (2)(A)(iii),  
11                  using data sources described in paragraph  
12                  (2)(D) from any year after 2006.

13           “(B) INDIVIDUAL SHOWING PETITION.—

14                   “(i) PETITION.—Not later than Janu-  
15                  ary 1, 2011, in addition to designation  
16                  under paragraph (2) or subparagraph (A),  
17                  the owner or operator of an entity or a  
18                  group of entities that collectively produce  
19                  not less than 80 percent of the average an-  
20                  nual value of shipments from within the  
21                  sector of the group consistent with sub-  
22                  clause (I), that manufacture similar prod-  
23                  ucts in an industrial sector may petition  
24                  the Administrator to designate as eligible

1 industrial sectors under this part an entity  
2 or a group of entities that—

3 “(I) represent a sector using a  
4 standard product classification; and

5 “(II) meet the eligibility criteria  
6 in both clauses (ii) and (iii) of para-  
7 graph (2)(A), or the eligibility criteria  
8 in clause (iv) of paragraph (2)(A).

9 “(ii) DATA.—In making a determina-  
10 tion under this subparagraph, the Admin-  
11 istrator shall consider—

12 “(I) data submitted by the peti-  
13 tioner;

14 “(II) data solicited by the Ad-  
15 ministrator from other entities in the  
16 sector; and

17 “(III) data specified in para-  
18 graph (2)(D).

19 “(iii) BASIS OF SUBSECTOR DETER-  
20 MINATION.—

21 “(I) IN GENERAL.—Except as  
22 provided in subclause (II), the Admin-  
23 istrator shall determine an entity or  
24 group of entities to be a subsector of  
25 a 6-digit section of the NAICS code

1 based only on the products manufac-  
2 tured and not the industrial process  
3 by which the products are manufac-  
4 tured.

5 “(II) TYPE OF MATERIAL.—The  
6 Administrator may determine an enti-  
7 ty or group of entities that manufac-  
8 ture a product from primarily virgin  
9 material to be a separate subsector  
10 from another entity or group of enti-  
11 ties that manufacture the same prod-  
12 uct primarily from recycled material.

13 “(iv) USE OF MOST RECENT DATA.—  
14 In determining whether to designate a sec-  
15 tor or subsector as an eligible industrial  
16 sector under this subparagraph, the Ad-  
17 ministrator shall use the most recent data  
18 available from the sources described in  
19 paragraph (2)(D), rather than the data  
20 from the years specified in paragraph  
21 (2)(D), to determine the trade intensity of  
22 the sector or subsector, but only for deter-  
23 mining the trade intensity.

24 “(v) FINAL ACTION.—The Adminis-  
25 trator shall take final action on a petition

1           described in this subparagraph not later  
2           than 180 days after the date the completed  
3           petition is received by the Administrator.

4 **“SEC. 774. DISTRIBUTION OF EMISSION ALLOWANCE RE-**  
5 **BATES.**

6           “(a) DISTRIBUTION SCHEDULE.—

7           “(1) IN GENERAL.—For each vintage year, not  
8           later than October 31 of the preceding calendar  
9           year, the Administrator shall distribute pursuant to  
10          this section emission allowances made available  
11          under section 781(b)(1).

12          “(2) DISTRIBUTIONS.—The Administrator shall  
13          make annual distributions under paragraph (1) to  
14          the owners and operators of each entity in an eligi-  
15          ble industrial sector in the amount of emission allow-  
16          ances calculated under subsection (b), except that—

17                  “(A) for each of vintage years 2013  
18                  through 2015, the distribution for a covered en-  
19                  tity shall be pursuant to the indirect carbon  
20                  factor of the entity, as calculated under sub-  
21                  section (b)(3); and

22                  “(B) for vintage year 2026 and each vin-  
23                  tage year thereafter, the distribution shall be  
24                  pursuant to the amount calculated under sec-  
25                  tion 781(b)(1)(A).



1           “(3) RESUMPTION OF REDUCTION.—If the  
2           President modifies the amount described in para-  
3           graph (2)(B) under section 776(d)(1)(C), and the  
4           President subsequently makes a determination under  
5           section 776(c) for an eligible industrial sector that  
6           more than 70 percent of global output for that sec-  
7           tor is produced or manufactured in countries that  
8           meet at least 1 of the criteria described in section  
9           776, the reduction schedule under section  
10          781(b)(1)(A) shall begin in the next vintage year,  
11          with the percentage reduction based on the amount  
12          of the distribution of emission allowances under this  
13          section for the previous year.

14          “(4) NEWLY ELIGIBLE SECTORS.—In addition  
15          to receiving a distribution of emission allowances  
16          under this section in the first distribution occurring  
17          after an industrial sector is designated as eligible  
18          under section 773(b)(3), the owner or operator of an  
19          entity in that eligible industrial sector may receive a  
20          prorated share of any emission allowances made  
21          available for distribution under this section that  
22          were not distributed for the year in which the peti-  
23          tion for eligibility was granted under section  
24          773(b)(3)(A).

1           “(5) CESSATION OF QUALIFYING ACTIVITIES.—

2           If, as determined by the Administrator, a facility is  
3           no longer in an eligible industrial sector designated  
4           under section 773—

5                   “(A) the Administrator shall not distribute  
6                   emission allowances to the owner or operator of  
7                   the facility under this section; and

8                   “(B) the owner or operator of the facility  
9                   shall return to the Administrator—

10                           “(i) all allowances that have been dis-  
11                           tributed to the facility for future vintage  
12                           years; and

13                           “(ii) a prorated amount of allowances  
14                           distributed to the facility under this sec-  
15                           tion for the vintage year in which the facil-  
16                           ity ceases to be in an eligible industrial  
17                           sector designated under section 773.

18           “(b) CALCULATION OF DIRECT AND INDIRECT CAR-  
19           BON FACTORS.—

20                   “(1) IN GENERAL.—

21                           “(A) COVERED ENTITIES.—Except as pro-  
22                           vided in subsection (a), for each covered entity  
23                           that is in an eligible industrial sector, the  
24                           amount of emission allowance rebates shall be

1 based on the sum of the direct and indirect car-  
2 bon factors of the covered entity.

3 “(B) OTHER ELIGIBLE ENTITIES.—For  
4 each entity that is in an eligible industrial sec-  
5 tor but is not a covered entity, the amount of  
6 emission allowance rebates shall be based on  
7 the indirect carbon factor of the entity.

8 “(C) NEW ENTITIES.—

9 “(i) IN GENERAL.—Not later than 2  
10 years after the date of enactment of this  
11 title, the Administrator shall promulgate  
12 regulations governing the distribution of  
13 emission allowance rebates for the first  
14 and second years of operation of a new en-  
15 tity in an eligible industrial sector.

16 “(ii) EMISSION ALLOWANCE RE-  
17 BATE.—The regulations shall provide for—

18 “(I) the distribution of emission  
19 allowance rebates to an entity de-  
20 scribed in clause (i) based on com-  
21 parable entities in the same sector;  
22 and

23 “(II) an adjustment in the third  
24 and fourth years of operation to rec-  
25 oncile the total quantity of emission

1 allowance rebates received during the  
2 first and second years of operation to  
3 the quantity the entity would have re-  
4 ceived during the first and second  
5 years of operation had the appropriate  
6 data been available.

7 “(2) DIRECT CARBON FACTOR.—The direct car-  
8 bon factor for a covered entity for a vintage year  
9 shall be equal to the product obtained by multi-  
10 plying—

11 “(A) the average annual output of the cov-  
12 ered entity for the 2 years preceding the year  
13 of the distribution; and

14 “(B) the most recent calculation of the av-  
15 erage direct greenhouse gas emissions (ex-  
16 pressed in tons of carbon dioxide equivalent)  
17 per unit of output for all covered entities in the  
18 sector, as determined by the Administrator  
19 under paragraph (4).

20 “(3) INDIRECT CARBON FACTOR.—

21 “(A) IN GENERAL.—The indirect carbon  
22 factor for an entity for a vintage year shall be  
23 equal to the product obtained by multiplying—

1                   “(i) the average annual output of the  
2                   entity for the 2 years preceding the year of  
3                   the distribution;

4                   “(ii) the electricity emissions intensity  
5                   factor determined pursuant to subpara-  
6                   graph (B) for the year concerned; and

7                   “(iii) the electricity efficiency factor  
8                   determined pursuant to subparagraph (C)  
9                   for the year concerned.

10                   “(B) ELECTRICITY EMISSIONS INTENSITY  
11                   FACTOR.—

12                   “(i) IN GENERAL.—Each person sell-  
13                   ing electricity to the owner or operator of  
14                   an entity in any sector designated as an el-  
15                   igible industrial sector under section  
16                   773(b) shall provide the owner or operator  
17                   of the entity and the Administrator, on an  
18                   annual basis, the electricity emissions in-  
19                   tensity factor for the entity.

20                   “(ii) CALCULATION.—The electricity  
21                   emissions intensity factor for the entity  
22                   (expressed in tons of carbon dioxide  
23                   equivalents per kilowatt hour) shall be de-  
24                   termined by dividing—



1           for the utility serving the entity to deter-  
2           mine the electricity emissions intensity fac-  
3           tor.

4           “(C) ELECTRICITY EFFICIENCY FACTOR.—  
5           The electricity efficiency factor shall be equal to  
6           the average quantity of electricity (in kilowatt  
7           hours) used per unit of output for all entities  
8           in the relevant sector, as determined by the Ad-  
9           ministrators based on the best available data, in-  
10          cluding data provided under paragraph (7).

11          “(D) INDIRECT CARBON FACTOR REDUC-  
12          TION.—If an electricity provider received a free  
13          allocation of emission allowances pursuant to  
14          section **【761(a)(1)】**, the Administrator shall  
15          adjust the indirect carbon factor to avoid re-  
16          bates to the eligible entity for costs that the  
17          Administrator determines were not incurred by  
18          the eligible entity because the allowances were  
19          freely allocated to the electricity provider of the  
20          eligible entity and used for the benefit of indus-  
21          trial consumers.

22          “(4) GREENHOUSE GAS INTENSITY CALCULA-  
23          TIONS.—

24                 “(A) IN GENERAL.—The Administrator  
25                 shall calculate the average direct greenhouse

1 gas emissions (expressed in tons of carbon diox-  
2 ide equivalent) per unit of output and the elec-  
3 tricity efficiency factor for all covered entities in  
4 each eligible industrial sector every 4 years,  
5 using an average of the 5 most recent years of  
6 the best available data, from up to 7 years prior  
7 to the year for which the calculations are made.

8 “(B) SECTOR AVERAGES.—For the pur-  
9 pose of determining sector averages that are  
10 representative of typical market conditions dur-  
11 ing the previous 7 years of operations, the aver-  
12 ages shall exclude data from individual years  
13 with the highest and the lowest direct green-  
14 house gas emissions per unit of output and elec-  
15 tricity efficiency factors.

16 “(C) BEST AVAILABLE DATA.—For pur-  
17 poses of the lists required to be published not  
18 later than February 1, 2013, the Administrator  
19 shall use the best available data for the max-  
20 imum number of years, up to 5 years, for which  
21 data are available.

22 “(5) DETERMINATION OF SECTORS FOR PUR-  
23 POSES OF SECTORAL AVERAGES.—

24 “(A) IN GENERAL.—Notwithstanding the  
25 criteria used to determine eligible sectors under



1 paragraphs (2) and (3)(C), not later than June  
2 30, 2011, the Administrator shall, by rule, iden-  
3 tify sectors or subsectors for purposes of calcu-  
4 lating sector averages under paragraphs (2)(B),  
5 (3)(C), and (4), based on, to the maximum ex-  
6 tent practicable in achieving the purposes of  
7 this part—

8 “(i) the intermediate and final prod-  
9 ucts produced; and

10 “(ii) the extent of use of combined  
11 heat and power technologies.

12 “(B) CONSIDERATION OF CRITERIA.—In  
13 determining what entities are comparable to a  
14 new entity under paragraph (1)(C)(i), the Ad-  
15 ministrator shall consider, to the maximum ex-  
16 tent practicable, the criteria described in sub-  
17 paragraph (A).

18 “(6) ENSURING EFFICIENCY IMPROVEMENTS.—  
19 When making greenhouse gas intensity calculations,  
20 the Administrator shall—

21 “(A) limit the average direct greenhouse  
22 gas emissions per unit of output, calculated  
23 under paragraph (4), for any eligible industrial  
24 sector to a quantity that is not greater than the  
25 average direct greenhouse gas emissions per

1 unit of output determined in any previous cal-  
2 culation under this subsection;

3 “(B) limit the electricity emissions inten-  
4 sity factor, calculated under paragraph (3)(B)  
5 and resulting from a change in electricity sup-  
6 ply, for any entity to an amount that is not  
7 greater than the electricity emissions intensity  
8 factor determined for any previous year after  
9 the date of enactment of this title; and

10 “(C) limit the electricity efficiency factor,  
11 calculated under paragraph (3)(C), for any eli-  
12 gible industrial sector to a quantity that is not  
13 greater than the electricity efficiency factor de-  
14 termined in any previous calculation under this  
15 subsection.

16 “(7) DATA SOURCES.—For the purposes of this  
17 subsection—

18 “(A) the Administrator shall use data from  
19 the greenhouse gas registry established under  
20 section 713, is that data is available; and

21 “(B) each owner or operator of an entity  
22 in an eligible industrial sector or an industrial  
23 sector seeking to become eligible under this part  
24 and each department, agency, and instrumen-  
25 tality of the United States shall provide the Ad-

1            administrator with such information as the Ad-  
2            ministrator finds necessary to determine the di-  
3            rect carbon factor and the indirect carbon fac-  
4            tor for each entity subject to this section.

5            “(c) IRON AND STEEL SECTOR.—For purposes of  
6 this section, the Administrator shall consider as entities  
7 in different industrial sectors—

8            “(1) entities using integrated iron and  
9            steelmaking technologies (including coke ovens, blast  
10            furnaces, and other iron-making technologies); and

11            “(2) entities using electric arc furnace tech-  
12            nologies.

13            “(d) METAL, SODA ASH, OR PHOSPHATE PRODUC-  
14 TION CLASSIFIED UNDER MORE THAN 1 NAICS CODE.—

15            “(1) IN GENERAL.—For purposes of this sec-  
16            tion, the Administrator shall not aggregate data for  
17            the beneficiation or other processing (including ag-  
18            glomeration) of metal ores, soda ash, or phosphate  
19            with subsequent steps in the process of metal, soda  
20            ash, or phosphate manufacturing.

21            “(2) PROCESSING.—The Administrator shall  
22            consider the beneficiation or other processing (in-  
23            cluding agglomeration) of metal ores, soda ash, or  
24            phosphate to be in separate industrial sectors from

1 the metal, soda ash, or phosphate manufacturing  
2 sectors.

3 “(3) **EXTRACTION.**—Industrial sectors that  
4 beneficiate or otherwise process (including agglomer-  
5 ation) metal ores, soda ash, or phosphate shall not  
6 receive emission allowance rebates under this section  
7 related to the activity of extracting metal ores, soda  
8 ash, or phosphate.

9 **“Subpart 2—Promoting International Reductions in**  
10 **Industrial Emissions**

11 **“SEC. 775. INTERNATIONAL NEGOTIATIONS.**

12 “(a) **FINDING.**—Congress finds that the purposes of  
13 this subpart described in section 771(c) can be most effec-  
14 tively addressed and achieved through agreements nego-  
15 tiated between the United States and foreign countries.

16 “(b) **STATEMENT OF POLICY.**—It is the policy of the  
17 United States to work proactively under the United Na-  
18 tions Framework Convention on Climate Change, done at  
19 New York on May 9, 1992 , and in other appropriate fora,  
20 to establish binding agreements, including sectoral agree-  
21 ments, committing all major greenhouse gas-emitting na-  
22 tions to contribute equitably to the reduction of global  
23 greenhouse gas emissions.

24 “(c) **NOTIFICATION OF FOREIGN COUNTRIES.**—

1           “(1) IN GENERAL.—As soon as practicable  
2 after the date of the enactment of this title, the  
3 President shall provide a notification on climate  
4 change described in paragraph (2) to each foreign  
5 country the products of which are not exempted  
6 under section 777(a)(5).

7           “(2) NOTIFICATION DESCRIBED.—A notifica-  
8 tion described in this paragraph shall be a notifica-  
9 tion that consists of—

10                   “(A) a statement of the policy of the  
11 United States described in subsection (b); and

12                   “(B) a declaration—

13                           “(i) requesting the foreign country to  
14 take appropriate measures to limit the  
15 greenhouse gas emissions of the foreign  
16 country; and

17                           “(ii) indicating that, subject to a find-  
18 ing by the President under section 776  
19 that emission allowance rebates for an eli-  
20 gible industrial sector are less than the  
21 greenhouse gas emission costs of that sec-  
22 tor, the international reserve allowance re-  
23 quirements of this subpart may apply to a  
24 covered good in that sector.

1 **“SEC. 776. PRESIDENTIAL REPORTS AND DETERMINA-**  
2 **TIONS.**

3 “(a) REPORT.—Not later than January 1, 2019, and  
4 every 2 years thereafter, the President shall submit to  
5 Congress a report on the effectiveness of the distribution  
6 of emission allowance rebates under subpart 1 in miti-  
7 gating carbon leakage in eligible industrial sectors, includ-  
8 ing—

9 “(1) an assessment, for each eligible industrial  
10 sector receiving emission allowance rebates, as to  
11 whether, and by how much, the per unit cost of pro-  
12 duction has increased for that sector as a result of  
13 compliance with section 722 (as determined in a  
14 manner consistent with section 774(b)), taking into  
15 account the provision of the emission allowance re-  
16 bates to that industrial sector and the benefit re-  
17 ceived by that industrial sector from the provision of  
18 free allowances to electricity providers pursuant to  
19 section 782;

20 “(2) recommendations on how to better achieve  
21 the purposes of this subpart, including an assess-  
22 ment of the feasibility and usefulness of an inter-  
23 national reserve allowance program for the eligible  
24 industrial sector under section 777;

25 “(3) to the extent the President determines that  
26 an international reserve allowance program would

1 not be useful for the eligible industrial sector be-  
2 cause the exposure of the eligible industrial sector to  
3 carbon leakage is the result of competition in export  
4 markets with goods produced in countries not imple-  
5 menting similar greenhouse gas emission reduction  
6 policies, an identification of, and to the extent ap-  
7 propriate a description of the manner in which the  
8 President will implement, alternative actions or pro-  
9 grams consistent with the purposes of this subpart  
10 (and, in such case, the President may determine not  
11 to apply an international reserve allowance program  
12 to the eligible industrial sector under subsection  
13 (b)); and

14 “(4) an assessment of the quantity and dura-  
15 tion of assistance, including distribution of free al-  
16 lowances, being provided to industrial sectors in  
17 other developed countries to mitigate costs of com-  
18 pliance with domestic greenhouse gas reduction pro-  
19 grams in the countries.

20 “(b) **PRESIDENTIAL DETERMINATION.**—Except as  
21 provided in section 777(e), if, by January 1, 2020, a mul-  
22 tilateral agreement that is consistent with the statement  
23 of policy described in section 775 and includes comparable  
24 greenhouse gas emission mitigation objectives has not en-  
25 tered into force, the President, taking into consideration

1 the findings from the report required under section 5007  
2 of the American Power Act, shall establish an inter-  
3 national reserve allowance program for each eligible indus-  
4 trial sector.

5       “(c) DETERMINATIONS WITH RESPECT TO ELIGIBLE  
6 INDUSTRIAL SECTORS.—If the President establishes an  
7 international reserve allowance program pursuant to sub-  
8 section (b), as soon as practicable thereafter but not later  
9 than June 30, 2023, and every 2 years thereafter, the  
10 President, in consultation with the Administrator and  
11 other appropriate agencies, shall determine, for each eligi-  
12 ble industrial sector, whether or not more than 70 percent  
13 of global production with respect to that sector is produced  
14 or manufactured in countries that have met at least 1 of  
15 the following criteria:

16           “(1) The country is a party to an international  
17 agreement to which the United States is a party  
18 that includes a nationally enforceable and economy-  
19 wide greenhouse gas emission reductions commit-  
20 ment for that country that is at least as stringent  
21 as the greenhouse gas emission reductions levels es-  
22 tablished under this Act.

23           “(2) The country is a party to a multilateral or  
24 bilateral emission reduction agreement for that sec-  
25 tor to which the United States is a party.



1           “(3) The country has an annual energy or  
2           greenhouse gas intensity, as described in section  
3           773(b)(2)(A)(ii), for the sector that is equal to or  
4           less than the energy or greenhouse gas intensity for  
5           the industrial sector in the United States in the  
6           most recent calendar year for which data are avail-  
7           able.

8           “(d) EFFECT OF PRESIDENTIAL DETERMINATION.—

9           “(1) REQUIRED ACTIONS.—If the President  
10          makes a determination under subsection (c) with re-  
11          spect to an eligible industrial sector that 70 percent  
12          or less of global production in an eligible sector is  
13          produced or manufactured in countries that have  
14          met 1 or more of the criteria in subsection (c), then  
15          the President shall, as soon as practicable but not  
16          later than June 30, 2023, and every 4 years there-  
17          after—

18                 “(A) assess the extent to which the emis-  
19                 sion allowance rebates provided pursuant to  
20                 subpart 1 and the benefit received by that in-  
21                 dustrial sector from the provision of free allow-  
22                 ances to electricity providers pursuant to sec-  
23                 tion 782 have mitigated or addressed, or could  
24                 mitigate or address, carbon leakage in that sec-  
25                 tor;

1           “(B) assess the extent to which an inter-  
2           national reserve allowance program has miti-  
3           gated or addressed, or could mitigate or ad-  
4           dress, carbon leakage in that sector; and

5           “(C) with respect to that sector—

6           “(i) increase the percentage by which  
7           direct and indirect carbon factors will be  
8           multiplied under section 774(a)(2)(B);

9           “(ii) apply or continue to apply an  
10          international reserve allowance program  
11          under section 777 with respect to imports  
12          of covered goods with respect to that sec-  
13          tor; or

14          “(iii) apply a combination of the ac-  
15          tions described in clauses (i) and (ii) to  
16          produce not to exceed a quantity necessary  
17          to mitigate or address the carbon leakage.

18          “(2) PROHIBITED ACTIONS.—If the President  
19          makes a determination under subsection (c) with re-  
20          spect to an eligible industrial sector that more than  
21          70 percent of global production in an eligible sector  
22          is produced or manufactured in countries that have  
23          met 1 or more of the criteria described in subsection  
24          (c), the President may not apply or continue to  
25          apply an international reserve allowance program

1 under section 777 with respect to imports of covered  
2 goods with respect to that sector.

3 “(e) REPORT TO CONGRESS.—On the first deter-  
4 mination made under subsection (c) and every 2 years  
5 thereafter, the President shall submit to Congress a report  
6 that—

7 “(1) provides notice of any determination made  
8 under subsection (c);

9 “(2) describes the reasons for the determina-  
10 tion; and

11 “(3) identifies the actions taken by the Presi-  
12 dent under subsection (d).

13 **“SEC. 777. INTERNATIONAL RESERVE ALLOWANCE PRO-**  
14 **GRAM.**

15 “(a) ESTABLISHMENT.—The Administrator, with the  
16 concurrence of the Commissioner, shall promulgate regula-  
17 tions—

18 “(1) establishing an international reserve allow-  
19 ance program for the sale, exchange, purchase,  
20 transfer, and banking of international reserve allow-  
21 ances for covered goods with respect to the eligible  
22 industrial sector;

23 “(2) ensuring that the price for purchasing the  
24 international reserve allowances from the United  
25 States on a particular day is equivalent to the auc-

1           tion clearing price for emission allowances under sec-  
2           tion 722 for the most recent emission allowance auc-  
3           tion;

4           “(3) establishing a general methodology for cal-  
5           culating the quantity of international reserve allow-  
6           ances that a United States importer of any covered  
7           good must submit;

8           “(4) requiring the submission of appropriate  
9           amounts of such allowances for covered goods with  
10          respect to the eligible industrial sector that enter the  
11          customs territory of the United States;

12          “(5) exempting from paragraph (4) products  
13          that originate from—

14               “(A) any country determined to meet any  
15               of the standards provided in section 776(c);

16               “(B) any foreign country that the United  
17               Nations has identified as among the least devel-  
18               oped of developing countries; or

19               “(C) any foreign country that the Presi-  
20               dent has determined to be responsible for less  
21               than 0.5 percent of total global greenhouse gas  
22               emissions and less than 5 percent of global pro-  
23               duction in the eligible industrial sector;

24          “(6) specifying the procedures that the Com-  
25          missioner will apply for the declaration and entry of

1 covered goods with respect to the eligible industrial  
2 sector into the customs territory of the United  
3 States; and

4 “(7) establishing procedures that prevent cir-  
5 cumvention of the international reserve allowance re-  
6 quirement for covered goods with respect to the eli-  
7 gible industrial sector that are manufactured or  
8 processed in more than 1 foreign country.

9 “(b) EMISSION ALLOWANCE REBATES.—In estab-  
10 lishing a general methodology for purposes of subsection  
11 (a)(3), the Administrator shall—

12 “(1) include an adjustment to the quantity of  
13 international reserve allowances based on—

14 “(A) the value of emission allowance re-  
15 bates distributed under subpart 1; and

16 “(B) the benefit received by the eligible in-  
17 dustrial sector concerned from the provision of  
18 free allowances to electricity providers pursuant  
19 to section **[761(a)]**; and

20 “(2) if the emission allowance rebates for an el-  
21 igible industrial sector are greater than or equal to  
22 the greenhouse gas emission costs in that sector, re-  
23 duce the quantity of international reserve allowances  
24 to zero.

1           “(c) OPERATIVE DATE.—The international reserve  
2 allowance program may not apply to imports of covered  
3 goods entering the customs territory of the United States  
4 while rebates continue to fully offset the costs of compli-  
5 ance with this Act.

6           “(d) COVERED ENTITIES.—International reserve al-  
7 lowances may not be used by covered entities to comply  
8 with section 722.

9           “(e) PRESIDENTIAL DISCRETION.—

10           “(1) IN GENERAL.—The President may elect  
11 not to establish an international reserve allowance  
12 program for an eligible industrial sector if the Presi-  
13 dent determines and certifies to Congress with re-  
14 spect to the eligible sector that the program would  
15 not be in the national economic interest or environ-  
16 mental interest of the United States.

17           “(2) ADDITIONAL EMISSION ALLOWANCE RE-  
18 BATES.—If the President elects not to establish an  
19 international reserve allowance program for an eligi-  
20 ble sector, the President shall make available addi-  
21 tional emission allowance rebates to the sector in a  
22 quantity necessary to mitigate or address carbon  
23 leakage.

1 **“SEC. 778. IRON AND STEEL SECTOR.**

2 “For purposes of this subpart, the Administrator  
3 shall consider to be in the same eligible industrial sector—

4 “(1) entities using integrated iron and  
5 steelmaking technologies (including coke ovens, blast  
6 furnaces, and other iron-making technologies); and

7 “(2) entities using electric arc furnace tech-  
8 nologies.”.

9 **SEC. 4002. DOMESTIC FUEL PRODUCTION.**

10 Part G of title VII of the Clean Air Act (as amended  
11 by section 2213) is amended by inserting after section 795  
12 the following:

13 **“SEC. 796. ALLOCATIONS TO REFINERIES.**

14 “(a) PURPOSE.—The purpose of this section is to  
15 provide for the distribution of emission allowance rebates  
16 to petroleum refineries in the United States in a manner  
17 that promotes energy efficiency and a reduction in green-  
18 house gas emissions at those facilities.

19 “(b) DEFINITIONS.—In this section:

20 “(1) EMISSIONS.—The term ‘emissions’ means  
21 the average, for the 4 calendar years preceding the  
22 calendar year in which emission allowances are being  
23 distributed, process and direct fuel combustion  
24 greenhouse gas emissions created in producing the  
25 output of a petroleum refinery or in producing the  
26 output of the petroleum refining sector.

1           “(2) INTENSITY.—The term ‘intensity’ means  
2           tons of carbon dioxide equivalent emissions per unit  
3           of output.

4           “(3) INTENSITY FACTOR.—The term ‘intensity  
5           factor’ means the quotient obtained by dividing—

6                   “(A) the intensity of an individual petro-  
7                   leum refinery; by

8                   “(B) the intensity of the petroleum refin-  
9                   ing sector.

10           “(4) NET INDIRECT EMISSIONS.—The term ‘net  
11           indirect emissions’ means—

12                   “(A) emissions from the generation of pur-  
13                   chased electricity; less

14                   “(B) the quantity of the emissions the  
15                   costs of which have been offset by the value of  
16                   allowances provided at no cost to local distribu-  
17                   tion companies that is reflected in the elec-  
18                   tricity price paid by a refinery.

19           “(5) OUTPUT.—The term ‘output’ means the  
20           average annual number of gallons of petroleum prod-  
21           ucts, as specified by the Energy Information Admin-  
22           istration for ‘Product Supplied’ in the category ‘Pe-  
23           troleum Consumption/Sales’ that are produced dur-  
24           ing the 4 calendar years preceding the calendar year  
25           for which emission allowances are being distributed.



1           “(6) PETROLEUM REFINERY.—The term ‘petro-  
2       leum refinery’ means a facility classified under  
3       324110 of the North American Industrial Classifica-  
4       tion System of 2002.

5           “(7) PRODUCTION FACTOR.—The term ‘produc-  
6       tion factor’ means the quotient obtained by divid-  
7       ing—

8                   “(A) the output of an individual petroleum  
9       refinery; by

10                   “(B) the output of the petroleum refining  
11       sector.

12       “(c) DISTRIBUTION OF ALLOWANCES.—For each of  
13       vintage years 2013 through 2026, the Administrator shall  
14       distribute allowances pursuant to this section to owners  
15       and operators of petroleum refineries in the United States.

16       “(d) DISTRIBUTION SCHEDULE.—The Administrator  
17       shall distribute emission allowances for each vintage year  
18       not later than October 31 of the preceding calendar year.

19       “(e) CALCULATION OF EMISSION ALLOWANCE RE-  
20       BATES.—The Administrator shall calculate—

21                   “(1) for each petroleum refinery, an individual  
22       allocation factor for each vintage year that is equal  
23       to the product obtained by multiplying—

24                           “(A) the intensity factor for the refinery;  
25       and

1 “(B) the production factor for the refinery;

2 “(2) a total allocation factor for each vintage  
3 year, based on the sum of all of the individual allo-  
4 cation factors; and

5 “(3) the number of emission allowances to be  
6 provided to each petroleum refinery for each vintage  
7 year, which shall be equal to the product obtained by  
8 multiplying—

9 “(A) the quotient obtained by dividing—

10 “(i) the individual allocation factor for  
11 the refinery; by

12 “(ii) the total allocation factor; and

13 “(B) the number of emission allowances al-  
14 located to the program under this section for  
15 that vintage year.

16 “(f) NEW REFINERIES AND MAJOR EXPANSIONS AND  
17 UPGRADES.—Not later than 2 years after the date of en-  
18 actment of this section, the Administrator shall promul-  
19 gate regulations governing the distribution of emission al-  
20 lowance rebates for—

21 “(1) the first 3 years of operation of a new pe-  
22 troleum refinery; and

23 “(2) the first 3 years following a major expan-  
24 sion or upgrade at an existing refinery.

25 “(g) DATA SOURCES.—

1           “(1) IN GENERAL.—The Administrator shall  
2 use such data from the greenhouse gas registry es-  
3 tablished under section 713 as are available.

4           “(2) METHODOLOGY.—The Administrator shall  
5 determine, by rule—

6                 “(A) the methodology by which to calculate  
7 net indirect emissions for a refinery from the  
8 purchase of electricity; and

9                 “(B) the appropriate methodology for in-  
10 cluding net indirect emissions in determining  
11 refinery allocation.

12           “(3) PROVISION OF DATA.—Each person selling  
13 electricity to the owner or operator of a petroleum  
14 refinery shall provide to the owner or operator and  
15 the Administrator, on an annual basis, such data as  
16 the Administrator determines are necessary to carry  
17 out this section.”.

18 **SEC. 4003. ADVANCED ENERGY PROJECT CREDIT.**

19           (a) INCREASE IN CREDIT ALLOCATION LIMITA-  
20 TION.—Subparagraph (B) of section 48C(d)(1) of the In-  
21 ternal Revenue Code of 1986 is amended by striking  
22 “\$2,300,000,000” and inserting “\$7,300,000,000”.

23           (b) EXTENSION OF APPLICATION PERIOD.—Sub-  
24 paragraph (A) of section 48C(d)(2) of the Internal Rev-

1 enue Code of 1986 is amended by striking “2-year period”  
2 and inserting “3-year period”.

3 (c) EXTENSION OF PERIOD OF ISSUANCE.—Subpara-  
4 graph (C) of section 48C(d)(2) of the Internal Revenue  
5 Code of 1986 is amended by striking “3 years” and insert-  
6 ing “5 years”.

7 (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to periods beginning after the date  
9 of the enactment of this Act, under rules similar to the  
10 rules of section 48(m) of the Internal Revenue Code of  
11 1986 (as in effect on the day before the date of the enact-  
12 ment of the Revenue Reconciliation Act of 1990).

13 **SEC. 4004. REPORT ON THE UTILIZATION OF TAX INCEN-**  
14 **TIVES.**

15 (a) IN GENERAL.—Not later than January 1, 2013,  
16 the Comptroller General of the United States shall submit  
17 a report to the Committee on Ways and Means of the  
18 House of Representatives and the Committee on Finance  
19 of the Senate evaluating all temporary and permanent en-  
20 ergy tax incentives in effect on the date of the report.

21 (b) CONTENTS OF REPORT.—The report shall—

22 (1) assess whether and to what extent each  
23 such tax incentive is being utilized, and

24 (2) contain recommendations regarding each  
25 such tax incentive and whether such tax incentive

1 should be terminated, extended, or modified to  
2 achieve the purposes of the this Act.

3 **Subtitle B—Clean Energy**  
4 **Technology and Jobs**

5 **PART I—CLEAN ENERGY CAREER DEVELOPMENT**

6 **SEC. 4101. CLEAN ENERGY CURRICULUM DEVELOPMENT**

7 **GRANTS.**

8 (a) AUTHORIZATION.—

9 (1) IN GENERAL.—The Secretary of Education  
10 (referred to in this section as the “Secretary”) may  
11 award grants, on a competitive basis, to eligible  
12 partnerships to develop programs of study (con-  
13 taining the information described in section  
14 122(c)(1)(A) of the Carl D. Perkins Career and  
15 Technical Education Act of 2006 (20 U.S.C. 2342))  
16 that are focused on emerging careers and jobs in the  
17 fields of clean energy, renewable energy, energy effi-  
18 ciency, climate change mitigation, and climate  
19 change adaptation.

20 (2) CONSULTATION.—The Secretary shall con-  
21 sult with the Secretary of Labor and the Secretary  
22 of Energy prior to the issuance of a solicitation for  
23 grant applications.

24 (b) ELIGIBLE PARTNERSHIPS.—For purposes of this  
25 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 that section;

7           (2) at least 1 postsecondary institution eligible  
8           for funding under section 132 of that Act (20  
9           U.S.C. 2352); and

10          (3) representatives of the community, including  
11          businesses, labor organizations, and industry that  
12          have experience in fields described in subsection  
13          (a)(1).

14          (c) APPLICATION.—An eligible partnership seeking a  
15          grant under this section shall submit an application to the  
16          Secretary at such time and in such manner as the Sec-  
17          retary may require that includes—

18               (1) a description of the eligible partners and  
19               partnership, the roles and responsibilities of each  
20               partner, and a demonstration of the capacity of each  
21               partner to support the program;

22               (2) a description of the 1 or more career areas  
23               within the fields described in subsection (a)(1) to be  
24               developed, the reason for the choice, and evidence of

1 the labor market needed to prepare students in that  
2 area;

3 (3) a description of the new or existing program  
4 of study and both secondary and postsecondary com-  
5 ponents;

6 (4) a description of the students to be served by  
7 the new program of study;

8 (5) a description of how the program of study  
9 funded by the grant would be replicable and dissemi-  
10 nated to schools outside of the partnership, including  
11 urban and rural areas;

12 (6) a description of applied learning that would  
13 be incorporated into the program of study and how  
14 applied learning would incorporate or reinforce aca-  
15 demic learning;

16 (7) a description of how the program of study  
17 would be delivered;

18 (8) a description of how the program would  
19 provide accessibility to students, especially economi-  
20 cally disadvantaged, low-performing, and urban and  
21 rural students;

22 (9) a description of how the program would ad-  
23 dress placement of students in non-traditional fields  
24 (as defined in section 3 of the Carl D. Perkins Ca-

1 reer and Technical Education Act of 2006 (20  
2 U.S.C. 2302)); and

3 (10) a description of how the applicant proposes  
4 to consult or has consulted with a labor organiza-  
5 tion, labor management partnership, apprenticeship  
6 program, or joint apprenticeship and training pro-  
7 gram that provides education and training in the  
8 field of study for which the applicant proposes to de-  
9 velop a curriculum.

10 (d) PRIORITY.—In carrying out this section, the Sec-  
11 retary shall give priority to applications that—

12 (1) use online learning or other innovative  
13 means to deliver the program of study to students,  
14 educators, and instructors outside of the partner-  
15 ship; and

16 (2) focus on low-performing students and spe-  
17 cial populations (as defined in section 3 of the Carl  
18 D. Perkins Career and Technical Education Act of  
19 2006 (20 U.S.C. 2302)).

20 (e) PEER REVIEW.—

21 (1) IN GENERAL.—The Secretary shall convene  
22 a peer review process to review applications for  
23 grants under this section and to make recommenda-  
24 tions regarding the selection of grantees.



1           (2) MEMBERSHIP OF COMMITTEE.—Members of  
2           the peer review committee shall include—

3                   (A) educators who have experience imple-  
4                   menting curricula with comparable purposes;  
5                   and

6                   (B) business and industry experts in fields  
7                   as described in subsection (a).

8           (f) USES OF FUNDS.—Grants awarded under this  
9           section shall be used for the development, implementation,  
10          and dissemination of programs of study (as described in  
11          section 122(c)(1)(A) of the Carl D. Perkins Career and  
12          Technical Education Act (20 U.S.C. 2342(c)(1)(A))) in  
13          career areas relating to clean energy, renewable energy,  
14          energy efficiency, climate change mitigation, and climate  
15          change adaptation.

16 **SEC. 4102. DEVELOPMENT OF INFORMATION AND RE-**  
17 **SOURCES CLEARINGHOUSE FOR VOCA-**  
18 **TIONAL EDUCATION AND JOB TRAINING IN**  
19 **RENEWABLE ENERGY SECTORS.**

20          (a) IN GENERAL.—Not later than 18 months after  
21          the date of enactment of this Act, the Secretary of Labor  
22          (referred to in this section as the “Secretary”), in collabo-  
23          ration with the Secretary of Energy and the Secretary of  
24          Education, shall develop an Internet-based information  
25          and resources clearinghouse to aid career and technical

1 education and job training programs for the renewable en-  
2 ergy sectors.

3 (b) ADMINISTRATION.—In establishing the clearing-  
4 house, the Secretary shall—

5 (1) collect and provide information that ad-  
6 dresses the consequences of rapid changes in tech-  
7 nology and regional disparities for renewable energy  
8 training programs and provides best practices for  
9 training and education in light of the changes and  
10 disparities;

11 (2) place an emphasis on facilitating collabora-  
12 tion between the renewable energy industry and job  
13 training programs and on identifying industry and  
14 technological trends and best practices, to better  
15 help job training programs maintain quality and rel-  
16 evance; and

17 (3) place an emphasis on assisting programs  
18 that cater to high-demand middle-skill, trades, man-  
19 ufacturing, contracting, and consulting careers.

20 (c) SOLICITATION AND CONSULTATION.—

21 (1) IN GENERAL.—In developing the clearing-  
22 house pursuant to this section , the Secretary shall  
23 solicit information and expertise from businesses and  
24 organizations in the renewable energy sector and  
25 from institutions of higher education, career and

1 technical schools, and community colleges that pro-  
2 vide training in the renewable energy sectors.

3 (2) PEER REVIEW.—The Secretary shall solicit  
4 a comprehensive peer review of the clearinghouse by  
5 the entities described in paragraph (1) not less than  
6 once every 2 years.

7 (3) CONFIDENTIALITY.—Nothing in this sub-  
8 section requires the divulgence of proprietary or  
9 competitive information.

10 (d) CONTENTS OF CLEARINGHOUSE.—

11 (1) SEPARATE SECTION FOR EACH RENEWABLE  
12 ENERGY SECTOR.—The clearinghouse shall contain  
13 separate sections developed for each of the following  
14 renewable energy sectors:

15 (A) Solar energy systems.

16 (B) Wind energy systems.

17 (C) Energy transmission systems.

18 (D) Geothermal systems of energy and  
19 heating.

20 (E) Energy efficiency technical training.

21 (2) ADDITIONAL REQUIREMENTS.—In addition  
22 to the information required under subsection (a),  
23 each section of the clearinghouse shall include—

24 (A) information on—

1 (i) basic environmental science and  
2 processes needed to understand renewable  
3 energy systems;

4 (ii) Federal government and industry  
5 resources; and

6 (iii) points of contact to aid institu-  
7 tions in the development of placement pro-  
8 grams for apprenticeships and post grad-  
9 uation opportunities; and

10 (B) information and tips about green  
11 workplaces, energy efficiency, and relevant envi-  
12 ronmental topics, including information on  
13 available industry-recognized certifications in  
14 each of those areas.

15 (e) DISSEMINATION.—

16 (1) IN GENERAL.—The clearinghouse shall be  
17 made available via the Internet to the general public.

18 (2) COMPLETED CLEARINGHOUSE AND REVI-  
19 SIONS.—Notice of the completed clearinghouse and  
20 any major revisions to the clearinghouse shall be  
21 provided—

22 (A) to each Member of Congress; and

23 (B) on the websites of the Departments of  
24 Education, Energy, and Labor.

1 (f) REVISION.—The Secretary shall revise and update  
2 the clearinghouse on a regular basis to ensure the rel-  
3 evance of the clearinghouse.

4 **SEC. 4103. CLEAN ENERGY CONSTRUCTION CAREERS DEM-**  
5 **ONSTRATION PROJECT.**

6 (a) DEFINITIONS.—In this section:

7 (1) QUALIFIED APPRENTICESHIP OR OTHER  
8 TRAINING PROGRAM.—The term “qualified appren-  
9 ticeship or other training program” means an ap-  
10 prenticeship or other training program that qualifies  
11 as an employee welfare benefit plan (as defined in  
12 section 3 of the Employee Retirement Income Secu-  
13 rity Act of 1974 (29 U.S.C. 1002)).

14 (2) QUALIFIED PRE-APPRENTICESHIP PRO-  
15 GRAM.—The term “qualified pre-apprenticeship pro-  
16 gram” means a pre-apprenticeship program that has  
17 demonstrated an ability to recruit, train, and pre-  
18 pare for admission to apprenticeship programs indi-  
19 viduals who are targeted workers.

20 (3) SECRETARY.—The term “Secretary” means  
21 the Secretary of Labor, in consultation with the Sec-  
22 retary of Energy,

23 (4) TARGETED WORKER.—The term “targeted  
24 worker” means an individual who resides in the  
25 same labor market area (as defined in section 101

1 of the Workforce Investment Act of 1998 (29 U.S.C.  
2 2801)) as the project and who—

3 (A) is a member of a targeted group, with-  
4 in the meaning of section 51 of the Internal  
5 Revenue Code of 1986, other than an individual  
6 described in subsection (d)(1)(C) of that sec-  
7 tion;

8 (B)(i) resides in a census tract in which  
9 not less than 20 percent of the households have  
10 incomes below the Federal poverty income  
11 guidelines; or

12 (ii) is a member of a family that received  
13 a total family income that, during the 2-year  
14 period prior to employment on the project or  
15 admission to the pre-apprenticeship program,  
16 did not exceed 200 percent of the Federal pov-  
17 erty income guidelines (exclusive of unemploy-  
18 ment compensation, child support payments,  
19 payments described in section 101(25)(A) of  
20 the Workforce Investment Act (29 U.S.C.  
21 2801(25)(A)), and old-age and survivors insur-  
22 ance benefits received under section 202 of the  
23 Social Security Act (42 U.S.C. 402); or

24 (C) is a displaced homemaker (as defined  
25 in section 3(10) of the Carl D. Perkins Career

1           and Technical Education Act of 2006 (20  
2           U.S.C. 2302(10))).

3           (b) ESTABLISHMENT AND AUTHORITY.—

4           (1) IN GENERAL.—Not later than 180 days  
5           after the date of enactment of this Act, the Sec-  
6           retary shall, by regulation and through issuance of  
7           appropriate guidance, establish a clean energy con-  
8           struction careers demonstration project in accord-  
9           ance with this section.

10          (2) PURPOSES.—The purposes of the dem-  
11          onstration project shall be—

12                 (A) to promote middle class careers and  
13                 quality employment practices in the green con-  
14                 struction sector among targeted workers; and

15                 (B) to advance efficiency and performance  
16                 on construction projects relating to this Act and  
17                 amendments made by this Act.

18          (3) PROJECTS.—In order to advance the pur-  
19          poses described in paragraph (1), the Secretary shall  
20          identify projects, including residential retrofitting  
21          projects, funded directly by or assisted in whole or  
22          in part by or through the Federal Government pur-  
23          suant to this Act or an amendment made by this Act  
24          or by any other entity established in accordance with

1       this Act, to which the requirements of this section  
2       apply.

3       (c) REQUIREMENTS.—

4           (1) IN GENERAL.—The Secretary may establish  
5       such terms and conditions for the demonstration  
6       projects as the Secretaries determine are necessary  
7       to meet the purposes of this section, including estab-  
8       lishing minimum proportions of hours to be worked  
9       by targeted workers on projects under this section.

10       (2) CONTRACTORS AND SUBCONTRACTORS.—

11       The Secretary may require the contractors and sub-  
12       contractors performing construction services on a  
13       project under this section to comply with the terms  
14       and conditions as a condition of receiving funding or  
15       assistance from the Federal Government under this  
16       Act.

17       (d) EVALUATION.—

18           (1) IN GENERAL.—Not later than 3 years after  
19       the date of initiation of the demonstration project  
20       under this section, the Secretary shall evaluate the  
21       demonstration projects on the basis of the purposes  
22       of this section.

23           (2) ADDITIONAL PROJECTS.—If the Secretary  
24       determines that the demonstration projects has been



1       successful, the Secretary may identify additional  
2       projects that may be carried out under this section.

3       (e) GAO REPORT.—Not later than 5 years after the  
4       date of enactment of this Act, the Comptroller General  
5       of the United States shall prepare and submit to the Com-  
6       mittee on Health, Education, Labor, and Pensions and the  
7       Committee on Energy and Natural Resources of the Sen-  
8       ate and the Committee on Education and Labor and the  
9       Committee on Energy and Commerce of the House of  
10      Representatives a report on the demonstration project car-  
11      ried out under this section, including recommendations on  
12      the demonstration project.

13      (f) QUALIFIED APPRENTICESHIP AND OTHER TRAIN-  
14      ING PROGRAMS.—

15           (1) PARTICIPATION BY EACH CONTRACTOR RE-  
16      QUIRED.—Each contractor and subcontractor that  
17      seeks to provide construction services for projects  
18      identified by the Secretary pursuant to subsection  
19      (a) shall submit adequate assurances with the bid or  
20      proposal of the contractor or subcontractor that the  
21      contractor or subcontractor participates in a quali-  
22      fied apprenticeship or other training program, with  
23      a written arrangement with a qualified pre-appren-  
24      ticeship program, for each craft or trade classifica-

1           tion of worker that the contractor or subcontractor  
2           intends to employ to perform work on the project.

3           (2) CERTIFICATION OF OTHER PROGRAMS IN  
4           CERTAIN LOCALITIES.—If the Secretary certifies  
5           that a qualified apprenticeship or other training pro-  
6           gram for a craft or trade classification of workers  
7           that a prospective contractor or subcontractor in-  
8           tends to employ, is not operated in the locality in  
9           which the project will be performed, an apprentice-  
10          ship or other training program that is not an em-  
11          ployee welfare benefit plan (as defined in section 3  
12          of the Employee Retirement Income Security Act of  
13          1974 (29 U.S.C. 1002)) may be certified by the Sec-  
14          retary as a qualified apprenticeship or other training  
15          program if the program is registered with the Office  
16          of Apprenticeship of the Department of Labor, or a  
17          State apprenticeship agency recognized by the Office  
18          of Apprenticeship for Federal purposes.

19          (g) FACILITATING COMPLIANCE.—The Secretary  
20          may require Federal contracting agencies, recipients of  
21          Federal assistance, and any other entity established in ac-  
22          cordance with this Act to require contractors to enter into  
23          an agreement in a manner comparable with the standards  
24          set forth in sections 3 and 4 of Executive Order 13502

1 in order to achieve the purposes of this section, including  
2 any requirements established by subsection (c).

3 (h) **LIMITATION.**—The requirements of this section  
4 shall not apply to any project funded under this Act in  
5 American Samoa, Guam, the Commonwealth of the North-  
6 ern Mariana Islands, the Commonwealth of Puerto Rico,  
7 or the United States Virgin Islands, unless participation  
8 is requested by the governor of the applicable territory not  
9 later than 1 year after the date of the promulgation of  
10 regulations to carry out this section.

## 11 **PART II—TRANSPORTATION**

### 12 **Subpart A—Investing in Clean Vehicles**

#### 13 **SEC. 4111. INVESTING IN CLEAN VEHICLES.**

14 (a) **DEFINITIONS.**—In this section:

15 (1) **ADVANCED TECHNOLOGY VEHICLE.**—The  
16 term “advanced technology vehicle” means any light-  
17 duty vehicle assembled in the United States that  
18 meets—

19 (A) the Tier II Bin 5 emission standard  
20 established by regulations promulgated by the  
21 Administrator pursuant to section 202(i) of the  
22 Clean Air Act (42 U.S. C. 7521(i)), or a lower-  
23 numbered Bin emission standard;

24 (B) any new emission standard for fine  
25 particulate matter established by the Adminis-

1           trator under that Act (42 U.S.C. 7401 et seq.);  
2           and

3                   (C) a target fuel economy equal to or  
4           greater than 115 percent of the base model  
5           year target fuel economy for a vehicle of the  
6           same type and footprint, calculated on an en-  
7           ergy-equivalent basis for vehicles other than ad-  
8           vanced diesel light-duty motor vehicles.

9           (2) **BASE MODEL YEAR.**—The term “base  
10          model year” means the model year that is 4 model  
11         years prior to the model year during which an ad-  
12         vanced technology vehicle is initially certified for sale  
13         in the United States under part 86 of title 40, Code  
14         of Federal Regulations (as in effect on the date of  
15         enactment of this Act).

16          (3) **ENGINEERING INTEGRATION COST.**—The  
17         term “engineering integration cost” includes the cost  
18         of engineering tasks performed in the United States  
19         relating to—

20                   (A) incorporating qualifying components  
21           into the design of advanced technology vehicles;  
22           and

23                   (B) designing new tooling and equipment  
24           for production facilities that produce, in the

1 United States, qualifying components or ad-  
2 vanced technology vehicles.

3 (4) QUALIFYING COMPONENT.—The term  
4 “qualifying component” means a component that the  
5 Secretary determines to be—

6 (A) specially designed for advanced tech-  
7 nology vehicles;

8 (B) installed for the purpose of meeting  
9 the performance requirements of advanced tech-  
10 nology vehicles as specified in subparagraphs  
11 (A), (B), and (C) of paragraph (1); and

12 (C) manufactured in the United States.

13 (5) TARGET FUEL ECONOMY.—The term “tar-  
14 get fuel economy” means—

15 (A) for a vehicle classified as a passenger  
16 automobile pursuant to section 523.4 of title  
17 49, Code of Federal Regulations (as in effect on  
18 the date of enactment of this Act), the value of  
19  $T_i$ , representing the fuel economy target in the  
20 formula displayed as Figure 1, calculated for  
21 that vehicle in a given model year pursuant to  
22 section 531.5(c) of title 49, Code of Federal  
23 Regulations (as in effect on the date of enact-  
24 ment of this Act); and

1 (B) for a vehicle classified as a light truck  
2 pursuant to section 523.5 of title 49, Code of  
3 Federal Regulations (as in effect on the date of  
4 enactment of this Act), the value of  $T_i$ , rep-  
5 resenting the fuel economy target in the for-  
6 mula displayed as Figure 1, calculated for that  
7 vehicle in a given model year pursuant to sec-  
8 tion 533.5(a) of title 49, Code of Federal Regu-  
9 lations (as in effect on the date of enactment of  
10 this Act).

11 (b) ESTABLISHMENT OF FUND.—There is estab-  
12 lished in the Treasury a separate account, to be known  
13 as the “Clean Vehicle Technology Fund”.

14 (c) AUCTION.—The Administrator shall—

15 (1) auction the quantity of emission allowances  
16 allocated pursuant to section 781(c)(2) of the Clean  
17 Air Act; and

18 (2) deposit funds received from the auction in  
19 the Clean Vehicle Technology Fund.

20 (d) GRANTS.—

21 (1) IN GENERAL.—The Administrator shall dis-  
22 tribute amounts allocated to the Fund established  
23 under subsection (b), at the direction of the Sec-  
24 retary, to provide facility conversion funding grants

1 to vehicle manufacturers and component suppliers to  
2 pay the costs of—

3 (A) reequipping or expanding an existing  
4 manufacturing facility in the United States to  
5 produce—

6 (i) qualifying advanced technology ve-  
7 hicles;

8 (ii) plug-in electric drive or hybrid-  
9 electric, hybrid hydraulic, plug-in hybrid,  
10 electric, and fuel cell drive medium- and  
11 heavy-duty motor vehicles (including tran-  
12 sit vehicles); or

13 (iii) qualifying components; and

14 (B) engineering integration, performed in  
15 the United States, of qualifying vehicles and  
16 qualifying components that are produced in the  
17 United States.

18 (2) PRIORITY IN GRANTS.—In determining eli-  
19 gibility for, and in awarding, facility conversion  
20 funding grants under this section, the Administrator  
21 and the Secretary shall give priority to projects that  
22 involve reequipping or expanding existing manufac-  
23 turing facilities, including facilities that—

24 (A) are idle on the date of enactment of  
25 this Act;

1 (B) are located in the United States;

2 (C) have been in existence for at least 15  
3 years as of the date of enactment of this Act;  
4 and

5 (D) are located in areas with an available  
6 experienced automotive workforce.

7 (e) PERIOD OF AVAILABILITY.—A grant provided  
8 under subsection (d) may be used for—

9 (1) facilities and equipment placed in service  
10 after the date of enactment of this Act; and

11 (2) engineering integration costs incurred after  
12 the date of enactment of this Act.

13 (f) LIMITATIONS.—

14 (1) PLUG-IN ELECTRIC DRIVE VEHICLES.—Not  
15 less than 25 percent of the funds provided under  
16 subsection (d) shall be used for—

17 (A) reequipping or expanding facilities in  
18 the United States to produce plug-in electric  
19 drive vehicles or qualifying components for  
20 those vehicles; or

21 (B) engineering integration, performed in  
22 the United States, relating to those vehicles and  
23 components that are produced in the United  
24 States.



1           (2) CAFE REQUIREMENTS.—No grant shall be  
2 provided under subsection (d) to an automobile man-  
3 ufacturer that, directly or through a parent, sub-  
4 sidiary, or affiliated entity, is not in compliance with  
5 each applicable corporate average fuel standard  
6 under section 32902 of title 49, United States Code,  
7 as in effect on the date on which the grant is pro-  
8 vided.

9           (g) AVAILABILITY OF AUCTION PROCEEDS.—

10           (1) OTHER ASSISTANCE.—Not less than 20 per-  
11 cent of the proceeds of the auction conducted pursu-  
12 ant to subsection (c) shall be available to the Admin-  
13 istrator to provide assistance for the deployment, in-  
14 tegration, and use of advanced technology vehicles  
15 and plug-in electric drive or hybrid-electric, hybrid  
16 hydraulic, plug-in hybrid, electric, and fuel cell drive  
17 medium- and heavy-duty motor vehicles (including  
18 transit vehicles and over-road buses).

19           (2) NATIONAL TRANSPORTATION LOW-EMISSION  
20 ENERGY PLAN; PILOT PROGRAM.—Not less than 5  
21 percent of the proceeds of the auction conducted  
22 pursuant to subsection (c) shall be available to the  
23 Secretary to carry out section 1401.

1       **Subpart B—Powering Vehicles With Natural Gas**

2       **SEC. 4121. CREDIT FOR QUALIFIED NATURAL GAS MOTOR**  
3               **VEHICLES.**

4               (a) IN GENERAL.—

5                       (1) IN GENERAL.—Subsection (e) of section  
6               30B of the Internal Revenue Code of 1986 (relating  
7               to new qualified alternative fuel motor vehicle credit)  
8               is amended by adding at the end the following new  
9               paragraphs:

10                      “(6) SPECIAL RULES FOR QUALIFIED NATURAL  
11               GAS MOTOR VEHICLES.—

12                              “(A) IN GENERAL.—In the case of a quali-  
13               fied natural gas motor vehicle—

14                                      “(i) such motor vehicle shall be treat-  
15               ed as a new qualified alternative fuel motor  
16               vehicle under this subsection,

17                                      “(ii) paragraph (3) shall be applied by  
18               multiplying each of the dollar amounts  
19               contained in such paragraph by 2, and

20                                      “(iii) the credit allowed under this  
21               subsection shall be transferrable as pro-  
22               vided in subparagraph (B).

23                      “(B) TRANSFERABILITY OF CREDIT.—

24                              “(i) IN GENERAL.—A taxpayer who  
25               places in service qualified natural gas  
26               motor vehicle may transfer the credit al-

1           lowed under this subsection with respect to  
2           such vehicle through an assignment to the  
3           seller, the manufacturer, or the lessee of  
4           such vehicle. Such transfer may be revoked  
5           only with the consent of the Secretary.

6           “(ii) REGULATIONS.—The Secretary  
7           shall prescribe such regulations as nec-  
8           essary to ensure that any credit trans-  
9           ferred under clause (i) is claimed once and  
10          not reassigned by such other person.

11          “(7) QUALIFIED NATURAL GAS MOTOR VEHI-  
12          CLE.—

13           “(A) IN GENERAL.—For purposes of this  
14           subsection, the term ‘qualified natural gas  
15           motor vehicle’ means any motor vehicle—

16           “(i) which is described in subpara-  
17           graph (B), (C), or (D),

18           “(ii) the original use of which com-  
19           mences with the taxpayer,

20           “(iii) which is acquired by the tax-  
21           payer for use or lease, but not for resale,  
22           and

23           “(iv) which is placed in service before  
24           the date which is 10 years after the date  
25           of the enactment of this paragraph.

1                   “(B) HEAVY DUTY VEHICLES.—A motor  
2                   vehicle is described in this subparagraph if such  
3                   motor vehicle—

4                   “(i) is made by a manufacturer,

5                   “(ii) has a gross vehicle weight rating  
6                   of more than 8,500 pounds, and

7                   “(iii) is—

8                   “(I) only capable of operating on  
9                   compressed or liquified natural gas, or

10                   “(II) capable of operating for  
11                   more than 175 miles on 1 fueling of  
12                   compressed or liquified natural gas  
13                   and is capable of operating on gaso-  
14                   line or diesel fuel.

15                   “(C) LIGHT AND MEDIUM DUTY VEHI-  
16                   CLES.—A motor vehicle is described in this sub-  
17                   paragraph if such motor vehicle—

18                   “(i) is made by a manufacturer,

19                   “(ii) has a gross vehicle weight rating  
20                   of not more 8,500 pounds,

21                   “(iii) is—

22                   “(I) only capable of operating on  
23                   compressed or liquified natural gas, or

24                   “(II) capable of operating for  
25                   more than 175 miles on 1 fueling of

1                   compressed or liquified natural gas  
2                   and is capable of operating on gaso-  
3                   line or diesel fuel,

4                   “(iv) is of a character subject to de-  
5                   preciation, and

6                   “(v) is acquired by a taxpayer who—

7                   “(I) owns and operates not less  
8                   than 10 motor vehicles in the course  
9                   of a trade or business at the time of  
10                  the acquisition, and

11                  “(II) has placed in service more  
12                  than 2 motor vehicles described in  
13                  clauses (i) through (iv) or described in  
14                  subparagraph (D)(iii) after the date  
15                  of the enactment of this paragraph.

16                  “(D) CONVERTED OR REPOWERED VEHI-  
17                  CLES.—

18                  “(i) IN GENERAL.—A motor vehicle is  
19                  described in this subparagraph if such  
20                  motor vehicle is a motor vehicle described  
21                  in clause (ii) or clause (iii) which is con-  
22                  verted or repowered so that it—

23                  “(I) is only capable of operating  
24                  on compressed or liquified natural  
25                  gas, or

1                   “(II) is capable of operating for  
2                   more than 175 miles on 1 fueling of  
3                   compressed or liquified natural gas  
4                   and is capable of operating on gaso-  
5                   line or diesel fuel, is capable of oper-  
6                   ating on compressed or liquefied nat-  
7                   ural gas.

8                   “(ii) HEAVY DUTY VEHICLES.—A  
9                   motor vehicle is described in this clause if  
10                  such motor vehicle—

11                   “(I) has a gross vehicle weight  
12                   rating of more than 8,500 pounds,  
13                   and

14                   “(II) was not capable of oper-  
15                   ating on compressed or liquified nat-  
16                   ural gas before the date of such con-  
17                   version or repower.

18                   “(iii) LIGHT AND MEDIUM DUTY VE-  
19                   HICLES.—A motor vehicle is described in  
20                  this clause if such motor vehicle—

21                   “(I) has a gross vehicle weight  
22                   rating of not more 8,500 pounds,

23                   “(II) was not capable of oper-  
24                   ating on compressed or liquified nat-

1                   ural gas before the date of such con-  
2                   version or repower,

3                   “(III) is of a character subject to  
4                   depreciation,

5                   “(IV) is acquired by a taxpayer  
6                   who owns and operates not less than  
7                   10 motor vehicles in the course of a  
8                   trade or business at the time of the  
9                   acquisition, and

10                   “(V) is acquired by a taxpayer  
11                   who has placed in service more than 2  
12                   motor vehicles described in subclauses  
13                   (I) through (III) or described in sub-  
14                   paragraph (C) after the date of the  
15                   enactment of this paragraph.

16                   “(iv) SPECIAL RULES.—

17                   “(I) TREATMENT AS NEW.—For  
18                   purposes of this subsection, the origi-  
19                   nal use of any motor vehicle described  
20                   in clause (i) shall be treated as begin-  
21                   ning with the first use after the date  
22                   of the conversion or repower.

23                   “(II) RULE OF CONSTRUC-  
24                   TION.—In the case of a used vehicle  
25                   which is converted or repowered, noth-

1                   ing in this section shall be construed  
2                   to require that the motor vehicle be  
3                   acquired in the year the credit is  
4                   claimed under this section with re-  
5                   spect to such vehicle.

6                   “(E) SPECIAL RULE.—For purposes of  
7                   this subsection, in the case of a motor vehicle  
8                   which—

9                   “(i) is described in subparagraph (C)  
10                  or (D)(iii),

11                  “(ii) is placed in service after the date  
12                  of the enactment of this paragraph, and

13                  “(iii) is placed in service by a tax-  
14                  payer in a taxable year prior to the taxable  
15                  year in which such taxpayer places in serv-  
16                  ice the third such motor vehicle described  
17                  in subparagraph (C) or (D)(iii) after such  
18                  date of enactment.

19                  such motor vehicle shall be treated as placed in  
20                  service in the taxable year in which such third  
21                  motor vehicle is placed in service.”.

22                  (2) CONFORMING AMENDMENT.—Subparagraph  
23                  (B) of section 30B(e)(5) of such Code is amended  
24                  by inserting “(other than a qualified natural gas  
25                  motor vehicle)” after “paragraph (3)”.



1 (b) MIXED-FUEL VEHICLES.—Subparagraph (C) of  
2 section 30B(e)(5) of the Internal Revenue Code of 1986  
3 is amended by striking “a mixed-fuel vehicle which oper-  
4 ates using” and all that follows and inserting “a mixed-  
5 fuel vehicle which—

6 “(i) in the case of such a vehicle  
7 which is capable of operating on com-  
8 pressed or liquified natural gas, operates  
9 using at least 65 percent compressed or  
10 liquified natural gas and not more than 35  
11 percent petroleum-based fuel, and

12 “(ii) in the case of any other such ve-  
13 hicle, operates using at least 75 percent al-  
14 ternative fuel and not more than 25 per-  
15 cent petroleum-based fuel.”.

16 (c) ALTERNATIVE MINIMUM TAX TREATMENT.—  
17 Subparagraph (B) of section 38(c)(4) of the Internal Rev-  
18 enue Code of 1986, as amended by this Act, is amended  
19 by redesignating clauses (i) through (ix) as clauses (ii)  
20 through (x), respectively, and by inserting after before  
21 clause (ii) (as so redesignated) the following new clause:

22 “(i) the amount of the credit deter-  
23 mined under section 30B which is attrib-  
24 utable to a qualified natural gas motor ve-  
25 hicle (as defined in section 30B(e)(7)).”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 the date of the enactment of this Act.

4 **SEC. 4122. NATURAL GAS VEHICLE BONDS.**

5 (a) IN GENERAL.—Subpart I of part IV of sub-  
6 chapter A of chapter 1 (relating to qualified tax credit  
7 bonds) of the Internal Revenue Code of 1986 is amended  
8 by adding at the end the following new section:

9 **“SEC. 54G. NATURAL GAS VEHICLE BONDS.**

10 “(a) NATURAL GAS VEHICLE BOND.—For purposes  
11 of this subpart, the term ‘natural gas vehicle bond’ means  
12 any bond issued as part of an issue if—

13 “(1) 100 percent of the available project pro-  
14 ceeds of such issue are to be used for capital expend-  
15 itures incurred by a governmental body for 1 or  
16 more qualified natural gas vehicle projects placed in  
17 service by such governmental body primarily for gov-  
18 ernmental or public use,

19 “(2) the bond is issued by a governmental body,

20 “(3) the issuer designates such bond for pur-  
21 poses of this section, and

22 “(4) in lieu of the requirements of section  
23 54A(d)(2), the issue meets the requirements of sub-  
24 section (c).

1       “(b) LIMITATION ON AMOUNT OF BONDS DES-  
2   IGNATED.—

3           “(1) IN GENERAL.—The maximum aggregate  
4   face amount of bonds which may be designated  
5   under subsection (a) by any issuer shall not exceed  
6   the limitation amount allocated under this sub-  
7   section to such issuer.

8           “(2) NATIONAL LIMITATION ON AMOUNT OF  
9   BONDS DESIGNATED.—There is a national natural  
10  gas vehicle bond limitation of \$3,000,000,000.

11          “(3) ALLOCATION BY SECRETARY.—The Sec-  
12  retary shall allocate the amount described in para-  
13  graph (2) among qualified natural gas vehicle  
14  projects in such manner as the Secretary determines  
15  appropriate.

16       “(c) SPECIAL RULES RELATING TO EXPENDI-  
17  TURES.—

18           “(1) IN GENERAL.—An issue shall be treated as  
19  meeting the requirements of this subsection if, as of  
20  the date of issuance, the issuer reasonably expects—

21           “(A) 100 percent or more of the available  
22  project proceeds of such issue are to be spent  
23  for 1 or more qualified natural gas vehicle  
24  projects within the 5-year period beginning on

1           the date of issuance of the natural gas vehicle  
2           bond,

3           “(B) a binding commitment with a third  
4           party to spend at least 10 percent of such avail-  
5           able project proceeds will be incurred within the  
6           6-month period beginning on the date of  
7           issuance of the natural gas vehicle bond, and

8           “(C) such projects will be completed with  
9           due diligence and such available project pro-  
10          ceeds will be spent with due diligence.

11          “(2) EXTENSION OF PERIOD.—Upon submis-  
12          sion of a request prior to the expiration of the period  
13          described in paragraph (1)(A), the Secretary may  
14          extend such period if the issuer establishes that the  
15          failure to satisfy the 5-year requirement is due to  
16          reasonable cause and the related projects will con-  
17          tinue to proceed with due diligence.

18          “(3) FAILURE TO SPEND REQUIRED AMOUNT  
19          OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-  
20          tent that less than 100 percent of the available  
21          project proceeds of such issue are expended by the  
22          close of the 5-year period beginning on the date of  
23          issuance (or if an extension has been obtained under  
24          paragraph (2), by the close of the extended period),  
25          the issuer shall redeem all of the nonqualified bonds

1 within 90 days after the end of such period. For  
2 purposes of this paragraph, the amount of the non-  
3 qualified bonds required to be redeemed shall be de-  
4 termined in the same manner as under section 142.

5 “(d) GOVERNMENTAL BODY.—For purposes of this  
6 section, the term ‘governmental body’ means any State,  
7 territory, possession of the United States, the District of  
8 Columbia, Indian tribal government, and any political sub-  
9 division thereof.

10 “(e) QUALIFIED NATURAL GAS VEHICLE  
11 PROJECT.—For purposes of this subpart, the term ‘quali-  
12 fied natural gas vehicle project’ means—

13 “(1) 1 or more qualified natural gas vehicles  
14 (as defined in section 30B(e)(7)), or

15 “(2) 1 or more qualified alternative fuel vehicle  
16 refueling properties which are used to store and or  
17 dispense compressed or liquefied natural gas (within  
18 the meaning of section 30C(c)).

19 “(f) TERMINATION.—This section shall not apply  
20 with respect to any bond issued after December 31,  
21 2019.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Paragraph (1) of section 54A(d) of the In-  
24 ternal Revenue Code of 1986 is amended by striking  
25 “or” at the end of subparagraph (D), by inserting

1 “or” at the end of subparagraph (E), and by insert-  
2 ing after subparagraph (E) the following new sub-  
3 paragraph:

4 “(F) a natural gas vehicle bond,”.

5 (2) Subparagraph (C) of section 54A(d)(2) of  
6 such Code is amended by striking “and” at the end  
7 of clause (iv), by striking the period at the end of  
8 clause (v) and inserting “, and”, and by adding at  
9 the end the following new clause:

10 “(vi) in the case of a natural gas vehi-  
11 cle bond, a purpose specified in section  
12 54G(a)(1).”.

13 (c) CLERICAL AMENDMENT.—The table of sections  
14 for subpart I of part IV of subchapter A of chapter 1 of  
15 such Code is amended by adding at the end the following  
16 new item:

“Sec. 54G. Natural gas vehicle bonds.”.

17 (d) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to bonds issued after the date of  
19 the enactment of this Act.

20 **SEC. 4123. INCENTIVES FOR MANUFACTURING FACILITIES**  
21 **PRODUCING VEHICLES FUELED BY COM-**  
22 **PRESSED OR LIQUIFIED NATURAL GAS.**

23 (a) DEDUCTION FOR MANUFACTURING FACILI-  
24 TIES.—Part VI of subchapter B of chapter 1 of the Inter-  
25 nal Revenue Code of 1986 (relating to itemized deductions

1 for individuals and corporations) is amended by inserting  
2 after section 179E the following new section:

3 **“SEC. 179F. EXPENSING FOR MANUFACTURING FACILITIES**  
4 **PRODUCING VEHICLES FUELED BY COM-**  
5 **PRESSED NATURAL GAS OR LIQUIFIED NAT-**  
6 **URAL GAS.**

7 “(a) TREATMENT AS EXPENSES.—A taxpayer may  
8 elect to treat the applicable percentage of the cost of any  
9 qualified natural gas vehicle manufacturing facility prop-  
10 erty as an expense which is not chargeable to a capital  
11 account. Any cost so treated shall be allowed as a deduc-  
12 tion for the taxable year in which the qualified manufac-  
13 turing facility property is placed in service.

14 “(b) APPLICABLE PERCENTAGE.—For purposes of  
15 subsection (a), the applicable percentage is—

16 “(1) 100 percent, in the case of qualified nat-  
17 ural gas vehicle manufacturing facility property  
18 which is placed in service before January 1, 2015,  
19 and

20 “(2) 50 percent, in the case of qualified natural  
21 gas vehicle manufacturing facility property which is  
22 placed in service after December 31, 2014, and be-  
23 fore January 1, 2020.

24 “(c) ELECTION.—

1           “(1) IN GENERAL.—An election under this sec-  
2           tion for any taxable year shall be made on the tax-  
3           payer’s return of the tax imposed by this chapter for  
4           the taxable year. Such election shall be made in such  
5           manner as the Secretary may by regulations pre-  
6           scribe.

7           “(2) ELECTION IRREVOCABLE.—Any election  
8           made under this section may not be revoked except  
9           with the consent of the Secretary.

10          “(d) QUALIFIED NATURAL GAS VEHICLE MANUFAC-  
11          TURING FACILITY PROPERTY.—For purposes of this sec-  
12          tion—

13           “(1) IN GENERAL.—The term ‘qualified natural  
14           gas vehicle manufacturing facility property’ means  
15           any qualified property—

16           “(A) the original use of which commences  
17           with the taxpayer,

18           “(B) which is placed in service by the tax-  
19           payer after the date of the enactment of this  
20           section and before January 1, 2020, and

21           “(C) no written binding contract for the  
22           construction of which was in effect on or before  
23           the date of the enactment of this section.

24          “(2) QUALIFIED PROPERTY.—



1           “(A) IN GENERAL.—The term ‘qualified  
2           property’ means any property which is a facility  
3           or a portion of a facility used for the production  
4           of—

5                   “(i) any qualified natural gas vehicles  
6                   (as defined in section 30B(e)(7)), or

7                   “(ii) any eligible component.

8           “(B) ELIGIBLE COMPONENT.—The term  
9           ‘eligible component’ means any component  
10           which is designed specifically for use in such a  
11           qualified natural gas vehicle.

12           “(e) SPECIAL RULE FOR DUAL USE PROPERTY.—

13                   “(1) IN GENERAL.—In the case of any qualified  
14           natural gas vehicle manufacturing facility property  
15           which is used to produce both property described in  
16           clauses (i) and (ii) of subsection (d)(2)(A) and prop-  
17           erty which is not so described, the amount of costs  
18           taken into account under subsection (a) shall be re-  
19           duced by an amount equal to—

20                   “(A) the total amount of such costs (deter-  
21                   mined before the application of this subsection),  
22                   multiplied by

23                   “(B) the percentage of property expected  
24                   to be produced which is not so described.

1           “(2) REGULATIONS.—The Secretary shall pre-  
2           scribe such regulations as are necessary to carry out  
3           the purpose of this subsection.”.

4           (b) REFUND OF CREDIT FOR PRIOR YEAR MINIMUM  
5           TAX LIABILITY.—Section 53 of the Internal Revenue  
6           Code of 1986 (relating to credit for prior year minimum  
7           tax liability) is amended by adding at the end the following  
8           new subsection:

9           “(g) ELECTION TO TREAT AMOUNTS ATTRIBUTABLE  
10          TO QUALIFIED MANUFACTURING FACILITY.—

11           “(1) IN GENERAL.—In the case of an eligible  
12           taxpayer, the amount determined under subsection  
13           (c) for the taxable year (after the application of sub-  
14           section (e)) shall be increased by an amount equal  
15           to the applicable percentage of any qualified natural  
16           gas vehicle manufacturing facility property which is  
17           placed in service during the taxable year.

18           “(2) APPLICABLE PERCENTAGE.—For purposes  
19           of paragraph (1), the applicable percentage is—

20           “(A) 35 percent, in the case of qualified  
21           natural gas vehicle manufacturing facility prop-  
22           erty which is placed in service before January  
23           1, 2015, and

24           “(B) 17.5 percent, in the case of qualified  
25           natural gas vehicle manufacturing facility prop-

1           erty which is placed in service after December  
2           31, 2014, and before January 1, 2020.

3           “(3) ELIGIBLE TAXPAYER.—For purposes of  
4           this subsection, the term ‘eligible taxpayer’ means  
5           any taxpayer—

6                   “(A) who places in service qualified natural  
7                   gas vehicle manufacturing facility property dur-  
8                   ing the taxable year,

9                   “(B) who does not make an election under  
10                  section 179F(c), and

11                  “(C) who makes an election under this  
12                  subsection.

13           “(4) OTHER DEFINITIONS AND SPECIAL  
14           RULES.—

15                   “(A) QUALIFIED NATURAL GAS VEHICLE  
16                   MANUFACTURING FACILITY PROPERTY.—The  
17                   term ‘qualified natural gas vehicle manufac-  
18                   turing facility property’ has the meaning given  
19                   such term under section 179F(d).

20                   “(B) SPECIAL RULE FOR DUAL USE PROP-  
21                   PERTY.—In the case of any qualified natural gas  
22                   vehicle manufacturing facility property which is  
23                   used to produce both qualified property (as de-  
24                   fined in section 179F(d)) and other property  
25                   which is not qualified property, the amount of

1 costs taken into account under paragraph (1)  
2 shall be reduced by an amount equal to—

3 “(i) the total amount of such costs  
4 (determined before the application of this  
5 subparagraph), multiplied by

6 “(ii) the percentage of property ex-  
7 pected to be produced which is not quali-  
8 fied property.

9 “(C) ELECTION.—

10 “(i) IN GENERAL.—An election under  
11 this subsection for any taxable year shall  
12 be made on the taxpayer’s return of the  
13 tax imposed by this chapter for the taxable  
14 year. Such election shall be made in such  
15 manner as the Secretary may by regula-  
16 tions prescribe.

17 “(ii) ELECTION IRREVOCABLE.—Any  
18 election made under this subsection may  
19 not be revoked except with the consent of  
20 the Secretary.

21 “(5) CREDIT REFUNDABLE.—For purposes of  
22 this title (other than this section), the credit allowed  
23 by reason of this subsection shall be treated as if it  
24 were allowed under subpart C.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 4124. STUDY OF INCREASING NATURAL GAS AND LIQ-**  
5 **UEFIED PETROLEUM GAS VEHICLES IN FED-**  
6 **ERAL FLEET.**

7 (a) IN GENERAL.—The Administrator of General  
8 Services, in consultation with the Administrator and the  
9 Secretary, shall conduct a study of the means by which  
10 the Federal fleet could increase the number of light-, me-  
11 dium-, and heavy-duty natural gas and liquefied petroleum  
12 gas vehicles in the fleet.

13 (b) COMPONENTS.—In conducting the study, the Ad-  
14 ministrator of General Services shall—

15 (1) take into consideration Executive Order  
16 13514 (74 Fed. Reg. 52117; relating to Federal  
17 leadership in environmental, energy, and economic  
18 performance) requiring agencies to meet a 30 per-  
19 cent reduction in vehicle fleet petroleum use by  
20 2020;

21 (2) assess—

22 (A) the barriers to increasing the number  
23 of natural gas and liquefied petroleum gas vehi-  
24 cles in the Federal fleet;

1           (B) the potential for maximizing the use of  
2           natural gas and liquefied petroleum gas vehicles  
3           in the fleet;

4           (C) the expected reductions in petroleum  
5           use and greenhouse gas emissions as part of the  
6           potential impacts of increasing natural gas and  
7           liquefied petroleum in the fleet; and

8           (D) the lifecycle costs involved in fleet con-  
9           versions, including the cost savings from re-  
10          duced fuel consumption;

11          (3) provide a separate analysis of the potential  
12          costs of installing the specific fueling infrastructure  
13          required to increase natural gas and liquefied petro-  
14          leum gas in the fleet; and

15          (4) include feasibility assessments for increas-  
16          ing the number of light-, medium-, and heavy-duty  
17          natural gas and liquefied petroleum gas vehicles in  
18          the fleet over a base period of 10 years and acceler-  
19          ated periods of 3 and 5 years.

20          (c) REPORT.—Not later than 180 days after the date  
21          of enactment of this Act, the Administrator of General  
22          Services shall submit to the appropriate committees of  
23          Congress a report on the results of the study conducted  
24          under this section.

1                   **Subpart C—Community Information**

2   **SEC. 4131. NOTICE OF HYDRAULIC FRACTURING OPER-**  
3                   **ATIONS.**

4           Section 324 of the Emergency Planning and Commu-  
5   nity Right-To-Know Act of 1986 (42 U.S.C. 11044) is  
6   amending by adding at the end the following:

7           “(c) NOTICE OF HYDRAULIC FRACTURING OPER-  
8   ATIONS.—A hydraulic fracturing service company shall  
9   disclose all chemical constituents used in a hydraulic frac-  
10   turing operation to the public on the Internet in order to  
11   provide adequate information for the public and State and  
12   local authorities.”.

13           **Subpart D—Additional Greenhouse Gas Standards**

14   **SEC. 4141. EMISSION STANDARDS FOR MOBILE SOURCES.**

15           Title VIII of the Clean Air Act (as added by section  
16   1711(a)) is amended by adding at the end the following:

17   **“SEC. 804. GREENHOUSE GAS EMISSION STANDARDS FOR**  
18                   **MOBILE SOURCES.**

19           “(a) DEFINITION OF NONROAD ENGINES AND VEHI-  
20   CLES.—For purposes of this section and standards under  
21   paragraph (4) or (5) of section 213(a) applicable to emis-  
22   sions of greenhouse gases, the term ‘nonroad engines and  
23   vehicles’ includes noninternal combustion engines and the  
24   vehicles the engines power (such as electric engines and  
25   electric vehicles), if the noninternal combustion engines  
26   and vehicles are in the same category and have the same

1 uses as nonroad engines and vehicles that are powered by  
2 internal combustion engines.

3 “(b) NEW MOTOR VEHICLES AND NEW MOTOR VE-  
4 HICLE ENGINES.—

5 “(1) IN GENERAL.—Pursuant to section  
6 202(a)(1), not later than December 31, 2010, the  
7 Administrator shall promulgate standards applicable  
8 to emissions of greenhouse gases from new heavy-  
9 duty motor vehicles or new heavy-duty motor vehicle  
10 engines, excluding such motor vehicles that are cov-  
11 ered by the Tier II standards (as established by the  
12 Administrator as of the date of the enactment of  
13 this section).

14 “(2) REVISIONS.—The Administrator may re-  
15 vise the standards described in paragraph (1) from  
16 time to time.

17 “(3) EMISSION REDUCTIONS.—

18 “(A) IN GENERAL.—Regulations issued  
19 under section 202(a)(1) applicable to emissions  
20 of greenhouse gases from new heavy-duty motor  
21 vehicles or new heavy-duty motor vehicle en-  
22 gines, excluding such motor vehicles that are  
23 covered by the Tier II standards (as established  
24 by the Administrator as of the date of the en-  
25 actment of this section), shall contain standards



1           that reflect the greatest degree of emission re-  
2           duction achievable through the application of  
3           technology that the Administrator determines  
4           will be available for the model year to which the  
5           standards apply, giving appropriate consider-  
6           ation to cost, energy, and safety factors associ-  
7           ated with the application of the technology.

8           “(B) APPLICATION.—Any regulations de-  
9           scribed in subparagraph (A) shall—

10                   “(i) take effect after such period as  
11                   the Administrator finds necessary to per-  
12                   mit the development and application of the  
13                   requisite technology; and

14                   “(ii) at a minimum, apply for a period  
15                   of not less than 3 model years beginning  
16                   not earlier than the model year com-  
17                   mencing 4 years after the regulations are  
18                   promulgated.

19           “(c) NONROAD VEHICLES AND ENGINES.—

20                   “(1) IDENTIFICATION OF CLASSES OR CAT-  
21                   EGORIES.—

22                   “(A) IN GENERAL.—Pursuant to para-  
23                   graphs (4) and (5) of section 213(a), the Ad-  
24                   ministrators shall identify those classes or cat-  
25                   egories of new nonroad engines and vehicles, or

1 combinations of those classes or categories,  
2 that, in the judgment of the Administrator—

3 “(i) contribute significantly to the  
4 total emissions of greenhouse gases from  
5 nonroad engines and vehicles; and

6 “(ii) provide the greatest potential for  
7 significant and cost-effective reductions in  
8 emissions of greenhouse gases.

9 “(B) DEADLINE.—Not later than Decem-  
10 ber 31, 2012, the Administrator shall promul-  
11 gate standards applicable to emissions of green-  
12 house gases from the new nonroad engines and  
13 vehicles described in subparagraph (A)

14 “(2) OTHER CLASSES AND CATEGORIES OF  
15 NEW NONROAD ENGINES AND VEHICLES.—

16 “(A) IN GENERAL.—The Administrator  
17 shall promulgate standards applicable to emis-  
18 sions of greenhouse gases for such other classes  
19 and categories of new nonroad engines and ve-  
20 hicles as the Administrator determines appro-  
21 priate and in the timeframe the Administrator  
22 determines appropriate.

23 “(B) BASIS FOR DETERMINATION.—The  
24 Administrator shall base the determination de-  
25 scribed in subparagraph (A), among other fac-

1           tors, on the relative contribution of greenhouse  
2           gas emissions, and the costs for achieving re-  
3           ductions, from the classes or categories of new  
4           nonroad engines and vehicles.

5           “(3) REVISIONS.—The Administrator may re-  
6           vise standards established under this subsection  
7           from time to time.

8           “(4) EMISSION REDUCTIONS.—

9           “(A) IN GENERAL.—Standards under  
10          paragraphs (4) and (5) of section 213(a) appli-  
11          cable to emissions of greenhouse gases from  
12          classes or categories of new nonroad engines  
13          and vehicles described in paragraph (1) shall  
14          achieve the greatest degree of emission reduc-  
15          tion achievable based on the application of tech-  
16          nology that the Administrator determines will  
17          be available at the time the standards take ef-  
18          fect, taking into consideration cost, energy, and  
19          safety factors associated with the application of  
20          the technology.

21          “(B) APPLICATION.—Any regulations de-  
22          scribed in subparagraph (A) shall take effect on  
23          the earliest practicable date after such period as  
24          the Administrator finds necessary to permit the  
25          development and application of the requisite

1           technology, giving appropriate consideration  
2           to—

3                       “(i) the cost of compliance within the  
4                       period;

5                       “(ii) the applicable compliance dates  
6                       for other standards; and

7                       “(iii) other appropriate factors, in-  
8                       cluding—

9                               “(I) the period of time appro-  
10                              prium for the transfer of applicable  
11                              technology from other applications, in-  
12                              cluding motor vehicles; and

13                             “(II) the period of time during  
14                             which previously promulgated regula-  
15                             tions have been in effect.

16           “(d) AVERAGING, BANKING, AND TRADING OF EMIS-  
17           SIONS CREDITS.—

18                       “(1) IN GENERAL.—In establishing standards  
19                       applicable to emissions of greenhouse gases pursuant  
20                       to this section, section 202(a), paragraphs (4) and  
21                       (5) of section 213(a), and section 231(a), the Ad-  
22                       ministrators may establish provisions for averaging,  
23                       banking, and trading of greenhouse gas emissions  
24                       credits within or across classes or categories of  
25                       motor vehicles and motor vehicle engines, nonroad

1 vehicles and engines (including marine vessels), and  
2 aircraft and aircraft engines, to the extent the Ad-  
3 ministrator determines appropriate after considering  
4 the factors appropriate in setting standards under  
5 applicable provisions.

6 “(2) CREDITS.—The provisions described in  
7 paragraph (1) may include reasonable and appro-  
8 priate provisions concerning generation, banking,  
9 trading, duration, and use of credits.

10 “(e) MOTOR VEHICLE EMISSION STANDARDS.—To  
11 ensure continued progress in significantly improving  
12 motor vehicle fuel efficiency and reducing greenhouse gas  
13 emissions, the Administrator and the Administrator of the  
14 National Highway Transportation Safety Administration  
15 shall, in consultation with the State of California and rep-  
16 resentatives of the automotive industry and other relevant  
17 parties, use current authorities to set motor vehicle stand-  
18 ards for model years after the 2016 model year that reflect  
19 the greatest emission reductions and fuel efficiency im-  
20 provement achievable through the application of tech-  
21 nology that the Administrators determine will be available  
22 for the model year to which the standards apply, consid-  
23 ering cost, energy, and safety factors associated with the  
24 application of the technology and other factors as appro-  
25 priate under the authorities.

1       “(f) REPORTS.—The Administrator shall, from time  
2 to time, submit to Congress a report that projects the  
3 quantity of greenhouse gas emissions from the transpor-  
4 tation sector, including transportation fuels, for the years  
5 2030 and 2050, based on the standards adopted under  
6 this section.

7       “(g) GREENHOUSE GASES.—Notwithstanding section  
8 711, hydrofluorocarbons shall be considered a greenhouse  
9 gas for purposes of this section.”.

### 10                                   **PART III—AGRICULTURE**

#### 11 **SEC. 4151. DEFINITIONS.**

12       In this part:

13           (1) FUND.—The term “Fund” means the Car-  
14 bon Conservation Fund established under section  
15 4153.

16           (2) PROGRAM.—The term “program” means  
17 the carbon conservation program established under  
18 section 4152.

19           (3) SECRETARIES.—The term “Secretaries”  
20 means the Secretary of Agriculture and Secretary of  
21 the Interior, as appropriate.

#### 22 **SEC. 4152. CARBON CONSERVATION PROGRAM.**

23       (a) IN GENERAL.—The Secretary of Agriculture shall  
24 establish, and jointly administer with the Secretary of the  
25 Interior, a carbon conservation program for the purpose

1 of promoting greenhouse gas emission reductions or car-  
2 bon sequestration.

3 (b) FORESTRY ACTIVITIES.—The Secretary of Agri-  
4 culture shall designate the Chief of the Forest Service to  
5 carry out all forestry-related components of the program.

6 (c) PURPOSES.—

7 (1) IN GENERAL.—In carrying out the program,  
8 the Secretaries shall provide incentives to land-  
9 owners or grazing contractor holders to carry out  
10 projects or activities that reduce greenhouse gas  
11 emissions or sequester or permanently store carbon.

12 (2) ADMINISTRATION.—In administering the  
13 program, the Secretaries shall ensure that projects  
14 or activities conducted under this part—

15 (A) do not receive offset credits for the  
16 same activity under part D of title VII of the  
17 Clean Air Act;

18 (B) reward the continuation of practices by  
19 early adopters of conservation practices (includ-  
20 ing no-till agricultural practices) that provide  
21 carbon sequestration benefits;

22 (C) support the development of new meth-  
23 odologies for landowners to participate in offset  
24 projects under that part;

1 (D) ensure that individuals and entities  
2 that took action prior to the implementation of  
3 the offset program under part D of title VII of  
4 the Clean Air Act, and do not qualify for early  
5 offset credits under section 750 of that Act, are  
6 not placed at a competitive disadvantage;

7 (E) improve management of privately-  
8 owned agricultural land, grassland, and forest  
9 land that results in an increase in carbon se-  
10 questration;

11 (F) avoid conversion of land (including na-  
12 tive grassland, native prairie, rangeland, crop-  
13 land, or forest land) that would result in an in-  
14 crease of greenhouse gas emissions or a loss of  
15 carbon sequestration; and

16 (G) encourage improvements and manage-  
17 ment practices that include sequestration bene-  
18 fits on Federal land and private land.

19 (d) METHODS.—

20 (1) IN GENERAL.—In carrying out the program,  
21 the Secretaries shall provide incentives for projects  
22 or activities that reduce greenhouse gas emissions or  
23 sequester carbon through—

24 (A) conservation easements;

25 (B) sequestration contracts;



1 (C) timber harvest or grazing contracts  
2 with the Department of Agriculture or the De-  
3 partment of the Interior, as appropriate; or

4 (D) any combination of the methods de-  
5 scribed in this paragraph.

6 (2) INELIGIBILITY FOR OFFSET CREDITS.—  
7 Projects or activities undertaken as part of the pro-  
8 gram shall not be eligible for offset credits under  
9 part D of title VII of the Clean Air Act for the du-  
10 ration of the projects or activities.

11 (e) CONSERVATION EASEMENTS.—

12 (1) IN GENERAL.—The Secretary of Agriculture  
13 shall enroll acreage into the program through the  
14 use of permanent easements.

15 (2) REQUIREMENTS.—To be eligible for enroll-  
16 ment under this part, conservation easements estab-  
17 lished under this subsection shall—

18 (A) provide a measurable carbon seques-  
19 tration benefit; and

20 (B) meet the requirements of part VI of  
21 subchapter B of chapter 1 of subtitle A of the  
22 Internal Revenue Code of 1986 and section  
23 170(h)(4) of that Code.

24 (3) PRIORITY.—In selecting projects for con-  
25 servation easements, the Secretary of Agriculture

1 shall provide a priority for conservation easements  
2 that sequester carbon and protect forested land or  
3 working forest land, or protect native prairie or na-  
4 tive grassland, within the boundary of a working  
5 farm or ranch.

6 (f) CARBON SEQUESTRATION CONTRACTS.—

7 (1) IN GENERAL.—The Secretary of Agriculture  
8 may offer carbon sequestration contracts under the  
9 program for a period of 10 years to farmers, ranch-  
10 ers, and forest owners who perform projects or ac-  
11 tivities to reduce greenhouse gas emissions or se-  
12 quester carbon.

13 (2) WITHDRAWAL.—A nonforestry contract  
14 holder may withdraw from a contract under this  
15 subsection without penalty after 5 years.

16 (3) COMPENSATION.—The amount of com-  
17 pensation provided under a contract under this sub-  
18 section shall be commensurate with the emission re-  
19 ductions obtained or avoided and the duration of the  
20 reductions.

21 (4) PRIORITY.—In selecting projects under this  
22 subsection during each of fiscal years 2012 through  
23 2015, the Secretary of Agriculture shall provide a  
24 priority for—

1 (A) contracts entered into with early  
2 adopters of conservation practices (such as no-  
3 till agricultural practices), improved forest man-  
4 agement, or other greenhouse gas emission re-  
5 ductions projects; and

6 (B) contracts that sequester the most car-  
7 bon on a per acre basis.

8 (5) CONTRACT.—A contract under this sub-  
9 section shall specify—

10 (A) the eligible practices that will be un-  
11 dertaken;

12 (B) the acreage of eligible land on which  
13 the practices will be undertaken;

14 (C) the agreed rate of compensation per  
15 acre; and

16 (D) a schedule to verify that the terms of  
17 the contract have been fulfilled.

18 (6) FUTURE REDUCTIONS.—If the term of a  
19 contract for a sequestration project under this sub-  
20 section has expired, future reductions under the  
21 project may be eligible to receive carbon offset cred-  
22 its if the project and associated reductions meet all  
23 applicable offsets criteria under part D of title VII  
24 of the Clean Air Act.

1           (7) REVERSALS.—In developing regulations for  
2 carbon sequestration contracts under this subsection,  
3 the Secretary of Agriculture shall specify require-  
4 ments to address intentional or unintentional rever-  
5 sal of carbon sequestration during the contract pe-  
6 riod.

7           (g) INCENTIVES IN TIMBER HARVEST CONTRACTS.—

8           (1) IN GENERAL.—The Secretaries shall offer  
9 financial incentives under the program through tim-  
10 ber harvest contracts entered into by the Forest  
11 Service or the Bureau of Land Management (as ap-  
12 propriate) for projects or management activities that  
13 sequester carbon or reduce greenhouse gas emis-  
14 sions.

15           (2) COMPENSATION.—The amount of com-  
16 pensation provided under this subsection shall be  
17 commensurate with—

18                   (A) the emission reductions obtained or  
19 avoided; and

20                   (B) the estimate of the cost of the project  
21 or activities undertaken.

22           (h) INCENTIVES IN GRAZING CONTRACTS.—

23           (1) IN GENERAL.—The Secretaries shall offer  
24 incentives to leaseholders through grazing contracts  
25 entered into by the Forest Service or the Bureau of

1 Land Management (as appropriate) for projects or  
2 activities that sequester carbon or reduce greenhouse  
3 gas emissions.

4 (2) COMPENSATION.—The amount of com-  
5 pensation provided under this subsection shall be  
6 commensurate with—

7 (A) the emission reductions obtained or  
8 avoided; and

9 (B) the estimate of the cost of the project  
10 or activities undertaken.

11 (i) DISTRIBUTION OF AMOUNTS.—Of the amounts  
12 provided to carry out the program for a fiscal year, at  
13 least 30 percent of the amount shall be used for conserva-  
14 tion easements described in subsection (e).

15 (j) PROGRAM MEASUREMENT, MONITORING, AND  
16 REPORTING REQUIREMENTS.—

17 (1) IN GENERAL.—The Secretaries shall submit  
18 to the Administrator of the Environmental Protec-  
19 tion Agency annual reports that describe—

20 (A) the total number of tons of carbon di-  
21 oxide sequestered or the total number of tons of  
22 emissions avoided under the program through  
23 conservation easements, sequestration contracts,  
24 or other methods on an annual and cumulative  
25 basis;

1 (B) any reversals of sequestration; and

2 (C) the total number of acres enrolled in  
3 the program by method and a State-by-State  
4 summary of the data.

5 (2) PUBLIC AVAILABILITY.—The Administrator  
6 of the Environmental Protection Agency shall make  
7 each report required under this subsection available  
8 to the public through the website of the Environ-  
9 mental Protection Agency.

10 (k) COORDINATION.—

11 (1) SECRETARY OF AGRICULTURE.—The Sec-  
12 retary of Agriculture shall coordinate activities  
13 under the program with the activities of the Sec-  
14 retary of Agriculture in carrying out—

15 (A) the conservation reserve program es-  
16 tablished under subchapter B of chapter 1 of  
17 subtitle D of title XII of the Food Security Act  
18 of 1985 (16 U.S.C. 3831 et seq.);

19 (B) the wetlands reserve program estab-  
20 lished under subchapter C of chapter 1 of sub-  
21 title D of title XII of that Act (16 U.S.C. 3837  
22 et seq.);

23 (C) the farmland protection program es-  
24 tablished under subchapter C of chapter 2 of  
25 subtitle D of title XII of that Act (16 U.S.C.

1           3838h et seq.) (commonly known as the “Farm  
2           and Ranch Lands Protection Program”);

3           (D) the grassland reserve program estab-  
4           lished under subchapter D of chapter 2 of sub-  
5           title D of title XII of that Act (16 U.S.C.  
6           3838n et seq.);

7           (E) the State and private forestry pro-  
8           grams of the Forest Service;

9           (F) the healthy forests reserve program es-  
10          tablished under section 501 of the Healthy For-  
11          ests Restoration Act of 2003 (16 U.S.C. 6571);

12          and

13          (G) other applicable programs.

14          (2) SECRETARY OF THE INTERIOR.—The Sec-  
15          retary of the Interior shall coordinate activities  
16          under the program with the activities of the Sec-  
17          retary of the Interior in carrying out—

18               (A) programs funded through the Land  
19               and Water Conservation Fund Act of 1965 (16  
20               U.S.C. 460l-4 et seq.);

21               (B) any applicable climate adaptation pro-  
22               grams; and

23               (C) other applicable programs.

24          (l) REVIEWS.—

1           (1) IN GENERAL.—Not later than 5 years after  
2           the date of enactment of this Act and every 5 years  
3           thereafter, the Secretaries shall—

4                   (A) conduct a review of the activities car-  
5                   ried out under this part; and

6                   (B) make any appropriate changes in the  
7                   program, in a manner consistent with this sec-  
8                   tion, based on the findings of the review.

9           (2) REVIEW.—Each review shall include a re-  
10          view of—

11                   (A) total emission reductions and seques-  
12                   tration achieved by activity type;

13                   (B) the net effect on average farm income  
14                   by activity type;

15                   (C) the potential for future emission reduc-  
16                   tions and sequestration by activity type; and

17                   (D) recommended changes to the program  
18                   based on the review.

19 **SEC. 4153. CARBON CONSERVATION FUND.**

20          (a) ESTABLISHMENT.—There is established in the  
21 Treasury a separate account, to be known as the “Carbon  
22 Conservation Fund”, to carry out this part.

23          (b) AVAILABILITY.—All amounts deposited into the  
24 Fund shall be available without further appropriation or  
25 fiscal year limitation.



1 (c) USE.—The Secretary shall use amounts in the  
2 Fund to carry out this part.

3 **PART IV—MANUFACTURING AND TECHNOLOGY**

4 **SEC. 4161. LOW-CARBON INDUSTRIAL TECHNOLOGIES RE-**  
5 **SEARCH AND DEVELOPMENT.**

6 (a) ESTABLISHMENT.—

7 (1) IN GENERAL.—Not later than 180 days  
8 after the date of enactment of this Act, the Sec-  
9 retary of Commerce (referred to in this section as  
10 the “Secretary”) shall establish a federally funded  
11 research and development center to support develop-  
12 ment and demonstration of technology that provides  
13 immediate and long-term direct improvement in the  
14 competitiveness of and job creation in the domestic  
15 manufacturing sector.

16 (2) DESIGNATION.—The research and develop-  
17 ment center established under paragraph (1) shall  
18 be known as the “National Industrial Innovation  
19 Institute” (referred to in this section as the “Insti-  
20 tute”).

21 (b) LOCATION.—The Institute shall be located in a  
22 facility owned and operated by a nongovernmental organi-  
23 zation selected by the Secretary.

24 (c) MANAGEMENT AND OPERATIONS.—The Secretary  
25 shall enter into an agreement with a nongovernmental

1 nonprofit organization to manage and operate the Insti-  
2 tute.

3 (d) ACTIVITIES.—The Institute shall carry out re-  
4 search and development projects to accelerate and achieve  
5 technology demonstration and deployment that—

6 (1) improves the efficiency and competitiveness  
7 of domestic manufacturers; and

8 (2) reduces the energy consumption and green-  
9 house gas emissions of domestic manufacturers.

10 (e) COLLABORATION.—

11 (1) IN GENERAL.—The Institute shall collabo-  
12 rate with—

13 (A) national research and development or-  
14 ganizations, including research universities and  
15 nongovernmental organizations, that—

16 (i) have technology research, develop-  
17 ment, and commercialization expertise; and

18 (ii) regularly partner with manufac-  
19 turers for the development of improved  
20 products, processes, and technology; and

21 (B) on a cost-sharing basis, industry part-  
22 ners to carry out the research and development  
23 under subsection (d).

1           (2) TERMS.—Collaboration under paragraph  
2           (1)(B) shall be carried out under such terms as the  
3           Secretary considers appropriate—

4                   (A) to encourage and facilitate industry  
5           transformation through the acceleration of in-  
6           novation in research, development, and deploy-  
7           ment; and

8                   (B) to ensure effective, efficient, and rapid  
9           collaborative efforts by the Institute and indus-  
10          try partners, including such terms for industry  
11          participation and the management and disposi-  
12          tion of intellectual property as the Secretary  
13          considers to be appropriate to facilitate domes-  
14          tic job creation and rapid adoption of innova-  
15          tions arising from the operation of the Insti-  
16          tute.

17          (f) INTERAGENCY COORDINATION.—Not later than  
18          180 days after the date of enactment of this Act, the Sec-  
19          retary of Commerce and the Secretary of Energy shall  
20          enter into a memorandum of understanding to improve the  
21          competitiveness of domestic manufacturing through tech-  
22          nology innovation and deployment by facilitating collabo-  
23          ration between—

24                   (1) the Hollings Manufacturing Partnership  
25          Program of the Department of Commerce;

1           (2) the Industrial Technologies Program of the  
2           Department of Energy; and

3           (3) any other Federal program the Secretary of  
4           Commerce and the Secretary of Energy consider ap-  
5           propriate.

6           (g) AUTHORIZATION OF APPROPRIATIONS.—There  
7           are authorized to be appropriated to carry out this section  
8           such sums as are necessary.

9           **SEC. 4162. TECHNICAL AMENDMENTS.**

10          (a) AMENDMENT TO NATIONAL INSTITUTE OF  
11          STANDARDS AND TECHNOLOGY ACT.—Section 25 of the  
12          National Institute of Standards and Technology Act (15  
13          U.S.C. 278k) is amended—

14               (1) in the first sentence of subsection (a), by  
15               striking “(hereafter in this Act referred to as the  
16               ‘Centers’)”; and

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

18               “(g) DESIGNATION.—

19                       “(1) HOLLINGS MANUFACTURING PARTNERSHIP  
20                       PROGRAM.—For purposes of this Act, the program  
21                       established under this section shall be known as the  
22                       ‘Hollings Manufacturing Partnership Program’.

23                       “(2) HOLLINGS MANUFACTURING EXTENSION  
24                       CENTERS.—For purposes of this Act, the Regional  
25                       Centers for the Transfer of Manufacturing Tech-

1 nology created and supported under subsection (a)  
2 shall be known as ‘Hollings Manufacturing Exten-  
3 sion Centers’ or ‘Centers’).”.

4 (b) AMENDMENT TO CONSOLIDATED APPROPRIA-  
5 TIONS ACT, 2005.—Title II of division B of the Consoli-  
6 dated Appropriations Act, 2005 (Public Law 108–447;  
7 118 Stat. 2879; 15 U.S.C. 278k note) is amended under  
8 the heading “INDUSTRIAL TECHNOLOGY SERVICES” by  
9 striking “2007: *Provided further*, That” and all that fol-  
10 lows through “Extension Centers.” and inserting “2007.”.

11 **TITLE V—INTERNATIONAL**  
12 **CLIMATE CHANGE ACTIVITIES**

13 **SEC. 5001. STATEMENT OF POLICY.**

14 It is the policy of the United States to—

15 (1) recognize that global climate change—

16 (A) is a potentially significant national and  
17 global security threat multiplier;

18 (B) is likely to exacerbate competition and  
19 conflict over agricultural, vegetative, marine,  
20 and water resources; and

21 (C) will likely result in increased displace-  
22 ment of people, poverty, and hunger within de-  
23 veloping countries;

1           (2) protect Americans from the impacts of cli-  
2           mate change through global reductions in green-  
3           house gas emissions;

4           (3) address the strategic, social, political, eco-  
5           nomic, cultural, and environmental consequences of  
6           global climate change that are likely to have dis-  
7           proportionate adverse impacts on developing coun-  
8           tries, which—

9                   (A) have less economic capacity to respond  
10                  to such impacts; and

11                   (B) are likely to pose long-term challenges  
12                  to the national security, foreign policy, and eco-  
13                  nomic interests of the United States;

14           (4) recognize the significant contributions of  
15           women in their communities and secure their in-  
16           volvement as primary stakeholders;

17           (5) take measures to address emissions from,  
18           and drivers of, deforestation as part of a global ef-  
19           fort to mitigate climate change;

20           (6) recognize that it is in the national interest  
21           of the United States to assist developing countries to  
22           reduce and ultimately halt emissions from deforest-  
23           ation in a manner consistent with preserving the  
24           rights and securing the involvement of indigenous  
25           peoples and forest-dependent communities, since—

1 (A) as primary stakeholders, indigenous  
2 peoples and forest-dependent communities are  
3 critical partners in efforts to reduce deforest-  
4 ation and degradation; and

5 (B) the participation and buy-in regarding  
6 related activities of such peoples and commu-  
7 nities is vital to the success, sustainability, and  
8 permanence of emission reductions;

9 (7) support the export deployment of clean en-  
10 ergy technologies through bilateral and multilateral  
11 financing mechanisms, since—

12 (A) many developing countries lack the fi-  
13 nancial and technical resources to adopt clean  
14 energy technologies;

15 (B) absent international support, the  
16 greenhouse gas emissions of such countries  
17 could continue to increase;

18 (C) investments in, and the deployment of,  
19 clean technology in developing countries could—

20 (i) be cost-effective;

21 (ii) enhance economic opportunities  
22 for the United States;

23 (iii) increase the demand for clean en-  
24 ergy products;

25 (iv) lower costs; and

1 (v) result in global greenhouse gas  
2 emissions reductions;

3 (D) intellectual property rights are a key  
4 driver of investment and research and develop-  
5 ment in, and the global deployment of, clean  
6 technologies;

7 (E) coordinated financial assistance from  
8 the United States could help catalyze and assist  
9 developing countries to adopt low-carbon and  
10 development pathways;

11 (8) provide assistance to developing countries  
12 with varying climate change adaptation and resil-  
13 ience needs among different communities and popu-  
14 lations, including impoverished communities, chil-  
15 dren, women, and indigenous peoples, since—

16 (A) countries most vulnerable to climate  
17 change, due to greater exposure to harmful im-  
18 pacts and lower capacity to adapt, are devel-  
19 oping countries with very low industrial green-  
20 house gas emissions that have contributed less  
21 to climate change than more affluent countries;

22 (B) to a much greater degree than devel-  
23 oped countries, developing countries rely on the  
24 natural ecosystems likely to be affected by cli-



1           mate change for sustenance, livelihoods, and  
2           economic growth and stability;

3           (C) many developing countries will face  
4           sharply decreasing yields from agriculture pro-  
5           duction because of climate change, which will—

6                   (i) undermine food security;

7                   (ii) necessitate substantial additional  
8           support for agricultural development and  
9           emergency response to food insecurity; and

10                   (iii) necessitate major shifts in pro-  
11           duction techniques to raise yields through  
12           low-input, sustainable, and biodiverse  
13           methods;

14           (9) provide predictable, stable, and sufficient fi-  
15           nancing to—

16                   (A) support global climate change goals;

17           and

18                   (B) leverage private financing mechanisms;

19           (10) engage in bilateral and multilateral ap-  
20           proaches to make progress towards securing global  
21           participation and action to—

22                   (A) mitigate greenhouse gas emissions;

23                   (B) adapt to the impacts of climate  
24           change, including enhanced agricultural produc-  
25           tivity and soil resilience;

1 (C) reduce emissions from deforestation  
2 and forest degradation; and

3 (D) provide the necessary financing to ac-  
4 complish these objectives; and

5 (11) recognize the strengths of the United Na-  
6 tions Framework Convention on Climate Change as  
7 a primary forum for agreement on global climate  
8 change.

9 **SEC. 5002. DEFINITIONS.**

10 In this title:

11 (1) ADMINISTRATOR.—Except as otherwise ex-  
12 pressly provided, the term “Administrator” means  
13 the Administrator of the United States Agency for  
14 International Development.

15 (2) BOARD.—The term “Board” means the  
16 Strategic Interagency Board on International Cli-  
17 mate Investment established under section 5003(a).

18 (3) DEFORESTATION.—The term “deforest-  
19 ation” means a change in land use from a forest to  
20 any other land use.

21 (4) DEVELOPING COUNTRY.—The term “devel-  
22 oping country” means a country eligible to receive  
23 official development assistance according to the in-  
24 come guidelines of the Development Assistance Com-

1       mittee of the Organization for Economic Coopera-  
2       tion and Development.

3           (5) EMISSIONS REDUCTIONS.—The term “emis-  
4       sions reductions” means greenhouse gas emissions  
5       reductions achieved from reduced or avoided defor-  
6       estation under this subtitle.

7           (6) FOREST.—The term “forest”—

8           (A) means a terrestrial ecosystem com-  
9       prised of native tree species generated and  
10      maintained primarily through natural ecological  
11      and evolutionary processes; and

12          (B) does not include plantations, such as  
13      crops of trees planted primarily by humans for  
14      the purposes of harvesting.

15          (7) FOREST DEGRADATION.—The term “forest  
16      degradation” is any reduction in the carbon stock of  
17      a forest due to the impact of human land-use activi-  
18      ties.

19          (8) INTACT FOREST.—The term “intact forest”  
20      means an unbroken expanse of natural ecosystems  
21      within the current global extent of forest cover  
22      that—

23           (A) covers an area of at least 500 square  
24      kilometers and is at least 10 kilometers in each  
25      direction; and

1           (B) contains forest and non-forest eco-  
2           systems minimally influenced by human eco-  
3           nomic activity and large enough that all native  
4           biodiversity, including viable populations of  
5           wide-ranging species, could be maintained.

6           (9) LEAKAGE PREVENTION ACTIVITIES.—The  
7           term “leakage prevention activities” means activities  
8           in developing countries that are directed at pre-  
9           serving existing forest carbon stocks, including for-  
10          ested wetlands and peatlands, that might, absent  
11          such activities, be lost through leakage.

12          (10) MOST VULNERABLE COMMUNITIES AND  
13          POPULATIONS.—The term “most vulnerable commu-  
14          nities and populations” means communities and pop-  
15          ulations that are at risk of substantial adverse im-  
16          pacts of climate change and have limited capacity to  
17          respond to the impacts, including women, impover-  
18          ished communities, children, and indigenous peoples.

19          (11) MOST VULNERABLE DEVELOPING COUN-  
20          TRIES.—The term “most vulnerable developing  
21          countries” means, as determined by the Adminis-  
22          trator, developing countries that are at risk of sub-  
23          stantial adverse impacts of climate change and have  
24          limited capacity to respond to the impacts, consid-

1       ering the approaches included in international trea-  
2       ties and agreements.

3           (12) NATIONAL DEFORESTATION REDUCTION  
4       ACTIVITIES.—The term “national deforestation re-  
5       duction activities” means activities in developing  
6       countries that reduce a quantity of greenhouse gas  
7       emissions from deforestation that is calculated by  
8       measuring actual emissions against a national defor-  
9       estation baseline established pursuant to paragraphs  
10      (1) and (2) of section 5004(e).

11          (13) PROGRAM.—The term “Program” means  
12      the International Climate Change Adaptation and  
13      Global Security Program established under section  
14      5005.

15          (14) SUBNATIONAL DEFORESTATION AND FOR-  
16      EST DEGRADATION REDUCTION ACTIVITIES.—The  
17      term “subnational deforestation and forest degrada-  
18      tion reduction activities” means activities in devel-  
19      oping countries that reduce a quantity of greenhouse  
20      gas emissions from deforestation and forest degrada-  
21      tion that are calculated by measuring actual emis-  
22      sions using an appropriate baseline, or an alternative  
23      determined under section 504(e)(2)(B), established  
24      by the Administrator that is less than national in  
25      scope.



1 (H) such other relevant officials as the  
2 President may designate.

3 (b) DUTIES.—The duties of the Board shall include  
4 assessing, monitoring, and evaluating the progress and  
5 contributions of relevant departments and agencies of the  
6 Federal Government in supporting financing for inter-  
7 national climate change activities.

8 **SEC. 5004. EMISSIONS REDUCTIONS THROUGH REDUCED**  
9 **DEFORESTATION.**

10 (a) AUTHORIZATION.—Not later than 2 years after  
11 the date of the enactment of this Act, the Administrator,  
12 in consultation with the Administrator of the Environ-  
13 mental Protection Agency, the Secretary of Agriculture,  
14 and the head of any other appropriate agency, shall estab-  
15 lish a program to provide assistance to reduce greenhouse  
16 gas emissions from deforestation in developing countries,  
17 in accordance with this title.

18 (b) OBJECTIVES.—The objectives of the program es-  
19 tablished under this section shall be to—

20 (1) achieve emissions reductions of at least  
21 720,000,000 tons of carbon dioxide equivalent in  
22 2020, a cumulative amount of at least  
23 6,000,000,000 tons of carbon dioxide equivalent by  
24 December 31, 2025, and additional emissions reduc-  
25 tions in subsequent years;

1           (2) build capacity to reduce deforestation at a  
2 national level in developing countries experiencing  
3 deforestation, including preparing developing coun-  
4 tries to participate in international markets for  
5 international offset credits for reduced emissions  
6 from deforestation;

7           (3) preserve existing forest carbon stocks in  
8 countries where such forest carbon may be vulner-  
9 able to international leakage, particularly in devel-  
10 oping countries with largely intact native forests;

11           (4) build the scientific knowledge and institu-  
12 tional capacity to help developing countries—

13               (A) monitor the effects of climate change  
14 on their forests;

15               (B) develop and implement strategies to  
16 conserve their forests; and

17               (C) support forest dependent communities  
18 adapt to climate change; and

19           (5) to the extent practicable, reduce deforest-  
20 ation in ways that reduce the vulnerability and in-  
21 crease the resilience to climate impacts for forests  
22 and forest dependent communities.

23           (c) ELIGIBLE COUNTRIES.—



1           (1) IN GENERAL.—Except as provided under  
2 paragraph (2), the Administrator may support ac-  
3 tivities under this title—

4           (A) to support programs that would ex-  
5 clude from the United States illegally harvested  
6 timber or products made from illegally har-  
7 vested timber, in accordance with and con-  
8 sistent with the objectives of the Lacey Act  
9 Amendments of 2008 (16 U.S.C. 3371 et seq.);  
10 and

11           (B) only with respect to a developing coun-  
12 try that—

13           (i) the Administrator determines is  
14 experiencing deforestation or forest deg-  
15 radation or has standing forest carbon  
16 stocks that may be at risk of deforestation  
17 or degradation;

18           (ii) the Administrator, in consultation  
19 with the Administrator of the Environ-  
20 mental Protection Agency, determines has  
21 the legal regimes, standards and safe-  
22 guards to ensure that the rights and inter-  
23 ests of indigenous peoples and forest-de-  
24 pendent communities are protected in ac-

1 cordance with the standards promulgated  
2 under subsection (e); and

3 (iii) has entered into a bilateral or  
4 multilateral agreement or arrangement  
5 with the United States, or is part of an  
6 international program supported by the  
7 United States to prevent deforestation, es-  
8 tablishing the conditions of its partici-  
9 tion in the program established under this  
10 title, which shall include an agreement to  
11 meet the standards established under sub-  
12 section (e) for the activities to which such  
13 standards apply.

14 (2) EXCEPTION.—A developing country that  
15 does not meet the requirement described in para-  
16 graph (1)(B)(ii) may receive assistance under this  
17 title for the purpose of building capacity to meet  
18 such requirement.

19 (d) AUTHORIZED ACTIVITIES.—Subject to the re-  
20 quirements of this title, the Administrator may support  
21 activities to achieve the objectives identified in subsection  
22 (b), including activities such as—

- 23 (1) national deforestation reduction activities;  
24 (2) subnational deforestation and forest deg-  
25 radation reduction activities, including pilot activi-

1       ties, policies, and measures that reduce greenhouse  
2       gas emissions and are subject to significant uncer-  
3       tainty;

4           (3) activities to measure, monitor, and verify  
5       deforestation, avoided deforestation, and rates of de-  
6       forestation, including, if applicable, a spatially ex-  
7       plicit land use plan that identifies intact and pri-  
8       mary forest areas and managed forest areas;

9           (4) leakage prevention activities;

10          (5) the development and implementation of  
11       measurement, monitoring, reporting, and verification  
12       capacities and governance structures, including legal  
13       regimes, standards, processes, and safeguards, as es-  
14       tablished under subsection (e), to enable a country  
15       to quantify emissions reductions and participate in  
16       carbon markets;

17          (6) the identification of, and actions to address,  
18       the drivers of land use emissions;

19          (7) the development and strengthening of gov-  
20       ernance capacities to reduce deforestation and other  
21       land use emissions and to combat illegal logging and  
22       associated trade, including the development of sys-  
23       tems for independent monitoring of the efficacy of  
24       forest law enforcement and increased enforcement  
25       cooperation, including joint efforts with Federal

1 agencies, to enforce the Lacey Act Amendments of  
2 1981 (16 U.S.C. 3371 et seq.);

3 (8) the provision of incentives for policy reforms  
4 to achieve the objectives identified in subsection (b);

5 (9) the development of pilot projects to—

6 (A) examine where mitigation and adapta-  
7 tion activities in forest ecosystems coincide; and

8 (B) explore means for enhancing the resil-  
9 ience of forest ecosystems and forest-dependent  
10 communities;

11 (10) the promotion of mechanisms to deliver re-  
12 sources for local action and to address the needs, in-  
13 terests, and participation of local and indigenous  
14 communities; and

15 (11) monitoring and evaluation of the results of  
16 the activities conducted under this section.

17 (e) STANDARDS.—The Administrator shall establish  
18 program criteria that—

19 (1) ensure that emissions reductions achieved  
20 through supported activities—

21 (A) are additional, measurable, verifiable,  
22 and monitored; and

23 (B) account for leakage, uncertainty, and  
24 permanence;

25 (2) require—

1 (A) the establishment of a national defor-  
2 estation baseline for each country with national  
3 deforestation reduction activities that is used to  
4 account for reductions achieved from such ac-  
5 tivities; or

6 (B) if a developing country has taken poli-  
7 cies and measures to reduce emissions from de-  
8 forestation or forest degradation, but has not  
9 established a national baseline, the provision of  
10 a credible, transparent, accurate, and conserv-  
11 ative alternative for quantifying emissions;

12 (3) provide that each national deforestation  
13 baseline established under paragraph (2)(A)—

14 (A) is national in scope;

15 (B) is consistent with nationally appro-  
16 priate mitigation commitments or actions with  
17 respect to deforestation, taking into consider-  
18 ation—

19 (i) the average annual historical defor-  
20 estation rates of the country during a pe-  
21 riod of at least 5 years;

22 (ii) the applicable drivers of deforest-  
23 ation; and

24 (iii) other factors to ensure  
25 additionality;

1 (C) establishes a trajectory that would re-  
2 sult in zero net deforestation by not later than  
3 20 years after the date on which the baseline is  
4 established;

5 (D) is adjusted over time to take account  
6 of changing national circumstances; and

7 (E) is designed to account for all signifi-  
8 cant sources of greenhouse gas emissions from  
9 deforestation in the country;

10 (4) with respect to support provided pursuant  
11 to paragraph (1) or (2) of subsection (d), require  
12 emissions reductions to be achieved and verified be-  
13 fore the provision of any support under this title;

14 (5) with respect to accounting for subnational  
15 deforestation reduction activities that lack the stand-  
16 ardized or precise measurement and monitoring  
17 techniques needed for a full accounting of changes  
18 in emissions or baselines, or are subject to other  
19 sources of uncertainty, apply a conservative discount  
20 factor to reflect the uncertainty regarding the levels  
21 of reductions achieved;

22 (6) ensure that activities under this title are de-  
23 signed, carried out, and managed—

24 (A) using forest management practices  
25 that—

1 (i) improve the livelihoods of forest  
2 communities;

3 (ii) maintain natural biodiversity, re-  
4 siliance, and carbon storage capacity of  
5 forests; and

6 (iii) to the extent practicable, do not  
7 adversely impact the permanence of forest  
8 carbon stocks or emissions reductions;

9 (B) in a way that promotes the mainte-  
10 nance of intact forests, protects associated bio-  
11 diversity, and restores native forest species and  
12 ecosystems;

13 (C) to avoid the introduction of invasive  
14 nonnative species;

15 (D) in an open and transparent process,  
16 which—

17 (i) includes broad stakeholder partici-  
18 pation; and

19 (ii) takes into account the needs and  
20 interests of local communities, forest-de-  
21 pendent communities, indigenous peoples,  
22 and vulnerable social groups;

23 (E) with consultations with, and full and  
24 effective participation of, local communities, in-  
25 digenous peoples, and forest-dependent commu-

1           nities in affected areas, as partners and pri-  
2           mary stakeholders, before and during the de-  
3           sign, planning, implementation, and monitoring  
4           and evaluation of activities; and

5           (F) with equitable sharing of profits and  
6           benefits derived from the activities with local  
7           communities, indigenous peoples, and forest-de-  
8           pendent communities; and

9           (7) with respect to support for all activities  
10          under this title, seek to ensure the establishment  
11          and enforcement of legal regimes, standards, proc-  
12          esses, and safeguards by the country in which the  
13          activities occur, as a condition of such support or as  
14          a proposed activity to be supported, which—

15                 (A) protect the rights and interests of local  
16                 communities, indigenous peoples, forest-depend-  
17                 ent communities, and vulnerable social groups;

18                 (B) promote consultations with local com-  
19                 munities, indigenous peoples, and forest-de-  
20                 pendent communities in affected areas, as part-  
21                 ners and primary stakeholders, before and dur-  
22                 ing the design, planning, implementation, moni-  
23                 toring, and evaluation of activities under this  
24                 title; and



1 (C) ensure equitable sharing of profits and  
2 benefits from incentives for emissions reduc-  
3 tions or leakage prevention with local commu-  
4 nities, indigenous peoples, and forest-dependent  
5 communities.

6 (f) SCOPE.—

7 (1) REDUCED EMISSIONS FROM FOREST DEG-  
8 RADATION.—The Administrator shall include re-  
9 duced emissions from forest degradation within the  
10 scope of activities under this title.

11 (2) CONSIDERATIONS.—If the Administrator  
12 determines, in consultation with the Administrator  
13 of the Environmental Protection Agency, that suffi-  
14 cient methodologies and technical capacities exist to  
15 measure, monitor, and account for the emissions re-  
16 ferred to in paragraph (1), the Administrator may  
17 expand the eligible activities under this title, as ap-  
18 propriate, to include reduced soil carbon-derived  
19 emissions associated with deforestation and degrada-  
20 tion of forested wetlands and peatlands, or other  
21 land use types, consistent with a comprehensive ap-  
22 proach to maintaining and enhancing forests, in-  
23 creasing climate resiliency, reducing emissions, and  
24 increasing removals of greenhouse gases.

1 (g) ACCOUNTING.—The Administrator shall establish  
2 a publicly accessible registry of the emissions reductions  
3 achieved through support provided under this title each  
4 year, after appropriately discounting for uncertainty and  
5 other relevant factors as required by the standards estab-  
6 lished under subsection (e).

7 (h) INTERNATIONAL DEFORESTATION REDUCTION  
8 PROGRAM INSURANCE ACCOUNT FOR NONCOMPLETION  
9 OR REVERSAL.—In furtherance of the objective described  
10 in subsection (b)(1), the Administrator shall establish and  
11 implement a program that—

12 (1) addresses noncompletion or reversal with re-  
13 spect to any greenhouse gas emissions that were not,  
14 or are no longer, sequestered; and

15 (2) may include a mechanism to hold in reserve  
16 a portion of the amount allocated for projects to  
17 support this program.

18 (i) TRANSITION TO NATIONAL REDUCTIONS.—

19 (1) IN GENERAL.—Beginning 8 years after the  
20 date on which a country entered into the agreement  
21 or arrangement required under subsection  
22 (c)(1)(B)(iii), the Administrator shall determine,  
23 based on the criteria described in paragraph (2),  
24 whether assistance should be provided to such coun-

1 try under this title for any subnational deforestation  
2 reduction activities.

3 (2) EXTENSION OF SUPPORT AUTHORIZA-  
4 TION.—The Administrator may extend, for an addi-  
5 tional 5 years, the period during which assistance is  
6 authorized for a country under this title, if the Ad-  
7 ministrator determines that—

8 (A) the country is making substantial  
9 progress towards adopting and implementing a  
10 program to achieve reductions in deforestation  
11 measured against a national baseline;

12 (B) the greenhouse gas emissions reduc-  
13 tions achieved are not resulting in significant  
14 leakage; and

15 (C) the greenhouse gas emissions reduc-  
16 tions achieved are being appropriately dis-  
17 counted to account for any leakage that is oc-  
18 ccurring.

19 (3) ACTIVITIES WARRANTING CONTINUED AS-  
20 SISTANCE.—Notwithstanding paragraph (1), the Ad-  
21 ministrator may provide assistance for activities to  
22 further the objectives listed in paragraph (2) or (3)  
23 of subsection (b) beyond the 8-year period described  
24 in paragraph (1).

1 (j) COORDINATION WITH FOREIGN ASSISTANCE.—

2 Subject to the direction of the President, the Adminis-  
3 trator shall, to the extent practicable and consistent with  
4 the objectives of this program, seek to align activities  
5 under this section with broader development, poverty alle-  
6 viation, or natural resource management objectives and  
7 initiatives in the recipient country.

8 (k) SUPPORT AS SUPPLEMENT.—The provision of as-

9 sistance for activities under this title shall be used to sup-  
10 plement, and not to supplant, any other Federal, State,  
11 or local support available to carry out such qualifying ac-  
12 tivities under this title.

13 (l) LEGAL EFFECT.—

14 (1) IN GENERAL.—Nothing in this title may be  
15 construed to supersede, limit, or otherwise affect any  
16 restriction imposed by Federal law or regulation on  
17 any interaction between an entity located in the  
18 United States and an entity located in a foreign  
19 country.

20 (2) ROLE OF THE SECRETARY OF STATE.—

21 Nothing in this title may be construed to affect the  
22 role of the Secretary of State or the responsibilities  
23 of the Secretary under section 622(e) of the Foreign  
24 Assistance Act of 1961 (22 U.S.C. 2382(e)).

1 (m) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 such sums as are necessary.

4 **SEC. 5005. INTERNATIONAL CLIMATE CHANGE ADAPTA-**  
5 **TION AND GLOBAL SECURITY PROGRAM.**

6 (a) ESTABLISHMENT.—The Secretary of State, in  
7 consultation with the Administrator, the Secretary of the  
8 Treasury, the Administrator of the Environmental Protec-  
9 tion Agency, the Secretary of Commerce, and the Sec-  
10 retary of Agriculture, shall establish an International Cli-  
11 mate Change Adaptation and Global Security Program to  
12 provide assistance in accordance with the requirements of  
13 this title.

14 (b) SUPPLEMENT NOT SUPPLANT.—Assistance pro-  
15 vided under this title shall be used to supplement, and not  
16 to supplant, any other Federal, State, or local resources  
17 available to carry out activities of the type carried out  
18 under the Program.

19 (c) DISTRIBUTION OF ASSISTANCE.—The Secretary  
20 of State, or the head of such other Federal agency as the  
21 President may designate, after consultation with the Sec-  
22 retary of the Treasury, the Administrator, the Adminis-  
23 trator of the Environmental Protection Agency, the Sec-  
24 retary of Commerce, and the Secretary of Agriculture  
25 shall direct assistance under the Program—

1           (1) in the form of bilateral assistance pursuant  
2 to subsection (f);

3           (2) to multilateral funds or international insti-  
4 tutions pursuant to the Convention or an agreement  
5 negotiated under the Convention; or

6           (3) through a combination of the mechanisms  
7 identified under paragraphs (1) and (2).

8 (d) LIMITATIONS.—

9           (1) CONDITIONAL DISTRIBUTION TO MULTILAT-  
10 ERAL FUNDS OR INTERNATIONAL INSTITUTIONS.—

11           (A) IN GENERAL.—For any fiscal year, the  
12 Secretary of State, or such other Federal agen-  
13 cy head as the President may designate, in con-  
14 sultation with the Administrator, the Secretary  
15 of the Treasury, the Administrator of the Envi-  
16 ronmental Protection Agency, the Secretary of  
17 Commerce, and the Secretary of Agriculture  
18 shall provide not less than 40 percent, and not  
19 more than 60 percent, of the assistance avail-  
20 able to carry out the Program to 1 or more  
21 multilateral funds or international institutions  
22 that meet the requirements of paragraph (2).

23           (B) NOTIFICATION.—The Secretary of  
24 State shall notify the appropriate congressional  
25 committees not later than 15 days before pro-



1 and the principal and income of the fund  
2 or institution are disbursed only for pur-  
3 poses that are consistent with the state-  
4 ment of policy in section 5001;

5 (iii) requires a regular meeting of a  
6 governing body of the fund or institution  
7 that includes representation from countries  
8 among the most vulnerable developing  
9 countries and provides public access;

10 (iv) requires that local communities  
11 (particularly the most vulnerable commu-  
12 nities and populations in the communities  
13 and indigenous peoples in areas in which  
14 any activities or programs are planned) are  
15 engaged through adequate disclosure of in-  
16 formation, public participation, and con-  
17 sultation, including full consideration of  
18 the interdependence of vulnerable commu-  
19 nities and ecosystems to promote the resil-  
20 ience of local communities; and

21 (v) prepares and makes public an an-  
22 nual report that—

23 (I) describes the process and  
24 methodology for selecting the recipi-  
25 ents of assistance from the fund or in-



1                   stitution, including assessments of so-  
2                   cioeconomic and biophysical vulner-  
3                   ability;

4                   (II) describes specific programs  
5                   and activities supported by the fund  
6                   or institution and the extent to which  
7                   the assistance is addressing the adap-  
8                   tation needs of the most vulnerable  
9                   developing countries, and the most  
10                  vulnerable communities and popu-  
11                  lations in the most vulnerable devel-  
12                  oping countries;

13                  (III) describes the performance  
14                  goals for assistance authorized under  
15                  the fund or institution and expresses  
16                  the goals in an objective and quantifi-  
17                  able form, to the maximum extent  
18                  practicable; and

19                  (IV) describes procedures taken  
20                  to minimize detrimental environ-  
21                  mental and natural resources impacts,  
22                  while maximizing local adaptation  
23                  ability.

24                  (e) OVERSIGHT.—

1           (1) DISTRIBUTION TO MULTILATERAL FUNDS  
2           OR INTERNATIONAL INSTITUTIONS.—The Secretary  
3           of State, or such other Federal agency head as the  
4           President may designate, in consultation with the  
5           Administrator, shall oversee the distribution of as-  
6           sistance under the Program to a multilateral fund or  
7           international institution under subsection (c).

8           (2) BILATERAL ASSISTANCE.—The Adminis-  
9           trator, in consultation with the Secretary of State,  
10          shall oversee the distribution of assistance available  
11          to carry out the Program for bilateral assistance  
12          under subsection (f).

13          (f) BILATERAL ASSISTANCE.—

14               (1) IN GENERAL.—Except to the extent incon-  
15               sistent with this title, the administrative authorities  
16               under the Foreign Assistance Act of 1961 (22  
17               U.S.C. 2151 et seq.) shall apply to the implementa-  
18               tion of this title to the same extent and in the same  
19               manner as the authorities apply to the implementa-  
20               tion of that Act in order to provide the Adminis-  
21               trator with the authority—

22                       (A) to provide assistance to the most vul-  
23                       nerable developing countries for—

24                               (i) the development of national or re-  
25                               gional climate change adaptation plans, in-

1 cluding a systematic assessment of socio-  
2 economic vulnerabilities in order to identify  
3 the most vulnerable communities and pop-  
4 ulations;

5 (ii) programs and activities to support  
6 the development of associated national  
7 policies;

8 (iii) planning, financing, and execu-  
9 tion of adaptation programs and activities;  
10 and

11 (iv) the development of gender sen-  
12 sitive frameworks, strategies, and policies;

13 (B) to support investments, capacity-build-  
14 ing activities, and other assistance, to reduce  
15 vulnerability and promote community-level resil-  
16 ience related to climate change and the impacts  
17 of climate change in the most vulnerable devel-  
18 oping countries, particularly of most vulnerable  
19 communities and populations;

20 (C) to support climate change adaptation  
21 research in or for the most vulnerable devel-  
22 oping countries;

23 (D) to support the deployment of tech-  
24 nologies to help the most vulnerable developing  
25 countries respond to the destabilizing impacts

1 of climate change and encourage the identifica-  
2 tion and adoption of appropriate renewable and  
3 efficient energy technologies that are beneficial  
4 in increasing community-level resilience to the  
5 impacts of global climate change in those coun-  
6 tries;

7 (E) to encourage the engagement of local  
8 communities, particularly the most vulnerable  
9 communities and the populations in such com-  
10 munities, through disclosure of information,  
11 consultation, and the informed and active par-  
12 ticipation of the communities relating to the de-  
13 velopment, implementation, monitoring, and  
14 evaluation of plans, programs, and activities to  
15 increase the resilience of the communities to cli-  
16 mate change impacts; and

17 (F) to carry out other programs or activi-  
18 ties, as appropriate.

19 (2) ELIGIBLE ACTIVITIES AND PROGRAMS.—In  
20 carrying out this section, the Administrator may  
21 support activities and programs—

22 (A) to promote resilience and adaptation to  
23 water scarcity and for water and sanitation;

24 (B) to support the enhancement and diver-  
25 sification of agricultural, fishery, and other live-

1           lihoods and promote food security and sustain-  
2           able agricultural development, particularly by  
3           addressing the needs, knowledge, and capacities  
4           of small-scale farmers and fishers, including in-  
5           creasing farms productivity and adaptive capac-  
6           ity in an equitable and environmentally sustain-  
7           able manner;

8           (C) to encourage the protection and reha-  
9           bilitation of natural ecosystems in order to pro-  
10          vide increased resilience to climate change for  
11          local communities and livelihoods while pro-  
12          tecting biodiversity and ecosystem services;

13          (D) to support disaster risk management,  
14          including activities to reduce disaster risk and  
15          promote community-level insurance programs;

16          (E) to support investments and other as-  
17          sistance in sustainable infrastructure, especially  
18          in urban areas vulnerable to climate change and  
19          the impacts of climate change, including sup-  
20          port for activities relating to urban infrastruc-  
21          ture and transport, land management, urban  
22          sustainable development strategies, and slum  
23          upgrading and prevention;

24          (F) to increase data access and strengthen  
25          early warning systems;

1 (G) to support other programs and activi-  
2 ties, as appropriate; and

3 (H) to support activities that promote  
4 healthy and productive marine and coastal eco-  
5 systems, including preservation of vegetated  
6 marine coastal habitats and coral reefs.

7 (3) OTHER CONSIDERATIONS.—In carrying out  
8 this section, the Administrator shall ensure that—

9 (A) the environmental impact of proposed  
10 activities or programs is assessed through ade-  
11 quate consultation, public participation, and  
12 disclosure of information;

13 (B) activities and programs avoid environ-  
14 mental degradation, to the maximum extent  
15 practicable; and

16 (C) activities under this section are  
17 aligned, to the maximum extent practicable,  
18 with broader development, poverty alleviation,  
19 or natural resource management objectives and  
20 initiatives in the recipient country.

21 (4) PRIORITIZING ASSISTANCE.—In providing  
22 assistance under this section, the Administrator  
23 shall—

24 (A) give priority to countries, including the  
25 most vulnerable communities and populations in

1 the countries, that are most vulnerable to the  
2 adverse impacts of climate change, determined  
3 by the likelihood and severity of the impacts  
4 and the capacity of the country to adapt to the  
5 impacts; and

6 (B) as appropriate, consider multiyear  
7 funding arrangements in carrying out this title,  
8 particularly—

9 (i) if the risk of political, economic, or  
10 social instability due to climate change im-  
11 pacts poses a threat to the national secu-  
12 rity of the United States; or

13 (ii) to reduce vulnerability and in-  
14 crease resilience to climate change impacts  
15 in the context of carrying out long-term  
16 development objectives.

17 (g) COMMUNITY ENGAGEMENT.—

18 (1) IN GENERAL.—The Administrator shall  
19 seek to ensure that—

20 (A) local communities, particularly the  
21 most vulnerable communities and the popu-  
22 lations of the communities, in areas in which  
23 any programs or activities are carried out pur-  
24 suant to this section, are engaged in, through  
25 disclosure of information, public participation,

1           and consultation, the design, implementation,  
2           monitoring, and evaluation of the programs and  
3           activities; and

4                   (B) the needs and interests of the most  
5           vulnerable communities and populations are ad-  
6           dressed in national or regional climate change  
7           adaptation plans.

8           (2) CONSULTATION AND DISCLOSURE.—For  
9           each country receiving assistance under this section,  
10          the Administrator shall establish a process for con-  
11          sultation with, and disclosure of information to,  
12          local, national, and international stakeholders re-  
13          garding any programs and activities carried out pur-  
14          suant to this section.

15          (h) FUNDING LIMITATION.—

16                   (1) IN GENERAL.—Of the funds made available  
17          to carry out this section for any fiscal year, not  
18          more than 7 percent may be used for the adminis-  
19          trative expenses of the United States Agency for  
20          International Development in support of activities  
21          described in this section.

22                   (2) ADDITIONAL AMOUNT.—The amount shall  
23          be in addition to other amounts otherwise available  
24          for those purposes.



1 (i) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 such sums as are necessary.

4 **SEC. 5006. EVALUATION AND REPORTS.**

5 (a) MONITORING, EVALUATION, AND ENFORCE-  
6 MENT.—The Board shall establish and implement a sys-  
7 tem to monitor and evaluate the effectiveness and effi-  
8 ciency of assistance provided under this title by including  
9 evaluation criteria, such as performance indicators.

10 (b) REPORTS AND REVIEW.—

11 (1) ANNUAL REPORT.—Not later than 1 year  
12 after the date of enactment of this Act, and annually  
13 thereafter, the Board shall submit to the appropriate  
14 committees of Congress a report that describes—

15 (A) the steps Federal agencies have taken,  
16 and the progress made, toward accomplishing  
17 the objectives of this section; and

18 (B) the ramifications of any potentially de-  
19 stabilizing impacts climate change may have on  
20 the interests of the United States.

21 (2) REVIEWS.—Not later than 3 years after the  
22 date of enactment of this Act, and triennially there-  
23 after, the Board, in cooperation with the National  
24 Academy of Sciences and other appropriate research  
25 and development institutions, shall—

1 (A) review the global needs and opportuni-  
2 ties for climate change investment in developing  
3 countries; and

4 (B) submit to Congress a report that de-  
5 scribes the findings of the review.

6 **SEC. 5007. REPORT ON MAJOR ECONOMIES CLIMATE AC-**  
7 **TIONS.**

8 (a) IN GENERAL.—The Secretary of State, working  
9 with the Strategic Interagency Board, shall prepare a bi-  
10 annual interagency report on climate change and energy  
11 policy for the 5 highest greenhouse gas emitting countries  
12 that are not members of the Organization for Economic  
13 Cooperation and Development (OECD).

14 (b) PURPOSES.—The purposes of the report prepared  
15 under subsection (a) are—

16 (1) to provide Congress and the American pub-  
17 lic with a better understanding of the steps that the  
18 5 highest greenhouse gas emitting non-OECD coun-  
19 tries are taking to reduce greenhouse gas emissions;

20 (2) to identify the means by which the United  
21 States can assist such countries in achieving such a  
22 reduction; and

23 (3) to assess the climate change and energy pol-  
24 icy commitments and actions of such countries.

1 (c) CONTENTS.—The report prepared under sub-  
2 section (a) shall include—

3 (1) a summary of the scope, rigor, and effec-  
4 tiveness of the actions being taken by countries re-  
5 ferred to in subsection (a) to reduce greenhouse gas  
6 emissions;

7 (2) a summary of the national or subnational  
8 plans, policies, programs, laws, regulations, incentive  
9 mechanisms, and other measures in such countries  
10 that are expected to result in, or have resulted in,  
11 reductions in energy use and greenhouse gas emis-  
12 sions, including—

13 (A) a description of the progress made or  
14 expected in implementing such plans, policies,  
15 programs, laws, regulations, incentive mecha-  
16 nisms, and other measures;

17 (B) where feasible, a quantification of the  
18 contribution made by actions in these countries  
19 to reduce greenhouse gas emissions;

20 (C) progress made in developing and re-  
21 porting full national greenhouse gas inventories;  
22 and

23 (D) estimates of the reductions in energy  
24 use and greenhouse gas emissions achieved, or  
25 expected to be achieved, as a result of such

1 plans, policies, programs, laws, regulations, in-  
2 centive mechanisms, and other measures; and

3 (3) recommendations for areas in which United  
4 States capacity building or other support could as-  
5 sist such countries in improving implementation or  
6 compliance with such plans, policies, programs, laws,  
7 regulations, incentive mechanisms, and other meas-  
8 ures.

9 (d) SUBMISSION TO CONGRESS.—Not later than 15  
10 months after the date of the enactment of this Act, and  
11 every 180 days thereafter, the Secretary of State shall  
12 submit the report prepared under this section to—

13 (1) the Committee on Foreign Relations of the  
14 Senate;

15 (2) the Committee on Energy and Natural Re-  
16 sources of the Senate;

17 (3) the Committee on Environment and Public  
18 Works of the Senate;

19 (4) the Committee on Foreign Affairs of the  
20 House of Representatives; and

21 (5) the Committee on Energy and Commerce of  
22 the House of Representatives.

1 **TITLE VI—COMMUNITY PROTEC-**  
2 **TION FROM CLIMATE**  
3 **CHANGE IMPACTS**

4 **SEC. 6001. DEFINITIONS.**

5 In this part:

6 (1) **ACCOUNT.**—The term “Account” means the  
7 Natural Resources Climate Change Adaptation Ac-  
8 count established by section 6008(a).

9 (2) **ADMINISTRATORS.**—The term “Administra-  
10 tors” means—

11 (A) the Administrator of the National Oce-  
12 anic and Atmospheric Administration; and

13 (B) the Director of the United States Geo-  
14 logical Survey.

15 (3) **BOARD.**—The term “Board” means the  
16 Science Advisory Board established under section  
17 6005(f)(1).

18 (4) **CENTER.**—The term “Center” means the  
19 National Climate Change and Wildlife Science Cen-  
20 ter established by section 6005(e)(1).

21 (5) **COASTAL STATE.**—The term “coastal  
22 State” has the meaning given the term “coastal  
23 state” in section 304 of the Coastal Zone Manage-  
24 ment Act of 1972 (16 U.S.C. 1453).

1           (6) CORRIDORS.—The term “corridors” means  
2        areas that—

3           (A) provide connectivity, over different  
4        time scales, of habitats or potential habitats;  
5        and

6           (B) facilitate terrestrial, marine, estuarine,  
7        and freshwater fish, wildlife, or plant movement  
8        necessary—

9           (i) for migration, gene flow, or dis-  
10        persal; or

11          (ii) to respond to the ongoing and ex-  
12        pected impacts of climate change (includ-  
13        ing, if applicable, ocean acidification,  
14        drought, flooding, and wildfire).

15          (7) ECOLOGICAL PROCESSES.—The term “eco-  
16        logical processes” means the biological, chemical, or  
17        physical interaction between the biotic and abiotic  
18        components of an ecosystem, including—

19           (A) nutrient cycling;

20           (B) pollination;

21           (C) predator-prey relationships;

22           (D) soil formation;

23           (E) gene flow;

24           (F) disease epizootiology;

25           (G) larval dispersal and settlement;

- 1 (H) hydrological cycling;  
2 (I) decomposition; and  
3 (J) disturbance regimes, such as fire and  
4 flooding.

5 (8) HABITAT.—The term “habitat” means the  
6 physical, chemical, and biological properties that  
7 fish, wildlife, or plants use for growth, reproduction,  
8 survival, food, water, or cover (whether on land, in  
9 water, or in an area or region).

10 (9) INDIAN TRIBE.—The term “Indian tribe”  
11 has the meaning given the term in section 4 of the  
12 Indian Self-Determination and Education Assistance  
13 Act (25 U.S.C. 450b).

14 (10) NATURAL RESOURCES.—The term “nat-  
15 ural resources” means fish, wildlife, plants, habitats,  
16 and terrestrial, freshwater, estuarine, and marine  
17 ecosystems of the United States.

18 (11) NATURAL RESOURCES ADAPTATION.—The  
19 term “natural resources adaptation” means the pro-  
20 tection, restoration, and conservation of natural re-  
21 sources so that natural resources become more resil-  
22 ient, adapt to, and withstand the ongoing and ex-  
23 pected impacts of climate change (including, if appli-  
24 cable, ocean acidification, drought, flooding, and  
25 wildfire).

1           (12) PANEL.—The term “Panel” means the  
2       Natural Resources Climate Change Adaptation  
3       Panel established under section 6003(a).

4           (13) RESILIENCE; RESILIENT.—The terms “re-  
5       silience” and “resilient” mean—

6           (A) the ability to resist or recover from  
7       disturbance; and

8           (B) the ability to preserve diversity, pro-  
9       ductivity, and sustainability.

10          (14) STATE.—The term “State” means—

11           (A) a State of the United States;

12           (B) the District of Columbia;

13           (C) American Samoa;

14           (D) Guam;

15           (E) the Commonwealth of the Northern  
16       Mariana Islands;

17           (F) the Commonwealth of Puerto Rico;

18       and

19           (G) the United States Virgin Islands.

20          (15) STRATEGY.—The term “Strategy” means  
21       the Natural Resources Climate Change Adaptation  
22       Strategy developed under section 6004(a).

23   **SEC. 6002. COUNCIL ON ENVIRONMENTAL QUALITY.**

24       The Chair of the Council on Environmental Quality  
25   shall—



1           (1) advise the President on implementation and  
2           development of—

3                   (A) the Strategy; and

4                   (B) the Federal natural resource agency  
5           adaptation plans required under section 6006;

6           (2) serve as the Chair of the Panel; and

7           (3) coordinate Federal agency strategies, plans,  
8           programs, and activities relating to protecting, re-  
9           storing, and maintaining natural resources so that  
10          natural resources become more resilient, adapt to,  
11          and withstand the ongoing and expected impacts of  
12          climate change.

13 **SEC. 6003. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
14 **TATION PANEL.**

15          (a) **ESTABLISHMENT.**—Not later than 90 days after  
16          the date of enactment of this Act, the President shall es-  
17          tablish a Natural Resources Climate Change Adaptation  
18          Panel.

19          (b) **MEMBERSHIP.**—The Panel shall be composed  
20          of—

21                   (1) the Administrator of the National Oceanic  
22                  and Atmospheric Administration (or a designee);

23                   (2) the Chief of the Forest Service (or a des-  
24                  ignee);

1           (3) the Director of the National Park Service  
2           (or a designee);

3           (4) the Director of the United States Fish and  
4           Wildlife Service (or a designee);

5           (5) the Director of the Bureau of Land Man-  
6           agement (or a designee);

7           (6) the Director of the United States Geological  
8           Survey (or a designee);

9           (7) the Commissioner of Reclamation (or a des-  
10          ignee); and

11          (8) the Director of the Bureau of Indian Affairs  
12          (or a designee);

13          (9) the Administrator of the Environmental  
14          Protection Agency (or a designee);

15          (10) the Chief of Engineers (or a designee);

16          (11) the Chair of the Council on Environmental  
17          Quality (or a designee);

18          (12) the Administrator of the Federal Emer-  
19          gency Management Agency (or a designee); and

20          (13) the heads of such other Federal agencies  
21          or departments with jurisdiction over natural re-  
22          sources of the United States, as determined by the  
23          President.

1 (c) DUTIES.—The Panel shall serve as a forum for  
2 interagency consultation on, and the coordination of, the  
3 development and implementation of the Strategy.

4 (d) CHAIRPERSON.—The Chair of the Council on En-  
5 vironmental Quality shall serve as the Chairperson of the  
6 Panel.

7 **SEC. 6004. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
8 **TATION STRATEGY.**

9 (a) IN GENERAL.—Not later than 1 year after the  
10 date of enactment of this Act, the Panel shall develop a  
11 Natural Resources Climate Change Adaptation Strategy—

12 (1) to protect, restore, and conserve natural re-  
13 sources so that natural resources become more resil-  
14 ient, adapt to, and withstand the ongoing and ex-  
15 pected impacts of climate change; and

16 (2) to identify opportunities to mitigate the on-  
17 going and expected impacts of climate change.

18 (b) DEVELOPMENT.—In developing and revising the  
19 Strategy, the Panel shall—

20 (1) base the strategy on the best available  
21 science;

22 (2) develop the strategy in close cooperation  
23 with States and Indian tribes;

24 (3) coordinate with other Federal agencies, as  
25 appropriate;

1           (4) consult with local governments, conservation  
2 organizations, scientists, and other interested stake-  
3 holders; and

4           (5) provide public notice and opportunity for  
5 comment.

6       (c) REVISION.—After the Panel adopts the initial  
7 Strategy, the Panel shall review and revise the Strategy  
8 every 5 years to incorporate—

9           (1) new information regarding the ongoing and  
10 expected impacts of climate change on natural re-  
11 sources; and

12           (2) new advances in the development of strate-  
13 gies that make natural resources more resilient or  
14 able to adapt to the ongoing and expected impacts  
15 of climate change.

16       (d) CONTENTS.—The Strategy shall—

17           (1) assess the vulnerability of natural resources  
18 to climate change, including short-term, medium-  
19 term, long-term, cumulative, and synergistic im-  
20 pacts;

21           (2) describe current research, observation, and  
22 monitoring activities at the Federal, State, tribal,  
23 and local level related to the ongoing and expected  
24 impacts of climate change on natural resources;

1           (3) identify and prioritize research and data  
2 needs;

3           (4) identify natural resources likely to have the  
4 greatest need for protection, restoration, and con-  
5 servation due to the ongoing and expanding impacts  
6 of climate change;

7           (5) include specific protocols for integrating  
8 natural resources adaptation strategies and activities  
9 into the conservation and management of natural re-  
10 sources by Federal departments and agencies to en-  
11 sure consistency across agency jurisdictions;

12           (6) include specific actions that Federal depart-  
13 ments and agencies shall take to protect, conserve,  
14 and restore natural resources to become more resil-  
15 ient, adapt to, and withstand the ongoing and ex-  
16 pected impacts of climate change, including a  
17 timeline to implement those actions;

18           (7) include specific mechanisms for ensuring  
19 communication and coordination—

20                 (A) among Federal departments and agen-  
21 cies; and

22                 (B) between Federal departments and  
23 agencies and State natural resource agencies,  
24 United States territories, Indian tribes, private  
25 landowners, conservation organizations, and

1 other countries that share jurisdiction over nat-  
2 ural resources with the United States;

3 (8) include specific actions to develop and im-  
4 plement consistent natural resources inventory and  
5 monitoring protocols through interagency coordina-  
6 tion and collaboration; and

7 (9) include procedures for guiding the develop-  
8 ment of detailed agency- and department-specific ad-  
9 aptation plans required under section 6006.

10 (e) IMPLEMENTATION.—Consistent with other laws  
11 and Federal trust responsibilities concerning land of In-  
12 dian tribes, each Federal department or agency rep-  
13 resented on the Panel shall integrate the elements of the  
14 Strategy that relate to conservation, restoration, and man-  
15 agement of natural resources into agency plans, environ-  
16 mental reviews, programs, and activities.

17 **SEC. 6005. NATURAL RESOURCES ADAPTATION SCIENCE**  
18 **AND INFORMATION.**

19 (a) COORDINATION.—Not later than 90 days after  
20 the date of enactment of this Act, the Administrators shall  
21 establish coordinated procedures for developing and pro-  
22 viding science and information necessary to address the  
23 ongoing and expected impacts of climate change on nat-  
24 ural resources.

1 (b) OVERSIGHT.—The Center and the National Cli-  
2 mate Service of the National Oceanic and Atmospheric  
3 Administration shall oversee development of the proce-  
4 dures.

5 (c) FUNCTIONS.—The Administrators shall—

6 (1) ensure that the procedures required under  
7 subsection (a) avoid duplication; and

8 (2) ensure that the National Oceanic and At-  
9 mospheric Administration and the United States Ge-  
10 ological Survey—

11 (A) provide technical assistance to Federal  
12 departments and agencies, State and local gov-  
13 ernments, Indian tribes, and interested private  
14 landowners that are pursuing the goals of ad-  
15 dressing the ongoing and expected impacts of  
16 climate change on natural resources;

17 (B) conduct and sponsor research to de-  
18 velop strategies that increase the ability of nat-  
19 ural resources to become more resilient, adapt  
20 to, and withstand the ongoing and expected im-  
21 pacts of climate change;

22 (C) provide Federal departments and agen-  
23 cies, State and local governments, Indian tribes,  
24 and interested private landowners with research  
25 products, decision and monitoring tools, and in-

1           formation to develop strategies that increase  
2           the ability of natural resources to become more  
3           resilient, adapt to, and withstand the ongoing  
4           and expected impacts of climate change; and

5                   (D) assist Federal departments and agen-  
6           cies in the development of adaptation plans re-  
7           quired under section 6006.

8           (d) SURVEY.—Not later than 1 year after the date  
9           of enactment of this Act, and every 5 years thereafter,  
10          the Secretary of Commerce and the Secretary of the Inte-  
11          rior shall conduct a climate change impact survey that—

12                   (1) identifies natural resources considered likely  
13           to be adversely affected by climate change;

14                   (2) includes baseline monitoring and ongoing  
15           trend analysis;

16                   (3) with input from stakeholders, identifies and  
17           prioritizes necessary monitoring and research that is  
18           most relevant to the needs of natural resource man-  
19           agers to address the ongoing and expected impacts  
20           of climate change and to promote resilience; and

21                   (4) identifies the decision tools necessary to de-  
22           velop strategies that increase the ability of natural  
23           resources to become more resilient, adapt to, and  
24           withstand the ongoing and expected impacts of cli-  
25           mate change.



1 (e) NATIONAL CLIMATE CHANGE AND WILDLIFE  
2 SCIENCE CENTER.—

3 (1) ESTABLISHMENT.—The Secretary of the In-  
4 terior shall establish the National Climate Change  
5 and Wildlife Science Center within the United States  
6 Geological Survey.

7 (2) FUNCTIONS.—In collaboration with Federal  
8 and State natural resources agencies and depart-  
9 ments, Indian tribes, universities, and other partner  
10 organizations, the Center shall—

11 (A) assess and synthesize current physical  
12 and biological knowledge;

13 (B) prioritize scientific gaps in such knowl-  
14 edge in order to forecast the ecological impacts  
15 of climate change (including, if applicable,  
16 ocean acidification, drought, flooding, and wild-  
17 fire) on fish and wildlife at the ecosystem, habi-  
18 tat, community, population, and species levels;

19 (C) develop and improve tools to identify,  
20 evaluate, and link scientific approaches and  
21 models that forecast the impacts of climate  
22 change (including, if applicable, ocean acidifica-  
23 tion, drought, flooding, and wildfire) on fish,  
24 wildlife, plants, and associated habitats, includ-  
25 ing—

- 1 (i) monitoring;
- 2 (ii) predictive models;
- 3 (iii) vulnerability analyses;
- 4 (iv) risk assessments; and
- 5 (v) decision support systems that help
- 6 managers make informed decisions;

7 (D) develop and evaluate tools to adapt-

8 ively manage and monitor the effects of climate

9 change (including tools for the collection of

10 data) on fish and wildlife at national, regional,

11 and local levels; and

12 (E) develop capacities for sharing stand-

13 arized data and the synthesis of the data de-

14 scribed in subparagraph (D).

15 (f) SCIENCE ADVISORY BOARD.—

16 (1) ESTABLISHMENT.—Not later than 180 days

17 after the date of enactment of this Act, the Sec-

18 retary of Commerce and the Secretary of the Inte-

19 rior shall establish and appoint the members of the

20 Science Advisory Board.

21 (2) MEMBERSHIP.—The Board shall be com-

22 prised of not fewer than 10 and not more than 20

23 members—

24 (A) who have expertise in fish, wildlife,

25 plant, aquatic, and coastal and marine biology,

1 ecology, climate change (including, if applicable,  
2 ocean acidification, drought, flooding, and wild-  
3 fire) and other relevant scientific disciplines;

4 (B) who represent a balanced membership  
5 among Federal, State, Indian tribes, and local  
6 representatives, universities, and conservation  
7 organizations; and

8 (C) at least  $\frac{1}{2}$  of whom are recommended  
9 by the President of the National Academy of  
10 Sciences.

11 (3) DUTIES.—The Board shall—

12 (A) advise the Secretary of Commerce and  
13 the Secretary of the Interior on the state of the  
14 science regarding—

15 (i) the ongoing and expected impacts  
16 of climate change, including (if applicable,  
17 ocean acidification, drought, flooding, and  
18 wildfire) on natural resources; and

19 (ii) scientific strategies and mecha-  
20 nisms for protecting, restoring, and con-  
21 serving natural resources so natural re-  
22 sources become more resilient, adapt to,  
23 and withstand the ongoing and expected  
24 impacts of climate change (including, if ap-

1                   plicable, ocean acidification, drought, flood-  
2                   ing, and wildfire); and

3                   (B) identify and recommend priorities for  
4                   ongoing research needs on the issues described  
5                   in subparagraph (A).

6                   (4) COLLABORATION.—The Board shall collabo-  
7                   rate with climate change and ecosystem research en-  
8                   tities in other Federal agencies and departments.

9                   (5) AVAILABILITY TO PUBLIC.—The advice and  
10                  recommendations of the Board shall be made avail-  
11                  able to the public.

12 **SEC. 6006. FEDERAL NATURAL RESOURCE AGENCY ADAP-**  
13 **TATION PLANS.**

14                  (a) DEVELOPMENT.—Not later than 1 year after the  
15                  date of development of the Strategy, each department or  
16                  agency with representation on the Panel shall—

17                   (1) complete an adaptation plan for that de-  
18                   partment or agency that—

19                           (A) implements the Strategy;

20                           (B) is consistent with the natural resources  
21                           climate change adaptation purposes of this title;

22                           (C) describes the ongoing and expanding  
23                           actions of the department or agency, and any  
24                           changes in decisionmaking processes necessary  
25                           to increase the ability of resources under the ju-

1 jurisdiction of the department or agency and, to  
2 the maximum extent practicable, resources  
3 under the jurisdiction of other departments and  
4 agencies that may be significantly affected by  
5 decisions of the department or agency, to be-  
6 come more resilient, adapt to, and withstand  
7 the ongoing and expected impacts of climate  
8 change (including, if applicable, ocean acidifica-  
9 tion, drought, flooding, and wildfire); and

10 (D) includes a timeline for implementation;

11 (2) provide opportunities for public review and  
12 comment on the adaptation plan, and in the case of  
13 a plan by the Bureau of Indian Affairs, review by  
14 Indian tribes; and

15 (3) submit the plan to the President for ap-  
16 proval.

17 (b) REVIEW BY PRESIDENT AND SUBMISSION TO  
18 CONGRESS.—

19 (1) REVIEW BY PRESIDENT.—The President  
20 shall—

21 (A) approve an adaptation plan submitted  
22 under subsection (a)(3) if the plan meets the  
23 requirements of subsection (c) and is consistent  
24 with the Strategy; and

1 (B) decide whether to approve the plan not  
2 later that 60 days after submission.

3 (2) DISAPPROVAL.—If the President dis-  
4 approves an adaptation plan, the President shall di-  
5 rect the department or agency to submit a revised  
6 plan not later than 60 days after that disapproval.

7 (3) SUBMISSION TO CONGRESS.—Not later than  
8 30 days after the date of approval of an adaptation  
9 plan by the President, the department or agency  
10 shall submit the plan to—

11 (A) the Committee on Natural Resources  
12 of the House of Representatives;

13 (B) the Committee on Energy and Natural  
14 Resources of the Senate;

15 (C) the Committee on Environment and  
16 Public Works of the Senate; and

17 (D) any other committees of the House of  
18 Representatives or the Senate with principal ju-  
19 risdiction over the department or agency.

20 (c) REQUIREMENTS.—Each adaptation plan shall—

21 (1) establish programs for assessing the ongo-  
22 ing and expected impacts of climate change (includ-  
23 ing, if applicable, ocean acidification, drought, flood-  
24 ing, and wildfire) on natural resources under the ju-

1 jurisdiction of the department or agency preparing the  
2 plan, including—

3 (A) assessment of cumulative and syner-  
4 gistic effects; and

5 (B) programs that identify and monitor  
6 natural resources likely to be adversely affected  
7 and that have need for conservation;

8 (2) identify and prioritize—

9 (A) the strategies of the department or  
10 agency preparing the plan;

11 (B) the specific conservation actions that  
12 address the ongoing and expected impacts of  
13 climate change (including, if applicable, ocean  
14 acidification, drought, flooding, and wildfire) on  
15 natural resources under jurisdiction of the de-  
16 partment or agency preparing the plan;

17 (C) strategies to protect, restore, and con-  
18 serve such resources to become more resilient,  
19 adapt to, and better withstand those impacts,  
20 including—

21 (i) protection, restoration, and con-  
22 servation of terrestrial, marine, estuarine,  
23 and freshwater habitats and ecosystems;

1 (ii) establishment of terrestrial, ma-  
2 rine, estuarine, and freshwater habitat  
3 linkages and corridors;

4 (iii) restoration and conservation of  
5 ecological processes;

6 (iv) protection of a broad diversity of  
7 native species of fish, wildlife, and plant  
8 populations across the ranges of those spe-  
9 cies; and

10 (v) protection of fish, wildlife, and  
11 plant health, recognizing that climate can  
12 alter the distribution and ecology of  
13 parasites, pathogens, and vectors;

14 (3) describe how the department or agency  
15 will—

16 (A) integrate the strategies and conserva-  
17 tion activities into plans, programs, activities,  
18 and actions of the department or agency relat-  
19 ing to the conservation and management of nat-  
20 ural resources; and

21 (B) establish new plans, programs, activi-  
22 ties, and actions, if necessary;

23 (4) establish methods—

24 (A) to assess the effectiveness of strategies  
25 and conservation actions the department or



1           agency takes to protect, restore, and conserve  
2           natural resources so natural resources become  
3           more resilient, adapt to, and withstand the on-  
4           going and expected impacts of climate change;  
5           and

6           (B) to update those strategies and actions  
7           to respond to new information and changing  
8           conditions;

9           (5) describe current and proposed mechanisms  
10          to enhance cooperation and coordination of natural  
11          resources adaptation efforts with other Federal  
12          agencies, State and local governments, Indian tribes,  
13          and nongovernmental stakeholders;

14          (6) include written guidance to resource man-  
15          agers that—

16                (A) explains how managers are expected to  
17                address the ongoing and expected effects of cli-  
18                mate change (including, if applicable, ocean  
19                acidification, drought, flooding, and wildfire);

20                (B) identifies how managers are to obtain  
21                any necessary site-specific information; and

22                (C) reflects best practices shared among  
23                relevant agencies, but recognizes the unique  
24                missions, objectives, and responsibilities of each  
25                agency;

1           (7) identify and assess data and information  
2           gaps necessary to develop natural resources adapta-  
3           tion plans and strategies; and

4           (8) consider strategies that engage youth and  
5           young adults (including youth and young adults  
6           working in full-time or part-time youth service or  
7           conservation corps programs)—

8                   (A) to provide the youth and young adults  
9                   with opportunities for meaningful conservation  
10                  and community service; and

11                  (B) to encourage opportunities for employ-  
12                  ment in the private sector through partnerships  
13                  with employers.

14           (d) IMPLEMENTATION.—

15                   (1) IN GENERAL.—Upon approval by the Presi-  
16                   dent, each department or agency with representation  
17                   on the Panel shall, consistent with existing author-  
18                   ity, implement the adaptation plan of the depart-  
19                   ment or agency through existing and new plans,  
20                   policies, programs, activities, and actions.

21                   (2) CONSIDERATION OF IMPACTS.—To the max-  
22                   imum extent practicable and consistent with existing  
23                   authority, natural resource management decisions  
24                   made by the department or agency shall consider the  
25                   ongoing and expected impacts of climate change (in-

1 cluding, if applicable, ocean acidification, drought,  
2 flooding, and wildfire) on natural resources.

3 (e) REVISION AND REVIEW.—Not less than every 5  
4 years, each department or agency shall review and revise  
5 the adaptation plan of the department or agency to incor-  
6 porate the best available science, and other information,  
7 regarding the ongoing and expected impacts of climate  
8 change on natural resources.

9 **SEC. 6007. STATE NATURAL RESOURCES ADAPTATION**  
10 **PLANS.**

11 (a) REQUIREMENT.—In order to be eligible for funds  
12 under section 6009, not later than 1 year after the devel-  
13 opment of the Strategy, each State shall prepare a State  
14 natural resources adaptation plan detailing current and  
15 projected efforts of the State to address the ongoing and  
16 expected impacts of climate change on natural resources  
17 and coastal areas within the jurisdiction of the State.

18 (b) REVIEW OR APPROVAL.—

19 (1) IN GENERAL.—The Secretary of the Inte-  
20 rior and, as applicable, the Secretary of Commerce  
21 shall review each State adaptation plan, and approve  
22 the plan if the plan—

23 (A) meets the requirements of subsection

24 (c); and

25 (B) is consistent with the Strategy.

1           (2) APPROVAL OR DISAPPROVAL.—Not later  
2 than 180 days after the date of submission of the  
3 plan (or a revised plan), the Secretary of the Inte-  
4 rior and, as applicable, the Secretary of Commerce  
5 shall approve or disapprove the plan by written no-  
6 tice.

7           (3) RESUBMISSION.—Not later than 90 days  
8 after the date of resubmission of an adaptation plan  
9 that has been disapproved under paragraph (2), the  
10 Secretary of the Interior and, as applicable, the Sec-  
11 retary of Commerce, shall approve or disapprove the  
12 plan by written notice.

13       (c) CONTENTS.—A State natural resources adapta-  
14 tion plan shall—

15           (1) include strategies for addressing the ongoing  
16 and expected impacts of climate change (including,  
17 if applicable, ocean acidification, drought, flood-  
18 ing, and wildfire) on terrestrial, marine, estuarine,  
19 and freshwater fish, wildlife, plants, habitats, eco-  
20 systems, wildlife health, and ecological processes  
21 that—

22           (A) describe the ongoing and expected im-  
23 pacts of climate change (including, if applicable,  
24 ocean acidification, drought, flooding, and wild-  
25 fire) on the diversity and health of fish, wildlife

1 and plant populations, habitats, ecosystems,  
2 and associated ecological processes;

3 (B) establish programs for monitoring the  
4 ongoing and expected impacts of climate change  
5 (including, if applicable, ocean acidification,  
6 drought, flooding, and wildfire) on fish, wildlife,  
7 and plant populations, habitats, ecosystems,  
8 and associated ecological processes;

9 (C) describe and prioritize proposed con-  
10 servation actions that increase the ability of  
11 fish, wildlife, plant populations, habitats, eco-  
12 systems, and associated ecological processes to  
13 become more resilient, adapt to, and better  
14 withstand those impacts;

15 (D) consider strategies that engage youth  
16 and young adults (including youth and young  
17 adults working in full-time or part-time youth  
18 service or conservation corps programs)—

19 (i) to provide the youth and young  
20 adults with opportunities for meaningful  
21 conservation and community service; and

22 (ii) to encourage opportunities for em-  
23 ployment in the private sector through  
24 partnerships with employers;

1 (E) integrate protection and restoration of  
2 resource resilience into agency decision making  
3 and specific conservation actions;

4 (F) include a time frame for implementing  
5 conservation actions for fish, wildlife, and plant  
6 populations, habitats, ecosystems, and associ-  
7 ated ecological processes;

8 (G) establish methods—

9 (i) for assessing the effectiveness of  
10 strategies and conservation actions taken  
11 to increase the ability of fish, wildlife, and  
12 plant populations, habitats, ecosystems,  
13 and associated ecological processes to be-  
14 come more resilient, adapt to, and better  
15 withstand the ongoing and expected im-  
16 pacts of climate changes (including, if ap-  
17 plicable, ocean acidification, drought, flood-  
18 ing, and wildfire); and

19 (ii) for updating strategies and ac-  
20 tions to respond appropriately to new in-  
21 formation or changing conditions;

22 (H) are incorporated into a revision of the  
23 State wildlife action plan (also known as the  
24 State comprehensive wildlife strategy) that has  
25 been—

1 (i) submitted to the United States  
2 Fish and Wildlife Service; and

3 (ii) approved, or is pending approval,  
4 by the United States Fish and Wildlife  
5 Service; and

6 (I) are developed—

7 (i) with the participation of the State  
8 fish and wildlife agency, the State coastal  
9 agency, the State agency responsible for  
10 administration of Land and Water Con-  
11 servation Fund grants, the State Forest  
12 Legacy program coordinator, and other  
13 State agencies considered appropriate by  
14 the Governor of the State;

15 (ii) in coordination with the Secretary  
16 of the Interior, and where applicable, the  
17 Secretary of Commerce;

18 (iii) in coordination with other States  
19 that share jurisdiction over natural re-  
20 sources with the State; and

21 (iv) in coordination with—

22 (I) Indian tribes that located  
23 within the State; and

1 (II) Indian tribes having treaty  
2 rights to natural resources within the  
3 State; and

4 (2) in the case of a coastal State, include strat-  
5 egies for addressing the ongoing and expected im-  
6 pacts of climate change (including, if applicable,  
7 ocean acidification, drought, flooding, and wildfire)  
8 on a coastal zone that—

9 (A) identify natural resources likely to be  
10 impacted by climate change, and describe the  
11 impacts;

12 (B) identify and prioritize continuing re-  
13 search and data collection needed to address  
14 those impacts, including—

15 (i) acquisition of high-resolution  
16 coastal elevation and nearshore bathymetry  
17 data;

18 (ii) historic shoreline position maps,  
19 erosion rates, and inventories of shoreline  
20 features and structures;

21 (iii) measures and models of relative  
22 rates of sea level rise or lake level changes,  
23 including effects on flooding, storm surge,  
24 inundation, and coastal geological proc-  
25 esses;



1 (iv) measures and models of habitat  
2 loss, including projected losses of coastal  
3 wetlands and potentials for inland migra-  
4 tion of natural shoreline habitats;

5 (v) measures and models of ocean and  
6 coastal species and ecosystem migrations,  
7 and changes in species population dynam-  
8 ics;

9 (vi) changes in storm frequency, in-  
10 tensity, or rainfall patterns;

11 (vii) measures and models of saltwater  
12 intrusion into coastal rivers and aquifers;

13 (viii) changes in chemical or physical  
14 characteristics of marine and estuarine  
15 systems, including the presence, extent,  
16 and timing of hypoxic and anoxic condi-  
17 tions;

18 (ix) measures and models of increased  
19 harmful algal blooms; and

20 (x) measures and models of the  
21 spread of invasive species;

22 (C) identify and prioritize adaptation strat-  
23 egies to protect, restore, and conserve natural  
24 resources to enable natural resources to become  
25 more resilient, adapt to, and withstand the on-

1 going and expected impacts of climate change  
2 (including, if applicable, ocean acidification,  
3 drought, flooding, and wildfire), including—

4 (i) protection, maintenance, and res-  
5 toration of ecologically important coastal  
6 lands, coastal and ocean ecosystems, and  
7 species biodiversity and the establishment  
8 of habitat buffer zones, migration cor-  
9 ridors, and climate refugia; and

10 (ii) improved planning, siting policies,  
11 hazard mitigation strategies, and State  
12 property insurance programs;

13 (D) establish programs—

14 (i) for the long-term monitoring of the  
15 ongoing and expected impacts of climate  
16 change (including, if applicable, ocean  
17 acidification, drought, flooding, and wild-  
18 fire) on the ocean and coastal zone; and

19 (ii) assess and adjust, when necessary,  
20 the adaptive management strategies;

21 (E) establish performance measures that—

22 (i) assess the effectiveness of adapta-  
23 tion strategies intended to improve resil-  
24 ience and the ability of natural resources  
25 to adapt to and withstand the ongoing and

1 expected impacts of climate change (in-  
2 cluding, if applicable, ocean acidification,  
3 drought, flooding, and wildfire);

4 (ii) assess the effectiveness of adapta-  
5 tion strategies intended to minimize those  
6 impacts on the coastal zone; and

7 (iii) update the strategies to respond  
8 to new information or changing conditions;  
9 and

10 (F) are developed—

11 (i) with the participation of the State  
12 coastal agency and other appropriate State  
13 agencies; and

14 (ii) in coordination with the Secretary  
15 of Commerce and other appropriate Fed-  
16 eral agencies.

17 (d) PUBLIC INPUT.—In developing the adaptation  
18 plan, a State shall provide for solicitation and consider-  
19 ation of public input and independent scientific input.

20 (e) COORDINATION WITH OTHER PLANS.—The State  
21 adaptation plan shall review research and information  
22 and, if appropriate, integrate the goals and measures set  
23 forth in other natural resources conservation strategies,  
24 including—

25 (1) the National Fish Habitat Action Plan;

1           (2) plans under the North American Wetlands  
2           Conservation Act (16 U.S.C. 4401 et seq.);

3           (3) the Federal, State, and local partnership  
4           known as “Partners in Flight”;

5           (4) federally approved coastal zone management  
6           plans under the Coastal Zone Management Act of  
7           1972 (16 U.S.C. 1451 et seq.);

8           (5) federally approved regional fishery manage-  
9           ment plans and habitat conservation activities  
10          under the Magnuson-Stevens Fishery Conservation  
11          and Management Act (16 U.S.C. 1801 et seq.);

12          (6) the National Coral Reef Action Plan;

13          (7) recovery plans for threatened species and  
14          endangered species under section 4(f) of the Endan-  
15          gered Species Act of 1973 (16 U.S.C. 1533(f));

16          (8) habitat conservation plans under section 10  
17          of that Act (16 U.S.C. 1539);

18          (9) other Federal, State, and tribal plans for  
19          imperiled species;

20          (10) State or tribal hazard mitigation plans;

21          (11) State or tribal water management plans;

22          (12) State property insurance programs; and

23          (13) other State-based strategies that com-  
24          prehensively implement adaptation activities to re-  
25          mediate the ongoing and expected effects of climate

1 change (including, if applicable, ocean acidification,  
2 drought, flooding, and wildfire) on terrestrial, ma-  
3 rine, and freshwater fish, wildlife, plants, and other  
4 natural resources.

5 (f) UPDATING.—Each State plan shall be updated at  
6 least every 5 years.

7 (g) FUNDING.—

8 (1) IN GENERAL.—Funds allocated to States  
9 under section 6009 shall be used only for activities  
10 consistent with a State natural resources adaptation  
11 plan approved by the Secretary of the Interior and,  
12 as appropriate, the Secretary of Commerce.

13 (2) FUNDING PRIOR TO THE APPROVAL OF A  
14 STATE PLAN.—Until the earlier of the date that is  
15 3 years after the date of enactment of this Act or  
16 the date on which a State adaptation plan is ap-  
17 proved, a State shall be eligible to receive funding  
18 under section 6009 for adaptation activities that  
19 are—

20 (A) consistent with the comprehensive  
21 wildlife strategy of the State and, if appro-  
22 priate, other natural resources conservation  
23 strategies; and

24 (B) in accordance with a work plan devel-  
25 oped in coordination with—

- 1 (i) the Secretary of the Interior; and  
2 (ii) the Secretary of Commerce.

3 (3) COASTAL STATE.—In developing a work  
4 plan under paragraph (2)(B), a coastal State shall  
5 coordinate with the Secretary of Commerce only for  
6 those portions of the strategy relating to activities  
7 affecting the coastal zone.

8 (4) PENDING APPROVAL.—During the period  
9 for which approval by the applicable Secretary is  
10 pending, the State may continue to receive funds  
11 under section 6009 pursuant to the work plan de-  
12 scribed in paragraph (2)(B).

13 **SEC. 6008. NATURAL RESOURCES CLIMATE CHANGE ADAP-**  
14 **TATION ACCOUNT.**

15 (a) DISTRIBUTION.—

16 (1) STATES.—The assistance made available  
17 pursuant to section 781(d)(1)(A) of the Clean Air  
18 Act for each fiscal year shall be provided to States  
19 to carry out natural resources adaptation activities  
20 in accordance with adaptation plans approved under  
21 section 6007, and shall be distributed as follows:

22 (A) 84 percent shall be available to State  
23 wildlife agencies in accordance with the appor-  
24 tionment formula established under the second  
25 subsection (c) (relating to the apportionment of

1 the Wildlife Conservation and Restoration Ac-  
2 count) of section 4 of the Pittman-Robertson  
3 Wildlife Restoration Act (16 U.S.C. 669c).

4 (B) 16 percent shall be available to State  
5 coastal agencies pursuant to the formula estab-  
6 lished by the Secretary of Commerce under sec-  
7 tion 306(c) of the Coastal Management Act of  
8 1972 (16 U.S.C. 1455(c)).

9 (2) NATURAL RESOURCE ADAPTATION.—Of the  
10 amounts made available pursuant to section  
11 781(d)(1)(A) of the Clean Air Act for each fiscal  
12 year to carry out this part—

13 (A) 28 percent shall be allocated to the  
14 Secretary of the Interior for use in funding—

15 (i) natural resources adaptation activi-  
16 ties carried out—

17 (I) under endangered species, mi-  
18 gratory species, and other fish and  
19 wildlife programs administered by the  
20 National Park Service, the United  
21 States Fish and Wildlife Service, the  
22 Bureau of Indian Affairs, and the Bu-  
23 reau of Land Management;

24 (II) on wildlife refuges, National  
25 Park Service land, and other public

1 land under the jurisdiction of the  
2 United States Fish and Wildlife Serv-  
3 ice, the Bureau of Land Management,  
4 the Bureau of Indian Affairs, or the  
5 National Park Service; and

6 (III) within Federal water man-  
7 aged by the Bureau of Reclamation  
8 and the National Park Service; and

9 (ii) the implementation of the Na-  
10 tional Fish and Wildlife Habitat and Cor-  
11 ridors Information Program required by  
12 section 6009;

13 (B) 8 percent shall be allocated to the Sec-  
14 retary of the Interior for natural resources ad-  
15 aptation activities carried out under cooperative  
16 grant programs, including—

17 (i) the cooperative endangered species  
18 conservation fund authorized under section  
19 6 of the Endangered Species Act of 1973  
20 (16 U.S.C. 1535);

21 (ii) programs under the North Amer-  
22 ican Wetlands Conservation Act (16  
23 U.S.C. 4401 et seq.);

24 (iii) the Neotropical Migratory Bird  
25 Conservation Fund established by section



1           9(a) of the Neotropical Migratory Bird  
2           Conservation Act (16 U.S.C. 6108(a));

3           (iv) the Coastal Program of the  
4           United States Fish and Wildlife Service;

5           (v) the National Fish Habitat Action  
6           Plan;

7           (vi) the Partners for Fish and Wildlife  
8           Program;

9           (vii) the Landowner Incentive Pro-  
10          gram;

11          (viii) the Wildlife Without Borders  
12          Program of the United States Fish and  
13          Wildlife Service; and

14          (ix) the Migratory Species Program  
15          and Park Flight Migratory Bird Program  
16          of the National Park Service; and

17          (C) 5 percent shall be allocated to the Sec-  
18          retary of the Interior to provide financial assist-  
19          ance to Indian tribes to carry out natural re-  
20          sources adaptation activities through—

21          (i) the Trust Natural Resources Pro-  
22          gram of the Bureau of Indian Affairs; and

23          (ii) the Tribal Wildlife Grants Pro-  
24          gram of the United States Fish and Wild-  
25          life Service.

1                   (3) LAND AND WATER CONSERVATION.—

2                   (A) DEPOSITS.—

3                   (i) IN GENERAL.—Of the amounts  
4                   made available pursuant to section  
5                   781(d)(1)(A) of the Clean Air Act for each  
6                   fiscal year to carry out this part, 20 per-  
7                   cent shall be deposited in the Land and  
8                   Water Conservation Fund established  
9                   under section 2 of the Land and Water  
10                  Conservation Fund Act of 1965 (16 U.S.C.  
11                  460l-5).

12                  (ii) USE OF DEPOSITS.—Deposits in  
13                  the Land and Water Conservation Fund  
14                  under this paragraph shall—

15                         (I) be supplemental to authoriza-  
16                         tions provided under section 3 of the  
17                         Land and Water Conservation Fund  
18                         Act of 1965 (16 U.S.C. 460l-6),  
19                         which shall remain available for non-  
20                         adaptation needs; and

21                         (II) be available to carry out this  
22                         part without further appropriation or  
23                         fiscal year limitation.

1 (B) DISTRIBUTION OF AMOUNTS.—Of the  
2 amounts deposited under this paragraph in the  
3 Land and Water Conservation Fund—

4 (i) for the purposes of carrying out  
5 the natural resources adaptation activities  
6 through the acquisition of land and inter-  
7 ests in land under section 6 of the Land  
8 and Water Conservation Fund Act of 1965  
9 (16 U.S.C. 4601–8),  $\frac{1}{6}$  shall be allocated  
10 to the Secretary of the Interior and made  
11 available on a competitive basis—

12 (I) to States, in accordance with  
13 the natural resources adaptation plans  
14 of States, and to Indian tribes;

15 (II) notwithstanding section 5 of  
16 that Act (16 U.S.C. 4601–7); and

17 (III) in addition to any funds  
18 provided pursuant to annual appro-  
19 priations Acts, the Energy Policy Act  
20 of 2005 (42 U.S.C. 15801 et seq.), or  
21 any other authorization for non-  
22 adaptation needs;

23 (ii)  $\frac{1}{3}$  shall be allocated to the Sec-  
24 retary of the Interior to carry out natural  
25 resources adaptation activities through the

1 acquisition of lands and interests in land  
2 under section 7 of the Land and Water  
3 Conservation Fund Act of 1965 (16 U.S.C.  
4 460l-9);

5 (iii)  $\frac{1}{6}$  shall be allocated to the Sec-  
6 retary of Agriculture and made available to  
7 the States and Indian tribes to carry out  
8 natural resources adaptation activities  
9 through the acquisition of land and inter-  
10 ests in land under section 7 of the Cooper-  
11 ative Forestry Assistance Act of 1978 (16  
12 U.S.C. 2103c); and

13 (iv)  $\frac{1}{3}$  shall be allocated to the Sec-  
14 retary of Agriculture to carry out natural  
15 resources adaptation activities through the  
16 acquisition of land and interests in land  
17 under section 7 of the Land and Water  
18 Conservation Fund Act of 1965 (16 U.S.C.  
19 460l-9).

20 (C) EXPENDITURE OF FUNDS.—In allo-  
21 cating funds under subparagraph (B), the Sec-  
22 retary of the Interior and the Secretary of Agri-  
23 culture shall take into consideration factors in-  
24 cluding—

1 (i) the availability of non-Federal con-  
2 tributions from State, local, or private  
3 sources;

4 (ii) opportunities to protect fish and  
5 wildlife corridors or otherwise to link or  
6 consolidate fragmented habitats;

7 (iii) opportunities to reduce the risk of  
8 catastrophic wildfires, drought, extreme  
9 flooding, or other climate-related events  
10 that are harmful to fish and wildlife and  
11 people; and

12 (iv) the potential for conservation of  
13 species or habitat types at serious risk due  
14 to climate change (including, if applicable,  
15 ocean acidification, drought, flooding, and  
16 wildfire) or other stressors.

17 (4) NATIONAL FOREST AND GRASSLAND ADAP-  
18 TATION.—Of the amounts made available pursuant  
19 to section 781(d)(1)(A) of the Clean Air Act for  
20 each fiscal year to carry out this part, 8 percent  
21 shall be allocated to the Secretary of Agriculture  
22 (acting through the Forest Service)—

23 (A) to fund natural resources adaptation  
24 activities carried out in national forests and na-

1 tional grasslands under the jurisdiction of the  
2 Forest Service; and

3 (B) to carry out natural resource adapta-  
4 tion activities on State and private forest land  
5 carried out under the Cooperative Forestry As-  
6 sistance Act of 1978 (16 U.S.C. 2101 et seq.).

7 (5) COASTAL AND MARINE SYSTEM ADAPTA-  
8 TION.—Of the amounts made available pursuant to  
9 section 781(d)(1)(A) of the Clean Air Act for each  
10 fiscal year to carry out this part, 11 percent shall  
11 be allocated to the Secretary of Commerce to fund  
12 natural resources adaptation activities that protect,  
13 maintain, and restore coastal, estuarine, and marine  
14 resources, habitats, and ecosystems, including such  
15 activities carried out under—

16 (A) the coastal and estuarine land con-  
17 servation program administered by the National  
18 Oceanic and Atmospheric Administration;

19 (B) the community-based restoration pro-  
20 gram for fishery and coastal habitats estab-  
21 lished under section 117 of the Magnuson-Ste-  
22 vens Fishery Conservation and Management  
23 Reauthorization Act of 2006 (16 U.S.C.  
24 1891a);

1 (C) the Coastal Zone Management Act of  
2 1972 (16 U.S.C. 1451 et seq.) that are specifi-  
3 cally designed to strengthen the ability of coast-  
4 al, estuarine, and marine resources, habitats,  
5 and ecosystems to adapt to and withstand the  
6 ongoing and expected impacts of climate change  
7 (including, if applicable, ocean acidification,  
8 drought, flooding, and wildfire);

9 (D) the Open Rivers Initiative;

10 (E) the Magnuson-Stevens Fishery Con-  
11 servation and Management Act (16 U.S.C.  
12 1801 et seq.);

13 (F) the Marine Mammal Protection Act of  
14 1972 (16 U.S.C. 1361 et seq.);

15 (G) the Endangered Species Act of 1973  
16 (16 U.S.C. 1531 et seq.);

17 (H) the Marine Protection, Research, and  
18 Sanctuaries Act of 1972 (33 U.S.C. 1401 et  
19 seq.);

20 (I) the Coral Reef Conservation Act of  
21 2000 (16 U.S.C. 6401 et seq.); and

22 (J) the Estuary Restoration Act of 2000  
23 (33 U.S.C. 2901 et seq.).

24 (6) ESTUARINE AND FRESHWATER ECOSYSTEM  
25 ADAPTATION.—Of the amounts made available pur-

1       suant to section 781(d)(1)(A) of the Clean Air Act  
2       for each fiscal year to carry out this part, 12 percent  
3       shall be allocated to the Administrator of the Envi-  
4       ronmental Protection Agency and 8 percent shall be  
5       available to the Secretary of the Army for use by the  
6       Corps of Engineers for use in natural resources ad-  
7       aptation activities restoring and protecting—

8               (A) large-scale freshwater aquatic eco-  
9               systems, such as the Everglades, the Great  
10              Lakes, Flathead Lake, the Missouri River, the  
11              Mississippi River, the Colorado River, the Sac-  
12              ramento-San Joaquin Rivers, the Ohio River,  
13              the Columbia-Snake River System, the Apa-  
14              lachicola, Chattahoochee, and Flint River Sys-  
15              tem, the Connecticut River, the Rio Grande  
16              River, and the Yellowstone River;

17             (B) large-scale estuarine ecosystems, such  
18             as Chesapeake Bay, Long Island Sound, Puget  
19             Sound, the Mississippi River Delta, the San  
20             Francisco Bay Delta, Narragansett Bay, and  
21             Albemarle-Pamlico Sound;

22             (C) freshwater and estuarine ecosystems,  
23             watersheds, and basins identified and  
24             prioritized by the Administrator of the Environ-  
25             mental Protection Agency or the Corps of Engi-



1           neers, working in cooperation with other Fed-  
2           eral agencies, States, Indian tribes, local gov-  
3           ernments, scientists, and other conservation  
4           partners; and

5                 (D)(i) habitats and ecosystems through es-  
6           tuary habitat restoration projects authorized by  
7           the Estuary Restoration Act of 2000 (33  
8           U.S.C. 2901 et seq.);

9                 (ii) project modifications for improvement  
10          of the environment;

11                (iii) aquatic restoration and protection  
12          projects authorized by section 206 of the Water  
13          Resources Development Act of 1996 (33 U.S.C.  
14          2330); and

15                (iv) other appropriate programs and activi-  
16          ties.

17          (b) USE OF FUNDS BY FEDERAL DEPARTMENTS AND  
18          AGENCIES.—Funds allocated to Federal departments and  
19          agencies under this section shall only be used for natural  
20          resources adaptation activities consistent with an adapta-  
21          tion plan approved under section 6006.

22          (c) STATE COST-SHARING.—Notwithstanding any  
23          other provision of law, a State that receives a grant under  
24          this section shall use funds from non-Federal sources to

1 pay 10 percent of the costs of each activity carried out  
2 under the grant.

3 **SEC. 6009. NATIONAL FISH AND WILDLIFE HABITAT AND**  
4 **CORRIDORS INFORMATION PROGRAM.**

5 (a) DEFINITIONS.—In this section:

6 (1) GEOSPATIAL INTEROPERABILITY FRAME-  
7 WORK.—The term “Geospatial Interoperability  
8 Framework” means the strategy used by the Na-  
9 tional Biological Information Infrastructure (based  
10 on accepted standards, specifications, and protocols  
11 adopted through the International Standards Orga-  
12 nization, the Open Geospatial Consortium, and the  
13 Federal Geographic Data Committee) to manage, ar-  
14 chive, integrate, analyze, and make geospatial and  
15 biological data and metadata accessible.

16 (2) PROGRAM.—The term “Program” means  
17 the National Fish and Wildlife Habitat and Cor-  
18 ridors Information Program established under sub-  
19 section (b).

20 (3) SECRETARY.—The term “Secretary” means  
21 the Secretary of the Interior.

22 (4) SYSTEM.—The term “System” means the  
23 Habitat and Corridors Information System estab-  
24 lished under subsection (d)(1).

1           (b) ESTABLISHMENT.—Not later than 180 days after  
2 the date of enactment of this Act, the Secretary, in co-  
3 operation with the States and Indian tribes, shall establish  
4 a National Fish and Wildlife Habitat and Corridors Infor-  
5 mation Program.

6           (c) PURPOSE.—The purposes of the Program are—

7               (1) to support States and Indian tribes in devel-  
8 oping geographical information system databases of  
9 fish and wildlife habitats and corridors that—

10                   (A) inform planning and development deci-  
11 sions within each State and Indian tribe;

12                   (B) enable each State and Indian tribe to  
13 model climate impacts and adaptation; and

14                   (C) provide geographically specific en-  
15 hancements of State wildlife action plans and  
16 conservation or natural resource management  
17 plans of Indian tribes;

18               (2) to ensure the collaborative development of a  
19 comprehensive national geographic information sys-  
20 tem database of maps, models, data, surveys, infor-  
21 mational products, and other geospatial information  
22 regarding fish and wildlife habitat and corridors  
23 that—

24                   (A) is based on consistent protocols for  
25 sampling and mapping across landscapes;

1 (B) takes into account regional differences;

2 and

3 (C) uses—

4 (i) existing and planned State- and  
5 tribal-based geographical information sys-  
6 tem databases; and

7 (ii) existing databases, analytical  
8 tools, metadata activities, and other infor-  
9 mation products available through the Na-  
10 tional Biological Information Infrastruc-  
11 ture maintained by the Secretary and non-  
12 governmental organizations; and

13 (3) to facilitate the use of those databases by  
14 Federal, State, local, and tribal decisionmakers to  
15 incorporate qualitative information on fish and wild-  
16 life habitats and corridors at the earliest practicable  
17 stage for use in—

18 (A) prioritizing and targeting natural re-  
19 sources adaptation strategies and activities;

20 (B) avoiding, minimizing, and mitigating  
21 the impacts on fish and wildlife habitat and cor-  
22 ridors when locating energy development, water,  
23 transmission, transportation, and other land  
24 use projects;

1 (C) assessing the impacts of existing devel-  
2 opment on habitats and corridors; and

3 (D) developing management strategies that  
4 enhance the ability of fish, wildlife, and plant  
5 species to migrate or respond to shifting habi-  
6 tats within existing habitats and corridors.

7 (d) HABITAT AND CORRIDORS INFORMATION SYS-  
8 TEM.—

9 (1) IN GENERAL.—The Secretary, in coopera-  
10 tion with States and Indian tribes, shall establish a  
11 Habitat and Corridors Information System.

12 (2) CONTENTS.—The System shall—

13 (A) include maps, data, and descriptions of  
14 fish and wildlife habitat and corridors that—

15 (i) have been developed by Federal  
16 agencies, State wildlife agencies, and nat-  
17 ural heritage programs, Indian tribes, local  
18 governments, nongovernmental organiza-  
19 tions, and industry; and

20 (ii) meet accepted geospatial inter-  
21 operability framework data and metadata  
22 protocols and standards;

23 (B) include maps and descriptions of pro-  
24 jected shifts in habitats and corridors of fish

1 and wildlife species in response to climate  
2 change;

3 (C) ensure data quality;

4 (D) at scales useful to decisionmakers,  
5 make data, models, and analyses included in  
6 the System available—

7 (i) to prioritize and target natural re-  
8 sources adaptation strategies and activi-  
9 ties;

10 (ii) to assess the impacts of existing  
11 development on habitats and corridors;

12 (iii) to assess the impacts of proposed  
13 energy development, water, transmission,  
14 transportation, and other land use projects  
15 and to avoid, minimize, or mitigate those  
16 impacts on habitats and corridors; and

17 (iv) to develop management strategies  
18 that enhance the ability of fish, wildlife,  
19 and plant species to migrate or respond to  
20 shifting habitats within existing habitats  
21 and corridors;

22 (E) update maps and other information as  
23 landscapes, habitats, corridors, and wildlife pop-  
24 ulations change, or as new information becomes  
25 available;

1 (F) encourage development of collaborative  
2 plans by Federal and State agencies and Indian  
3 tribes that monitor and evaluate the ability of  
4 the System to meet the needs of decision-  
5 makers;

6 (G) identify gaps in habitat and corridor  
7 information, mapping, and research needed to  
8 fully assess current data and metadata;

9 (H) prioritize research and future data col-  
10 lection activities for use in updating the System  
11 and provide support for those activities;

12 (I) include mechanisms to support collabo-  
13 rative research, mapping, and planning of habi-  
14 tats and corridors by Federal and State agen-  
15 cies, Indian tribes, and other interested stake-  
16 holders;

17 (J) incorporate biological and geospatial  
18 data on species and corridors found in energy  
19 development and transmission plans, including  
20 renewable energy initiatives, transportation, and  
21 other land use plans;

22 (K) identify, prioritize, and describe key  
23 parcels of non-Federal land that—

24 (i) are located within units of the Na-  
25 tional Park System, National Wildlife Ref-

1                   uge System, National Forest System, or  
2                   National Grassland System; and

3                   (ii) are critical to maintenance of  
4                   wildlife habitat and migration corridors;  
5                   and

6                   (L) be based on the best scientific informa-  
7                   tion available.

8           (e) FINANCIAL AND OTHER SUPPORT.—The Sec-  
9           retary may provide support to the States and Indian  
10          tribes, including financial and technical assistance, for ac-  
11          tivities that support the development and implementation  
12          of the System.

13          (f) COORDINATION.—In cooperation with States and  
14          Indian tribes, the Secretary shall recommend how the in-  
15          formation in the System may be incorporated into relevant  
16          State and Federal plans that affect fish and wildlife, in-  
17          cluding—

18                  (1) land management plans;

19                  (2) the State Comprehensive Wildlife Conserva-  
20          tion Strategies; and

21                  (3) appropriate tribal conservation plans.

22          (g) PURPOSE OF INCORPORATION.—The Secretary  
23          shall make the recommendations required by subsection  
24          (f) to ensure that relevant State and Federal plans that  
25          affect fish and wildlife—



1           (1) prevent unnecessary habitat fragmentation  
2           and disruption of corridors;

3           (2) promote the landscape connectivity nec-  
4           essary to allow wildlife to move as necessary to meet  
5           biological needs, adjust to shifts in habitat, and  
6           adapt to climate change; and

7           (3) minimize the impacts of energy, develop-  
8           ment, water, transportation, and transmission  
9           projects and other activities expected to impact habi-  
10          tat and corridors.

11 **SEC. 6010. ADDITIONAL PROVISIONS REGARDING INDIAN**  
12 **TRIBES.**

13          (a) FEDERAL TRUST RESPONSIBILITY.—Nothing in  
14 this part amends, alters, or gives priority over the Federal  
15 trust responsibility to any Indian tribe.

16          (b) EXEMPTION FROM FOIA.—If a Federal depart-  
17 ment or agency receives any information relating to sacred  
18 sites or cultural activities identified by an Indian tribe as  
19 confidential, such information shall be exempt from disclo-  
20 sure under section 552 of title 5, United States Code  
21 (commonly known as the “Freedom of Information Act”).

22          (c) APPLICATION OF OTHER LAW.—The Secretary of  
23 the Interior may apply the provisions of the Indian Self-  
24 Determination and Education Assistance Act (25 U.S.C.  
25 450 et seq.) in the implementation of this part.

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 purposes of this  
8 title and the Strategy, Federal departments and  
9 agencies, States, and Indian tribes shall ensure com-  
10 munication and coordination to protect treaty-re-  
11 served rights of Indian tribes to gather first foods.

12 **SEC. 6011. ADDITIONAL CLIMATE CHANGE ADAPTATION**  
13 **PROGRAMS.**

14 The Administrator may establish additional climate  
15 change adaptation programs for the following priorities:

16 (1) Water system mitigation and adaptation  
17 partnerships.

18 (2) Flood control, protection, prevention, and  
19 response.

20 (3) Education to raise awareness of home-  
21 owners and citizens about wildland fire protection  
22 practices (including FireWise or similar programs),  
23 training programs for local firefighters on wildland  
24 firefighting techniques and approaches, and equip-

1       ment acquisition to facilitate wildland fire prepared-  
2       ness.

3               (4) Coastal State economic protection, including  
4       projects and activities addressing the impacts of cli-  
5       mate change on coastal watersheds.

6                   **TITLE VII—BUDGETARY**  
7                   **EFFECTS**

8       **SEC. 7001. BUDGETARY EFFECTS.**

9       The budgetary effects of this Act, for the purpose of  
10     complying with the Statutory Pay-As-You-Go-Act of 2010,  
11     shall be determined by reference to the latest statement  
12     titled “Budgetary Effects of PAYGO Legislation” for this  
13     Act, submitted for printing in the Congressional Record  
14     by the Chairman of the Senate Budget Committee, pro-  
15     vided that such statement has been submitted prior to the  
16     vote on passage.