

109TH CONGRESS
1ST SESSION

S. 150

To amend the Clean Air Act to reduce emissions from electric powerplants,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2005

Mr. JEFFORDS (for himself, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. SCHUMER, Mr. BIDEN, Mrs. BOXER, Mrs. CLINTON, Mr. CORZINE, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. REED, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to reduce emissions from
electric powerplants, 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.**

4 This Act may be cited as the “Clean Power Act of
5 2005”.

1 **SEC. 2. ELECTRIC ENERGY GENERATION EMISSION REDUC-**
 2 **TIONS.**

3 (a) IN GENERAL.—The Clean Air Act (42 U.S.C.
 4 7401 et seq.) is amended by adding at the end the fol-
 5 lowing:

6 **“TITLE VII—ELECTRIC ENERGY**
 7 **GENERATION EMISSION RE-**
 8 **DUCTIONS**

“Sec. 701. Findings.

“Sec. 702. Purposes.

“Sec. 703. Definitions.

“Sec. 704. Emission limitations.

“Sec. 705. Emission allowances.

“Sec. 706. Permitting and trading of emission allowances.

“Sec. 707. Emission allowance allocation.

“Sec. 708. Mercury emission limitations.

“Sec. 709. Other hazardous air pollutants.

“Sec. 710. Effect of failure to promulgate regulations.

“Sec. 711. Prohibitions.

“Sec. 712. Modernization of electricity generating facilities.

“Sec. 713. Relationship to other law.

9 **“SEC. 701. FINDINGS.**

10 “Congress finds that—

11 “(1) public health and the environment con-
 12 tinue to suffer as a result of pollution emitted by
 13 powerplants across the United States, despite the
 14 success of Public Law 101–549 (commonly known
 15 as the ‘Clean Air Act Amendments of 1990’) (42
 16 U.S.C. 7401 et seq.) in reducing emissions;

17 “(2) according to the most reliable scientific
 18 knowledge, acid rain precursors must be significantly
 19 reduced for the ecosystems of the Northeast and

1 Southeast to recover from the ecological harm
2 caused by acid deposition;

3 “(3) because lakes and sediments across the
4 United States are being contaminated by mercury
5 emitted by powerplants, there is an increasing risk
6 of mercury poisoning of aquatic habitats and fish-
7 consuming human populations;

8 “(4)(A) electricity generation accounts for ap-
9 proximately 40 percent of the total emissions in the
10 United States of carbon dioxide, a major greenhouse
11 gas causing global warming; and

12 “(B) the quantity of carbon dioxide in the at-
13 mosphere is growing without constraint and well be-
14 yond the international commitments of the United
15 States;

16 “(5) the cumulative impact of powerplant emis-
17 sions on public and environmental health must be
18 addressed swiftly by reducing those harmful emis-
19 sions to levels that are less threatening; and

20 “(6)(A) the atmosphere is a public resource;
21 and

22 “(B) emission allowances, representing permis-
23 sion to use that resource for disposal of air pollution
24 from electricity generation, should be allocated to
25 promote public purposes, including—

1 “(i) protecting electricity consumers from
2 adverse economic impacts;

3 “(ii) providing transition assistance to ad-
4 versely affected employees, communities, and
5 industries; and

6 “(iii) promoting clean energy resources and
7 energy efficiency.

8 **“SEC. 702. PURPOSES.**

9 “The purposes of this title are—

10 “(1) to alleviate the environmental and public
11 health damage caused by emissions of sulfur dioxide,
12 nitrogen oxides, carbon dioxide, and mercury result-
13 ing from the combustion of fossil fuels in the genera-
14 tion of electric and thermal energy;

15 “(2) to reduce by 2010 the annual national
16 emissions from electricity generating facilities to not
17 more than—

18 “(A) 2,250,000 tons of sulfur dioxide;

19 “(B) 1,510,000 tons of nitrogen oxides;

20 and

21 “(C) 2,050,000,000 tons of carbon dioxide;

22 “(3) to reduce by 2009 the annual national
23 emissions of mercury from electricity generating fa-
24 cilities to not more than 5 tons;

1 “(4) to effectuate the reductions described in
2 paragraphs (2) and (3) by—

3 “(A) requiring electricity generating facili-
4 ties to comply with specified emission limita-
5 tions by specified deadlines; and

6 “(B) allowing electricity generating facili-
7 ties to meet the emission limitations (other than
8 the emission limitation for mercury) through an
9 alternative method of compliance consisting of
10 an emission allowance and transfer system; and

11 “(5) to encourage energy conservation, use of
12 renewable and clean alternative technologies, and
13 pollution prevention as long-range strategies, con-
14 sistent with this title, for reducing air pollution and
15 other adverse impacts of energy generation and use.

16 **“SEC. 703. DEFINITIONS.**

17 “In this title:

18 “(1) COVERED POLLUTANT.—The term ‘cov-
19 ered pollutant’ means—

20 “(A) sulfur dioxide;

21 “(B) any nitrogen oxide;

22 “(C) carbon dioxide; and

23 “(D) mercury.

24 “(2) ELECTRICITY GENERATING FACILITY.—

25 The term ‘electricity generating facility’ means an

1 electric or thermal electricity generating unit, a com-
 2 bination of such units, or a combination of 1 or
 3 more such units and 1 or more combustion devices,
 4 that—

5 “(A) has a nameplate capacity of 15
 6 megawatts or more (or the equivalent in ther-
 7 mal energy generation, determined in accord-
 8 ance with a methodology developed by the Ad-
 9 ministrator);

10 “(B) generates electric energy, for sale,
 11 through combustion of fossil fuel; and

12 “(C) emits a covered pollutant into the at-
 13 mosphere.

14 “(3) ELECTRICITY INTENSIVE PRODUCT.—The
 15 term ‘electricity intensive product’ means a product
 16 with respect to which the cost of electricity con-
 17 sumed in the production of the product represents
 18 more than 5 percent of the value of the product.

19 “(4) EMISSION ALLOWANCE.—The term ‘emis-
 20 sion allowance’ means a limited authorization to
 21 emit in accordance with this title—

22 “(A) 1 ton of sulfur dioxide;

23 “(B) 1 ton of nitrogen oxides; or

24 “(C) 1 ton of carbon dioxide.

1 “(5) ENERGY EFFICIENCY PROJECT.—The term
 2 ‘energy efficiency project’ means any specific action
 3 (other than ownership or operation of an energy effi-
 4 cient building) commenced after the date of enact-
 5 ment of this title—

6 “(A) at a facility (other than an electricity
 7 generating facility), that verifiably reduces the
 8 annual electricity or natural gas consumption
 9 per unit output of the facility, as compared
 10 with the annual electricity or natural gas con-
 11 sumption per unit output that would be ex-
 12 pected in the absence of an allocation of emis-
 13 sion allowances (as determined by the Adminis-
 14 trator); or

15 “(B) by an entity that is primarily engaged
 16 in the transmission and distribution of elec-
 17 tricity, that significantly improves the efficiency
 18 of that type of entity, as compared with stand-
 19 ards for efficiency developed by the Adminis-
 20 trator, in consultation with the Secretary of En-
 21 ergy, after the date of enactment of this title.

22 “(6) ENERGY EFFICIENT BUILDING.—The term
 23 ‘energy efficient building’ means a residential build-
 24 ing or commercial building completed after the date
 25 of enactment of this title for which the projected

lifetime consumption of electricity or natural gas for heating, cooling, and ventilation is at least 30 percent less than the lifetime consumption of a typical new residential building or commercial building, as determined by the Administrator (in consultation with the Secretary of Energy)—

“(A) on a State or regional basis; and

“(B) taking into consideration—

“(i) applicable building codes; and

“(ii) consumption levels achieved in practice by new residential buildings or commercial buildings in the absence of an allocation of emission allowances.

“(7) ENERGY EFFICIENT PRODUCT.—The term ‘energy efficient product’ means a product manufactured after the date of enactment of this title that has an expected lifetime electricity or natural gas consumption that—

“(A) is less than the average lifetime electricity or natural gas consumption for that type of product; and

“(B) does not exceed the lesser of—

“(i) the maximum energy consumption that qualifies for the applicable Energy Star label for that type of product; or

1 “(ii) the average energy consumption
 2 of the most efficient 25 percent of that
 3 type of product manufactured in the same
 4 year.

5 “(8) LIFETIME.—The term ‘lifetime’ means—

6 “(A) in the case of a residential building
 7 that is an energy efficient building, 30 years;

8 “(B) in the case of a commercial building
 9 that is an energy efficient building, 15 years;
 10 and

11 “(C) in the case of an energy efficient
 12 product, a period determined by the Adminis-
 13 trator to be the average life of that type of en-
 14 ergy efficient product.

15 “(9) MERCURY.—The term ‘mercury’ includes
 16 any mercury compound.

17 “(10) NEW CLEAN FOSSIL FUEL-FIRED ELEC-
 18 TRICITY GENERATING UNIT.—The term ‘new clean
 19 fossil fuel-fired electricity generating unit’ means a
 20 unit that—

21 “(A) has been in operation for 10 years or
 22 less; and

23 “(B) is—

24 “(i) a natural gas fired generator
 25 that—

1 “(I) has an energy conversion ef-
2 ficiency of at least 55 percent; and

3 “(II) uses best available control
4 technology (as defined in section 169);

5 “(ii) a generator that—

6 “(I) uses integrated gasification
7 combined cycle technology;

8 “(II) uses best available control
9 technology (as defined in section 169);
10 and

11 “(III) has an energy conversion
12 efficiency of at least 45 percent; or

13 “(iii) a fuel cell operating on fuel de-
14 rived from a nonrenewable source of en-
15 ergy.

16 “(11) NONWESTERN REGION.—The term ‘non-
17 western region’ means the area of the States that is
18 not included in the western region.

19 “(12) RENEWABLE ELECTRICITY GENERATING
20 UNIT.—The term ‘renewable electricity generating
21 unit’ means a unit that—

22 “(A) has been in operation for 10 years or
23 less; and

24 “(B) generates electric energy by means
25 of—

1 “(i) wind;

2 “(ii) biomass;

3 “(iii) landfill gas;

4 “(iv) a geothermal, solar thermal, or
5 photovoltaic source; or

6 “(v) a fuel cell operating on fuel de-
7 rived from a renewable source of energy.

8 “(13) SMALL ELECTRICITY GENERATING FACIL-
9 ITY.—The term ‘small electricity generating facility’
10 means an electric or thermal electricity generating
11 unit, or combination of units, that—

12 “(A) has a nameplate capacity of less than
13 15 megawatts (or the equivalent in thermal en-
14 ergy generation, determined in accordance with
15 a methodology developed by the Administrator);

16 “(B) generates electric energy, for sale,
17 through combustion of fossil fuel; and

18 “(C) emits a covered pollutant into the at-
19 mosphere.

20 “(14) WESTERN REGION.—The term ‘western
21 region’ means the area comprising the States of Ari-
22 zona, California, Colorado, Idaho, Montana, Nevada,
23 New Mexico, Oregon, Utah, Washington, and Wyo-
24 ming.

1 **“SEC. 704. EMISSION LIMITATIONS.**

2 “(a) IN GENERAL.—Subject to subsections (b) and
3 (c), the Administrator shall promulgate regulations to en-
4 sure that, during 2010 and each year thereafter, the total
5 annual emissions of covered pollutants from all electricity
6 generating facilities located in all States does not exceed—

7 “(1) in the case of sulfur dioxide—

8 “(A) 275,000 tons in the western region;

9 or

10 “(B) 1,975,000 tons in the nonwestern re-
11 gion;

12 “(2) in the case of nitrogen oxides, 1,510,000
13 tons;

14 “(3) in the case of carbon dioxide,
15 2,050,000,000 tons; or

16 “(4) in the case of mercury, 5 tons.

17 “(b) EXCESS EMISSIONS BASED ON UNUSED AL-
18 LOWANCES.—The regulations promulgated under sub-
19 section (a) shall authorize emissions of covered pollutants
20 in excess of the national emission limitations established
21 under that subsection for a year to the extent that the
22 number of tons of the excess emissions is less than or
23 equal to the number of emission allowances that are—

24 “(1) used in the year; but

25 “(2) allocated for any previous year under sec-
26 tion 707.

1 “(c) REDUCTIONS.—For 2010 and each year there-
 2 after, the quantity of emissions specified for each covered
 3 pollutant in subsection (a) shall be reduced by the sum
 4 of—

5 “(1) the number of tons of the covered pollut-
 6 ant that were emitted by small electricity generating
 7 facilities in the second preceding year; and

8 “(2) any number of tons of reductions in emis-
 9 sions of the covered pollutant required under section
 10 705(h).

11 **“SEC. 705. EMISSION ALLOWANCES.**

12 “(a) CREATION AND ALLOCATION.—

13 “(1) IN GENERAL.—For 2010 and each year
 14 thereafter, subject to paragraph (2), there are cre-
 15 ated, and the Administrator shall allocate in accord-
 16 ance with section 707, emission allowances as fol-
 17 lows:

18 “(A) In the case of sulfur dioxide—

19 “(i) 275,000 emission allowances for
 20 each year for use in the western region;
 21 and

22 “(ii) 1,975,000 emission allowances
 23 for each year for use in the nonwestern re-
 24 gion.

1 “(B) In the case of nitrogen oxides,
2 1,510,000 emission allowances for each year.

3 “(C) In the case of carbon dioxide,
4 2,050,000,000 emission allowances for each
5 year.

6 “(2) REDUCTIONS.—For 2010 and each year
7 thereafter, the number of emission allowances speci-
8 fied for each covered pollutant in paragraph (1)
9 shall be reduced by a number equal to the sum of—

10 “(A) the number of tons of the covered
11 pollutant that were emitted by small electricity
12 generating facilities in the second preceding
13 year; and

14 “(B) any number of tons of reductions in
15 emissions of the covered pollutant required
16 under subsection (h).

17 “(b) NATURE OF EMISSION ALLOWANCES.—

18 “(1) NOT A PROPERTY RIGHT.—An emission al-
19 lowance allocated by the Administrator under sub-
20 section (a) is not a property right.

21 “(2) NO LIMIT ON AUTHORITY TO TERMINATE
22 OR LIMIT.—Nothing in this title or any other provi-
23 sion of law limits the authority of the United States
24 to terminate or limit an emission allowance.

1 “(3) TRACKING AND TRANSFER OF EMISSION
2 ALLOWANCES.—

3 “(A) IN GENERAL.—Not later than 1 year
4 after the date of enactment of this title, the Ad-
5 ministrator shall promulgate regulations to es-
6 tablish an emission allowance tracking and
7 transfer system for emission allowances of sul-
8 fur dioxide, nitrogen oxides, and carbon dioxide.

9 “(B) REQUIREMENTS.—The emission al-
10 lowance tracking and transfer system estab-
11 lished under subparagraph (A) shall—

12 “(i) incorporate the requirements of
13 subsections (b) and (d) of section 412 (ex-
14 cept that written certification by the trans-
15 feree shall not be necessary to effect a
16 transfer); and

17 “(ii) permit any entity—

18 “(I) to buy, sell, or hold an emis-
19 sion allowance; and

20 “(II) to permanently retire an
21 unused emission allowance.

22 “(C) PROCEEDS OF TRANSFERS.—Pro-
23 ceeds from the transfer of emission allowances
24 by any person to which the emission allowances
25 have been allocated—

1 “(i) shall not constitute funds of the
2 United States; and

3 “(ii) shall not be available to meet any
4 obligations of the United States.

5 “(c) IDENTIFICATION AND USE.—

6 “(1) IN GENERAL.—Each emission allowance
7 allocated by the Administrator shall bear a unique
8 serial number, including—

9 “(A) an identifier of the covered pollutant
10 to which the emission allowance pertains; and

11 “(B) the first year for which the allowance
12 may be used.

13 “(2) SULFUR DIOXIDE EMISSION ALLOW-
14 ANCES.—In the case of sulfur dioxide emission al-
15 lowances, the Administrator shall ensure that the
16 emission allowances allocated to electricity gener-
17 ating facilities in the western region are distinguish-
18 able from emission allowances allocated to electricity
19 generating facilities in the nonwestern region.

20 “(3) YEAR OF USE.—Each emission allowance
21 may be used in the year for which the emission al-
22 lowance is allocated or in any subsequent year.

23 “(d) ANNUAL SUBMISSION OF EMISSION ALLOW-
24 ANCES.—

1 “(1) IN GENERAL.—On or before April 1, 2011,
 2 and April 1 of each year thereafter, the owner or op-
 3 erator of each electricity generating facility shall
 4 submit to the Administrator 1 emission allowance
 5 for the applicable covered pollutant (other than mer-
 6 cury) for each ton of sulfur dioxide, nitrogen oxides,
 7 or carbon dioxide emitted by the electricity gener-
 8 ating facility during the previous calendar year.

9 “(2) SPECIAL RULE FOR OZONE
 10 EXCEEDANCES.—

11 “(A) IDENTIFICATION OF FACILITIES CON-
 12 TRIBUTING TO NONATTAINMENT.—Not later
 13 than December 31, 2009, and the end of each
 14 3-year period thereafter, each State, consistent
 15 with the obligations of the State under section
 16 110(a)(2)(D), shall identify the electricity gen-
 17 erating facilities in the State and in other
 18 States that are significantly contributing (as
 19 determined based on guidance issued by the Ad-
 20 ministrator) to nonattainment of the national
 21 ambient air quality standard for ozone in the
 22 State.

23 “(B) SUBMISSION OF ADDITIONAL ALLOW-
 24 ANCES.—In 2010 and each year thereafter, on
 25 petition from a State or a person demonstrating

1 that the control measures in effect at an elec-
2 tricity generating facility that is identified
3 under subparagraph (A) as significantly con-
4 tributing to nonattainment of the national am-
5 bient air quality standard for ozone in a State
6 during the previous year are inadequate to pre-
7 vent the significant contribution described in
8 subparagraph (A), the Administrator, if the Ad-
9 ministrator determines that the electricity gen-
10 erating facility is inadequately controlled for ni-
11 trogen oxides, may require that the electricity
12 generating facility submit 3 nitrogen oxide
13 emission allowances for each ton of nitrogen ox-
14 ides emitted by the electricity generating facility
15 during any period of an exceedance of the na-
16 tional ambient air quality standard for ozone in
17 the State during the previous year.

18 “(3) REGIONAL LIMITATIONS FOR SULFUR DI-
19 OXIDE.—The Administrator shall not allow—

20 “(A) the use of sulfur dioxide emission al-
21 lowances allocated for the western region to
22 meet the obligations under this subsection of
23 electricity generating facilities in the non-
24 western region; or

1 “(B) the use of sulfur dioxide emission al-
2 lowances allocated for the nonwestern region to
3 meet the obligations under this subsection of
4 electricity generating facilities in the western
5 region.

6 “(e) EMISSION VERIFICATION, MONITORING, AND
7 RECORDKEEPING.—

8 “(1) IN GENERAL.—The Administrator shall
9 ensure that Federal regulations, in combination with
10 any applicable State regulations, are adequate to
11 verify, monitor, and document emissions of covered
12 pollutants from electricity generating facilities.

13 “(2) INVENTORY OF EMISSIONS FROM SMALL
14 ELECTRICITY GENERATING FACILITIES.—On or be-
15 fore July 1, 2006, the Administrator, in cooperation
16 with State agencies, shall complete, and on an an-
17 nual basis update, a comprehensive inventory of
18 emissions of sulfur dioxide, nitrogen oxides, carbon
19 dioxide, and particulate matter from small electricity
20 generating facilities.

21 “(3) MONITORING INFORMATION.—

22 “(A) IN GENERAL.—Not later than 180
23 days after the date of enactment of this title,
24 the Administrator shall promulgate regulations

1 to require each electricity generating facility to
2 submit to the Administrator—

3 “(i) not later than April 1 of each
4 year, verifiable information on covered pol-
5 lutants emitted by the electricity gener-
6 ating facility in the previous year, ex-
7 pressed in—

8 “(I) tons of covered pollutants;

9 and

10 “(II) tons of covered pollutants

11 per megawatt hour of energy (or the
12 equivalent thermal energy) generated;

13 and

14 “(ii) as part of the first submission
15 under clause (i), verifiable information on
16 covered pollutants emitted by the elec-
17 tricity generating facility in 2002, 2003,
18 and 2004, if the electricity generating fa-
19 cility was required to report that informa-
20 tion in those years.

21 “(B) SOURCE OF INFORMATION.—Infor-
22 mation submitted under subparagraph (A) shall
23 be obtained using a continuous emission moni-
24 toring system (as defined in section 402).

1 “(C) AVAILABILITY TO THE PUBLIC.—The
2 information described in subparagraph (A) shall
3 be made available to the public—

4 “(i) in the case of the first year in
5 which the information is required to be
6 submitted under that subparagraph, not
7 later than 18 months after the date of en-
8 actment of this title; and

9 “(ii) in the case of each year there-
10 after, not later than April 1 of the year.

11 “(4) AMBIENT AIR QUALITY MONITORING FOR
12 SULFUR DIOXIDE AND HAZARDOUS AIR POLLUT-
13 ANTS.—

14 “(A) IN GENERAL.—Beginning January 1,
15 2006, each coal-fired electricity generating facil-
16 ity with an aggregate generating capacity of 50
17 megawatts or more shall, in accordance with
18 guidelines issued by the Administrator, com-
19 mence ambient air quality monitoring within a
20 30-mile radius of the coal-fired electricity gen-
21 erating facility for the purpose of measuring
22 maximum concentrations of sulfur dioxide and
23 hazardous air pollutants emitted by the coal-
24 fired electricity generating facility.

1 “(B) LOCATION OF MONITORING
2 POINTS.—Monitoring under subparagraph (A)
3 shall include monitoring at not fewer than 2
4 points—

5 “(i) that are at ground level and with-
6 in 3 miles of the coal-fired electricity gen-
7 erating facility;

8 “(ii) at which the concentration of
9 pollutants being monitored is expected to
10 be the greatest; and

11 “(iii) at which the monitoring shall be
12 the most frequent.

13 “(C) FREQUENCY OF MONITORING OF SUL-
14 FUR DIOXIDE.—Monitoring of sulfur dioxide
15 under subparagraph (A) shall be carried out on
16 a continuous basis and averaged over 5-minute
17 periods.

18 “(D) AVAILABILITY TO THE PUBLIC.—The
19 results of the monitoring under subparagraph
20 (A) shall be made available to the public.

21 “(f) EXCESS EMISSION PENALTY.—

22 “(1) IN GENERAL.—Subject to paragraph (2),
23 section 411 shall be applicable to an owner or oper-
24 ator of an electricity generating facility.

25 “(2) CALCULATION OF PENALTY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the penalty for failure to submit emission allowances for covered pollutants as required under subsection (d) shall be equal to 3 times the product obtained by multiplying—

“(i) as applicable—

“(I) the number of tons emitted in excess of the emission limitation requirement applicable to the electricity generating facility; or

“(II) the number of emission allowances that the owner or operator failed to submit; and

“(ii) the average annual market price of emission allowances (as determined by the Administrator).

“(B) MERCURY.—In the case of mercury, the penalty shall be equal to 3 times the product obtained by multiplying—

“(i) the number of grams emitted in excess of the emission limitation requirement for mercury applicable to the electricity generating facility; and

1 “(ii) the average cost of mercury con-
 2 trols at electricity generating units that
 3 have a nameplate capacity of 15
 4 megawatts or more in all States (as deter-
 5 mined by the Administrator).

6 “(g) SIGNIFICANT ADVERSE LOCAL IMPACTS.—

7 “(1) IN GENERAL.—If the Administrator deter-
 8 mines that emissions of an electricity generating fa-
 9 cility may reasonably be anticipated to cause or con-
 10 tribute to a significant adverse impact on an area
 11 (including endangerment of public health, contribu-
 12 tion to acid deposition in a sensitive receptor area,
 13 and other degradation of the environment), the Ad-
 14 ministrator shall limit the emissions of the electricity
 15 generating facility as necessary to avoid that impact.

16 “(2) VIOLATION.—Notwithstanding the avail-
 17 ability of emission allowances, it shall be a violation
 18 of this Act for any electricity generating facility to
 19 exceed any limitation on emissions established under
 20 paragraph (1).

21 “(h) ADDITIONAL REDUCTIONS.—

22 “(1) PROTECTION OF PUBLIC HEALTH OR WEL-
 23 FARE OR THE ENVIRONMENT.—If the Administrator
 24 determines that the emission levels necessary to
 25 achieve the national emission limitations established

1 under section 704 are not reasonably anticipated to
2 protect public health or welfare or the environment
3 (including protection of children, pregnant women,
4 minority or low-income communities, and other sen-
5 sitive populations), the Administrator may require
6 reductions in emissions from electricity generating
7 facilities in addition to the reductions required under
8 the other provisions of this title.

9 “(2) EMISSION ALLOWANCE TRADING.—

10 “(A) STUDIES.—

11 “(i) IN GENERAL.—In 2013 and at
12 the end of each 3-year period thereafter,
13 the Administrator shall complete a study
14 of the impacts of the emission allowance
15 trading authorized under this title.

16 “(ii) REQUIRED ASSESSMENT.—The
17 study shall include an assessment of ambi-
18 ent air quality in areas surrounding elec-
19 tricity generating facilities that participate
20 in emission allowance trading, including a
21 comparison between—

22 “(I) the ambient air quality in
23 those areas; and

24 “(II) the national average ambi-
25 ent air quality.

1 “(B) LIMITATION ON EMISSIONS.—If the
 2 Administrator determines, based on the results
 3 of a study under subparagraph (A), that ad-
 4 verse local impacts result from emission allow-
 5 ance trading, the Administrator may require re-
 6 ductions in emissions from electricity gener-
 7 ating facilities in addition to the reductions re-
 8 quired under the other provisions of this title.

9 “(i) USE OF CERTAIN OTHER EMISSION ALLOW-
 10 ANCES.—

11 “(1) IN GENERAL.—Subject to paragraph (2),
 12 emission allowances or other emission trading in-
 13 struments created under title I or IV for sulfur diox-
 14 ide or nitrogen oxides shall not be valid for submis-
 15 sion under subsection (d).

16 “(2) EMISSION ALLOWANCES PLACED IN RE-
 17 SERVE.—

18 “(A) IN GENERAL.—Except as provided in
 19 subparagraph (B), an emission allowance de-
 20 scribed in paragraph (1) that was placed in re-
 21 serve under section 404(a)(2) or 405 or
 22 through regulations implementing controls on
 23 nitrogen oxides, because an affected unit emit-
 24 ted fewer tons of sulfur dioxide or nitrogen ox-
 25 ides than were permitted under an emission

1 limitation imposed under title I or IV before the
 2 date of enactment of this title, shall be consid-
 3 ered to be equivalent to $\frac{1}{4}$ of an emission al-
 4 lowance created by subsection (a) for sulfur di-
 5 oxide or nitrogen oxides, respectively.

6 “(B) EMISSION ALLOWANCES RESULTING
 7 FROM ACHIEVEMENT OF NEW SOURCE PER-
 8 FORMANCE STANDARDS.—If an emission allow-
 9 ance described in subparagraph (A) was created
 10 and placed in reserve during the period of 2001
 11 through 2009 by the owner or operator of an
 12 electricity generating facility through the appli-
 13 cation of pollution control technology that re-
 14 sulted in the achievement and maintenance by
 15 the electricity generating facility of the applica-
 16 ble standards of performance required of new
 17 sources under section 111, the emission allow-
 18 ance shall be valid for submission under sub-
 19 section (d).

20 **“SEC. 706. PERMITTING AND TRADING OF EMISSION AL-**
 21 **LOWANCES.**

22 “(a) IN GENERAL.—Not later than 1 year after the
 23 date of enactment of this title, the Administrator shall
 24 promulgate regulations to establish a permitting and emis-
 25 sion allowance trading compliance program to implement

1 the limitations on emissions of covered pollutants from
2 electricity generating facilities established under section
3 704.

4 “(b) EMISSION ALLOWANCE TRADING WITH FACILI-
5 TIES OTHER THAN ELECTRICITY GENERATING FACILI-
6 TIES.—

7 “(1) IN GENERAL.—Subject to paragraph (2)
8 and section 705(i), the regulations promulgated to
9 establish the program under subsection (a) shall pro-
10 hibit use of emission allowances generated from
11 other emission control programs for the purpose of
12 demonstrating compliance with the limitations on
13 emissions of covered pollutants from electricity gen-
14 erating facilities established under section 704.

15 “(2) EXCEPTION FOR CERTAIN CARBON DIOX-
16 IDE EMISSION CONTROL PROGRAMS.—The prohibi-
17 tion described in paragraph (1) shall not apply in
18 the case of carbon dioxide emission allowances gen-
19 erated from an emission control program that limits
20 total carbon dioxide emissions from the entirety of
21 any industrial sector.

22 “(c) METHODOLOGY.—The program established
23 under subsection (a) shall clearly identify the methodology
24 for the allocation of emission allowances, including stand-

ards for measuring annual electricity generation and energy efficiency as the standards relate to emissions.

“SEC. 707. EMISSION ALLOWANCE ALLOCATION.

“(a) ALLOCATION TO ELECTRICITY CONSUMERS.—

“(1) IN GENERAL.—For 2010 and each year thereafter, after making allocations of emission allowances under subsections (b) through (f), the Administrator shall allocate the remaining emission allowances created by section 705(a) for the year for each covered pollutant other than mercury to households served by electricity.

“(2) ALLOCATION AMONG HOUSEHOLDS.—The allocation to each household shall reflect—

“(A) the number of persons residing in the household; and

“(B) the ratio that—

“(i) the quantity of the residential electricity consumption of the State in which the household is located; bears to

“(ii) the quantity of the residential electricity consumption of all States.

“(3) REGULATIONS.—Not later than 1 year after the date of enactment of this title, the Administrator shall promulgate regulations making appropriate arrangements for the allocation of emission

allowances to households under this subsection, including as necessary the appointment of 1 or more trustees—

“(A) to receive the emission allowances for the benefit of the households;

“(B) to obtain fair market value for the emission allowances; and

“(C) to distribute the proceeds to the beneficiaries.

“(b) ALLOCATION FOR TRANSITION ASSISTANCE.—

“(1) IN GENERAL.—For 2010 and each year thereafter through 2019, the Administrator shall allocate the percentage specified in paragraph (2) of the emission allowances created by section 705(a) for the year for each covered pollutant other than mercury in the following manner:

“(A) 80 percent shall be allocated to provide transition assistance to—

“(i) dislocated workers (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)) whose employment has been terminated or who have been laid off as a result of the emission reductions required by this title; and

1 “(ii) communities that have experi-
2 enced disproportionate adverse economic
3 impacts as a result of the emission reduc-
4 tions required by this title.

5 “(B) 20 percent shall be allocated to pro-
6 ducers of electricity intensive products in a
7 number equal to the product obtained by multi-
8 plying—

9 “(i) the ratio that—

10 “(I) the quantity of each elec-
11 tricity intensive product produced by
12 each producer in the previous year;
13 bears to

14 “(II) the quantity of the elec-
15 tricity intensive product produced by
16 all producers in the previous year;

17 “(ii) the average quantity of electricity
18 used in producing the electricity intensive
19 product by producers that use the most en-
20 ergy efficient process for producing the
21 electricity intensive product; and

22 “(iii) with respect to the previous
23 year, the national average quantity (ex-
24 pressed in tons) of emissions of each such
25 pollutant per megawatt hour of electricity

1 generated by electricity generating facilities
 2 in all States.

3 “(2) SPECIFIED PERCENTAGES.—The percent-
 4 ages referred to in paragraph (1) are—

5 “(A) in the case of 2010, 6 percent;

6 “(B) in the case of 2011, 5.5 percent;

7 “(C) in the case of 2012, 5 percent;

8 “(D) in the case of 2013, 4.5 percent;

9 “(E) in the case of 2014, 4 percent;

10 “(F) in the case of 2015, 3.5 percent;

11 “(G) in the case of 2016, 3 percent;

12 “(H) in the case of 2017, 2.5 percent;

13 “(I) in the case of 2018, 2 percent; and

14 “(J) in the case of 2019, 1.5 percent.

15 “(3) REGULATIONS FOR ALLOCATION FOR
 16 TRANSITION ASSISTANCE TO DISLOCATED WORKERS
 17 AND COMMUNITIES.—

18 “(A) IN GENERAL.—Not later than 1 year
 19 after the date of enactment of this title, the Ad-
 20 ministrator shall promulgate regulations mak-
 21 ing appropriate arrangements for the distribu-
 22 tion of emission allowances under paragraph
 23 (1)(A), including as necessary the appointment
 24 of 1 or more trustees—

1 “(i) to receive the emission allowances
 2 allocated under paragraph (1)(A) for the
 3 benefit of the dislocated workers and com-
 4 munities;

5 “(ii) to obtain fair market value for
 6 the emission allowances; and

7 “(iii) to apply the proceeds to pro-
 8 viding transition assistance to the dis-
 9 located workers and communities.

10 “(B) FORM OF TRANSITION ASSISTANCE.—
 11 Transition assistance under paragraph (1)(A)
 12 may take the form of—

13 “(i) grants to employers, employer as-
 14 sociations, and representatives of employ-
 15 ees—

16 “(I) to provide training, adjust-
 17 ment assistance, and employment
 18 services to dislocated workers; and

19 “(II) to make income-mainte-
 20 nance and needs-related payments to
 21 dislocated workers; and

22 “(ii) grants to States and local gov-
 23 ernments to assist communities in attract-
 24 ing new employers or providing essential
 25 local government services.

1 “(c) ALLOCATION TO RENEWABLE ELECTRICITY
 2 GENERATING UNITS, EFFICIENCY PROJECTS, AND
 3 CLEANER ENERGY SOURCES.—For 2010 and each year
 4 thereafter, the Administrator shall allocate not more than
 5 20 percent of the emission allowances created by section
 6 705(a) for the year for each covered pollutant other than
 7 mercury—

8 “(1) to owners and operators of renewable elec-
 9 tricity generating units, in a number equal to the
 10 product obtained by multiplying—

11 “(A) the number of megawatt hours of
 12 electricity generated in the previous year by
 13 each renewable electricity generating unit; and

14 “(B) with respect to the previous year, the
 15 national average quantity (expressed in tons) of
 16 emissions of each such pollutant per megawatt
 17 hour of electricity generated by electricity gen-
 18 erating facilities in all States;

19 “(2) to owners and operators of energy efficient
 20 buildings, producers of energy efficient products,
 21 and entities that carry out energy efficient projects,
 22 in a number equal to the product obtained by multi-
 23 plying—

24 “(A) the number of megawatt hours of
 25 electricity or cubic feet of natural gas saved in

1 the previous year as a result of each energy ef-
2 ficient building, energy efficient product, or en-
3 ergy efficiency project; and

4 “(B) with respect to the previous year, the
5 national average quantity (expressed in tons) of
6 emissions of each such pollutant per, as appro-
7 priate—

8 “(i) megawatt hour of electricity gen-
9 erated by electricity generating facilities in
10 all States; or

11 “(ii) cubic foot of natural gas burned
12 for a purpose other than generation of
13 electricity in all States;

14 “(3) to owners and operators of new clean fossil
15 fuel-fired electricity generating units, in a number
16 equal to the product obtained by multiplying—

17 “(A) the number of megawatt hours of
18 electricity generated in the previous year by
19 each new clean fossil fuel-fired electricity gener-
20 ating unit; and

21 “(B) with respect to the previous year, $\frac{1}{2}$
22 of the national average quantity (expressed in
23 tons) of emissions of each such pollutant per
24 megawatt hour of electricity generated by elec-
25 tricity generating facilities in all States; and

1 “(4) to owners and operators of combined heat
2 and power electricity generating facilities, in a num-
3 ber equal to the product obtained by multiplying—

4 “(A) the number of British thermal units
5 of thermal energy produced and put to produc-
6 tive use in the previous year by each combined
7 heat and power electricity generating facility;
8 and

9 “(B) with respect to the previous year, the
10 national average quantity (expressed in tons) of
11 emissions of each such pollutant per British
12 thermal unit of thermal energy generated by
13 electricity generating facilities in all States.

14 “(d) TRANSITION ASSISTANCE TO ELECTRICITY
15 GENERATING FACILITIES.—

16 “(1) IN GENERAL.—For 2010 and each year
17 thereafter through 2019, the Administrator shall al-
18 locate the percentage specified in paragraph (2) of
19 the emission allowances created by section 705(a)
20 for the year for each covered pollutant other than
21 mercury to the owners or operators of electricity
22 generating facilities in the ratio that—

23 “(A) the quantity of electricity generated
24 by each electricity generating facility in 2003;
25 bears to

1 “(B) the quantity of electricity generated
2 by all electricity generating facilities in 2003.

3 “(2) SPECIFIED PERCENTAGES.—The percent-
4 ages referred to in paragraph (1) are—

5 “(A) in the case of 2010, 10 percent;

6 “(B) in the case of 2011, 9 percent;

7 “(C) in the case of 2012, 8 percent;

8 “(D) in the case of 2013, 7 percent;

9 “(E) in the case of 2014, 6 percent;

10 “(F) in the case of 2015, 5 percent;

11 “(G) in the case of 2016, 4 percent;

12 “(H) in the case of 2017, 3 percent;

13 “(I) in the case of 2018, 2 percent; and

14 “(J) in the case of 2019, 1 percent.

15 “(e) ALLOCATION TO ENCOURAGE BIOLOGICAL CAR-
16 BON SEQUESTRATION.—

17 “(1) IN GENERAL.—For 2010 and each year
18 thereafter, the Administrator shall allocate, on a
19 competitive basis and in accordance with paragraphs
20 (2) and (3), not more than 0.075 percent of the car-
21 bon dioxide emission allowances created by section
22 705(a) for the year for the purposes of—

23 “(A) carrying out projects to reduce net
24 carbon dioxide emissions through biological car-

1 bon dioxide sequestration in the United States
2 that—

3 “(i) result in benefits to watersheds
4 and fish and wildlife habitats; and

5 “(ii) are conducted in accordance with
6 project reporting, monitoring, and
7 verification guidelines based on—

8 “(I) measurement of increases in
9 carbon storage in excess of the carbon
10 storage that would have occurred in
11 the absence of such a project;

12 “(II) comprehensive carbon ac-
13 counting that—

14 “(aa) reflects net increases
15 in carbon reservoirs; and

16 “(bb) takes into account any
17 carbon emissions resulting from
18 disturbance of carbon reservoirs
19 in existence as of the date of
20 commencement of the project;

21 “(III) adjustments to account
22 for—

23 “(aa) emissions of carbon
24 that may result at other locations

1 as a result of the impact of the
2 project on timber supplies; or

3 “(bb) potential displacement
4 of carbon emissions to other land
5 owned by the entity that carries
6 out the project; and

7 “(IV) adjustments to reflect the
8 expected carbon storage over various
9 time periods, taking into account the
10 likely duration of the storage of the
11 carbon stored in a carbon reservoir;
12 and

13 “(B) conducting accurate inventories of
14 carbon sinks.

15 “(2) CARBON INVENTORY.—The Administrator,
16 in consultation with the Secretary of Agriculture,
17 shall allocate not more than $\frac{1}{3}$ of the emission al-
18 lowances described in paragraph (1) to not more
19 than 5 State or multistate land or forest manage-
20 ment agencies or nonprofit entities that—

21 “(A) have a primary goal of land conserva-
22 tion; and

23 “(B) submit to the Administrator pro-
24 posals for projects—

1 “(i) to demonstrate and assess the po-
 2 tential for the development and use of car-
 3 bon inventorying and accounting systems;

4 “(ii) to improve the standards relating
 5 to, and the identification of, incremental
 6 carbon sequestration in forests, agricul-
 7 tural soil, grassland, or rangeland; or

8 “(iii) to assist in development of a na-
 9 tional biological carbon storage baseline or
 10 inventory.

11 “(3) REVOLVING LOAN PROGRAM.—The Admin-
 12 istrator shall allocate not more than $\frac{2}{3}$ of the emis-
 13 sion allowances described in paragraph (1) to States,
 14 based on proposals submitted by States to conduct
 15 programs under which each State shall—

16 “(A) use the value of the emission allow-
 17 ances to establish a State revolving loan fund to
 18 provide loans to owners of nonindustrial private
 19 forest land in the State to carry out forest and
 20 forest soil carbon sequestration activities that
 21 will achieve the purposes specified in paragraph
 22 (2)(B); and

23 “(B) for 2011 and each year thereafter,
 24 contribute to the program of the State an
 25 amount equal to 25 percent of the value of the

1 emission allowances received under this para-
2 graph for the year in cash, in-kind services, or
3 technical assistance.

4 “(4) USE OF EMISSION ALLOWANCES.—An enti-
5 ty that receives an allocation of emission allowances
6 under this subsection may use the proceeds from the
7 sale or other transfer of the emission allowances only
8 for the purpose of carrying out activities described
9 in this subsection.

10 “(5) RECOMMENDATIONS CONCERNING CARBON
11 DIOXIDE EMISSION ALLOWANCES.—

12 “(A) IN GENERAL.—Not later than 4 years
13 after the date of enactment of this title, the Ad-
14 ministrator, in consultation with the Secretary
15 of Agriculture, shall submit to Congress rec-
16 ommendations for establishing a system under
17 which entities that receive grants or loans
18 under this section may be allocated carbon diox-
19 ide emission allowances created by section
20 705(a) for incremental carbon sequestration in
21 forests, agricultural soils, rangeland, or grass-
22 land.

23 “(B) GUIDELINES.—The recommendations
24 shall include recommendations for development,
25 reporting, monitoring, and verification guide-

1 lines for quantifying net carbon sequestration
 2 from land use projects that address the ele-
 3 ments specified in paragraph (1)(A).

4 “(f) ALLOCATION TO ENCOURAGE GEOLOGICAL CAR-
 5 BON SEQUESTRATION.—

6 “(1) IN GENERAL.—For 2010 and each year
 7 thereafter, the Administrator shall allocate not more
 8 than 1.5 percent of the carbon dioxide emission al-
 9 lowances created by section 705(a) to entities that
 10 carry out geological sequestration of carbon dioxide
 11 produced by an electric generating facility in accord-
 12 ance with requirements established by the Adminis-
 13 trator—

14 “(A) to ensure the permanence of the se-
 15 questration; and

16 “(B) to ensure that the sequestration will
 17 not cause or contribute to significant adverse
 18 effects on the environment.

19 “(2) NUMBER OF EMISSION ALLOWANCES.—
 20 For 2010 and each year thereafter, the Adminis-
 21 trator shall allocate to each entity described in para-
 22 graph (1) a number of emission allowances that is
 23 equal to the number of tons of carbon dioxide pro-
 24 duced by the electric generating facility during the

1 previous year that is geologically sequestered as de-
 2 scribed in paragraph (1).

3 “(3) USE OF EMISSION ALLOWANCES.—An enti-
 4 ty that receives an allocation of emission allowances
 5 under this subsection may use the proceeds from the
 6 sale or other transfer of the emission allowances only
 7 for the purpose of carrying out activities described
 8 in this subsection.

9 **“SEC. 708. MERCURY EMISSION LIMITATIONS.**

10 “(a) IN GENERAL.—

11 “(1) REGULATIONS.—

12 “(A) IN GENERAL.—Not later than 1 year
 13 after the date of enactment of this title, the Ad-
 14 ministrator shall promulgate regulations to es-
 15 tablish emission limitations for mercury emis-
 16 sions by coal-fired electricity generating facili-
 17 ties.

18 “(B) NO EXCEEDANCE OF NATIONAL LIM-
 19 ITATION.—The regulations shall ensure that the
 20 national limitation for mercury emissions from
 21 each coal-fired electricity generating facility es-
 22 tablished under section 704(a)(4) is not exceed-
 23 ed.

24 “(C) EMISSION LIMITATIONS FOR 2009 AND
 25 THEREAFTER.—In carrying out subparagraph

(A), for 2009 and each year thereafter, the Administrator shall not—

“(i) subject to subsections (e) and (f) of section 112, establish limitations on emissions of mercury from coal-fired electricity generating facilities that allow emissions in excess of 2.48 grams of mercury per 1000 megawatt hours; or

“(ii) differentiate between facilities that burn different types of coal.

“(2) ANNUAL REVIEW AND DETERMINATION.—

“(A) IN GENERAL.—Not later than April 1 of each year, the Administrator shall—

“(i) review the total mercury emissions during the 2 previous years from electricity generating facilities located in all States; and

“(ii) determine whether, during the 2 previous years, the total mercury emissions from facilities described in clause (i) exceeded the national limitation for mercury emissions established under section 704(a)(4).

“(B) EXCEEDANCE OF NATIONAL LIMITATION.—If the Administrator determines under

subparagraph (A)(ii) that, during the 2 previous years, the total mercury emissions from facilities described in subparagraph (A)(i) exceeded the national limitation for mercury emissions established under section 704(a)(4), the Administrator shall, not later than 1 year after the date of the determination, revise the regulations promulgated under paragraph (1) to reduce the emission rates specified in the regulations as necessary to ensure that the national limitation for mercury emissions is not exceeded in any future year.

“(3) COMPLIANCE FLEXIBILITY.—

“(A) IN GENERAL.—Each coal-fired electricity generating facility subject to an emission limitation under this section shall be in compliance with that limitation if that limitation is greater than or equal to the quotient obtained by dividing—

“(i) the total mercury emissions of the coal-fired electricity generating facility during each 30-day period; by

“(ii) the quantity of electricity generated by the coal-fired electricity generating facility during that period.

1 “(B) MORE THAN 1 UNIT AT A FACIL-
 2 ITY.—In any case in which more than 1 coal-
 3 fired electricity generating unit at a coal-fired
 4 electricity generating facility subject to an emis-
 5 sion limitation under this section was operated
 6 in 1999 under common ownership or control,
 7 compliance with the emission limitation may be
 8 determined by averaging the emission rates of
 9 all coal-fired electricity generating units at the
 10 electricity generating facility during each 30-
 11 day period.

12 “(b) PREVENTION OF RE-RELEASE.—

13 “(1) REGULATIONS.—Not later than July 1,
 14 2006, the Administrator shall promulgate regula-
 15 tions to ensure that any mercury captured or recov-
 16 ered by emission controls installed at an electricity
 17 generating facility is not re-released into the envi-
 18 ronment.

19 “(2) REQUIRED ELEMENTS.—The regulations
 20 shall require—

21 “(A) daily covers on all active waste dis-
 22 posal units, and permanent covers on all inac-
 23 tive waste disposal units, to prevent the release
 24 of mercury into the air;

1 “(B) monitoring of groundwater to ensure
2 that mercury or mercury compounds do not mi-
3 grate from the waste disposal unit;

4 “(C) waste disposal siting requirements
5 and cleanup requirements to protect ground-
6 water and surface water resources;

7 “(D) elimination of agricultural application
8 of coal combustion wastes; and

9 “(E) appropriate limitations on mercury
10 emissions from sources or processes that re-
11 process or use coal combustion waste, including
12 manufacturers of wallboard and cement.

13 **“SEC. 709. OTHER HAZARDOUS AIR POLLUTANTS.**

14 “(a) IN GENERAL.—Not later than January 1, 2006,
15 the Administrator shall issue to owners and operators of
16 coal-fired electricity generating facilities requests for in-
17 formation under section 114 that are of sufficient scope
18 to generate data sufficient to support issuance of stand-
19 ards under section 112(d) for hazardous air pollutants
20 other than mercury emitted by coal-fired electricity gener-
21 ating facilities.

22 “(b) DEADLINE FOR SUBMISSION OF REQUESTED
23 INFORMATION.—The Administrator shall require each re-
24 cipient of a request for information described in subsection

1 (a) to submit the requested data not later than 180 days
2 after the date of the request.

3 “(c) PROMULGATION OF EMISSION STANDARDS.—

4 The Administrator shall—

5 “(1) not later than January 1, 2006, propose
6 emission standards under section 112(d) for haz-
7 ardous air pollutants other than mercury; and

8 “(2) not later than January 1, 2007, promul-
9 gate emission standards under section 112(d) for
10 hazardous air pollutants other than mercury.

11 “(d) PROHIBITION ON EXCESS EMISSIONS.—It shall
12 be unlawful for an electricity generating facility subject
13 to standards for hazardous air pollutants other than mer-
14 cury promulgated under subsection (c) to emit, after De-
15 cember 31, 2008, any such pollutant in excess of the
16 standards.

17 “(e) EFFECT ON OTHER LAW.—Nothing in this sec-
18 tion or section 708 affects any requirement of subsection
19 (e), (f)(2), or (n)(1)(A) of section 112, except that the
20 emission limitations established by regulations promul-
21 gated under this section shall be deemed to represent the
22 maximum achievable control technology for mercury emis-
23 sions from electricity generating units under section
24 112(d).

1 **“SEC. 710. EFFECT OF FAILURE TO PROMULGATE REGULA-**
2 **TIONS.**

3 “If the Administrator fails to promulgate regulations
4 to implement and enforce the limitations specified in sec-
5 tion 704—

6 “(1)(A) each electricity generating facility shall
7 achieve, not later than January 1, 2010, an annual
8 quantity of emissions that is less than or equal to—

9 “(i) in the case of nitrogen oxides, 15 per-
10 cent of the annual emissions by a similar elec-
11 tricity generating facility that has no controls
12 for emissions of nitrogen oxides; and

13 “(ii) in the case of carbon dioxide, 75 per-
14 cent of the annual emissions by a similar elec-
15 tricity generating facility that has no controls
16 for emissions of carbon dioxide; and

17 “(B) each electricity generating facility that
18 does not use natural gas as the primary combustion
19 fuel shall achieve, not later than January 1, 2010,
20 an annual quantity of emissions that is less than or
21 equal to—

22 “(i) in the case of sulfur dioxide, 5 percent
23 of the annual emissions by a similar electricity
24 generating facility that has no controls for
25 emissions of sulfur dioxide; and

1 “(ii) in the case of mercury, 10 percent of
 2 the annual emissions by a similar electricity
 3 generating facility that has no controls included
 4 specifically for the purpose of controlling emis-
 5 sions of mercury; and

6 “(2) the applicable permit under this Act for
 7 each electricity generating facility shall be deemed to
 8 incorporate a requirement for achievement of the re-
 9 duced levels of emissions specified in paragraph (1).

10 **“SEC. 711. PROHIBITIONS.**

11 “‘It shall be unlawful—

12 “(1) for the owner or operator of any electricity
 13 generating facility—

14 “(A) to operate the electricity generating
 15 facility in noncompliance with the requirements
 16 of this title (including any regulations imple-
 17 menting this title);

18 “(B) to fail to submit by the required date
 19 any emission allowances, or pay any penalty, for
 20 which the owner or operator is liable under sec-
 21 tion 705;

22 “(C) to fail to provide and comply with any
 23 plan to offset excess emissions required under
 24 section 705(f); or

1 “(D) to emit mercury in excess of the
 2 emission limitations established under section
 3 708; or

4 “(2) for any person to hold, use, or transfer
 5 any emission allowance allocated under this title ex-
 6 cept in accordance with regulations promulgated by
 7 the Administrator.

8 **“SEC. 712. MODERNIZATION OF ELECTRICITY GENERATING**
 9 **FACILITIES.**

10 “(a) IN GENERAL.—Beginning on the later of Janu-
 11 ary 1, 2014, or the date that is 40 years after the date
 12 on which the electricity generating facility commences op-
 13 eration, each electricity generating facility shall be subject
 14 to emission limitations reflecting the application of best
 15 available control technology on a new major source of a
 16 similar size and type (as determined by the Administrator)
 17 as determined in accordance with the procedures specified
 18 in part C of title I.

19 “(b) ADDITIONAL REQUIREMENTS.—The require-
 20 ments of this section shall be in addition to the other re-
 21 quirements of this title.

22 **“SEC. 713. RELATIONSHIP TO OTHER LAW.**

23 “(a) IN GENERAL.—Except as expressly provided in
 24 this title, nothing in this title—

1 “(1) limits or otherwise affects the application
2 of any other provision of this Act; or

3 “(2) precludes a State from adopting and en-
4 forcing any requirement for the control of emissions
5 of air pollutants that is more stringent than the re-
6 quirements imposed under this title.

7 “(b) REGIONAL SEASONAL EMISSION CONTROLS.—
8 Nothing in this title affects any regional seasonal emission
9 control for nitrogen oxides established by the Adminis-
10 trator or a State under title I.”.

11 (b) CONFORMING AMENDMENT.—Section 412(a) of
12 the Clean Air Act (42 U.S.C. 7651k(a)) is amended in
13 the first sentence by striking “opacity” and inserting
14 “mercury, opacity,”.

15 **SEC. 3. SAVINGS CLAUSE.**

16 Section 193 of the Clean Air Act (42 U.S.C. 7515)
17 is amended by striking “date of the enactment of the
18 Clean Air Act Amendments of 1990” each place it appears
19 and inserting “date of enactment of the Clean Power Act
20 of 2005”.

21 **SEC. 4. ACID PRECIPITATION RESEARCH PROGRAM.**

22 Section 103(j) of the Clean Air Act (42 U.S.C.
23 7403(j)) is amended—

24 (1) in paragraph (3)—

(A) in subparagraph (F)(i), by striking “effects; and” and inserting “effects, including an assessment of—

“(I) acid-neutralizing capacity;

and

“(II) changes in the number of

water bodies in the sensitive eco-

systems referred to in subparagraph

(G)(ii) with an acid-neutralizing ca-

capacity greater than zero; and”;

(B) by adding at the end the following:

“(G) SENSITIVE ECOSYSTEMS.—

“(i) IN GENERAL.—Beginning in 2006, and every 4 years thereafter, the report under subparagraph (E) shall include—

“(I) an identification of environmental objectives necessary to be achieved (and related indicators to be used in measuring achievement of the objectives) to adequately protect and restore sensitive ecosystems; and

“(II) an assessment of the status and trends of the environmental objec-

1 tives and indicators identified in pre-
2 vious reports under this paragraph.

3 “(ii) SENSITIVE ECOSYSTEMS TO BE
4 ADDRESSED.—Sensitive ecosystems to be
5 addressed under clause (i) include—

6 “(I) the Adirondack Mountains,
7 mid-Appalachian Mountains, Rocky
8 Mountains, and southern Blue Ridge
9 Mountains;

10 “(II) the Great Lakes, Lake
11 Champlain, Long Island Sound, and
12 the Chesapeake Bay; and

13 “(III) other sensitive ecosystems,
14 as determined by the Administrator.

15 “(H) ACID DEPOSITION STANDARDS.—Be-
16 ginning in 2006, and every 4 years thereafter,
17 the report under subparagraph (E) shall include
18 a revision of the report under section 404 of
19 Public Law 101–549 (42 U.S.C. 7651 note)
20 that includes a reassessment of the health and
21 chemistry of the lakes and streams that were
22 subjects of the original report under that sec-
23 tion.”; and

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

1 “(4) PROTECTION OF SENSITIVE ECO-
2 SYSTEMS.—

3 “(A) DETERMINATION.—Not later than
4 December 31, 2012, the Administrator, taking
5 into consideration the findings and rec-
6 ommendations of the report revisions under
7 paragraph (3)(H), shall determine whether
8 emission reductions under titles IV and VII are
9 sufficient to—

10 “(i) achieve the necessary reductions
11 identified under paragraph (3)(F); and

12 “(ii) ensure achievement of the envi-
13 ronmental objectives identified under para-
14 graph (3)(G).

15 “(B) REGULATIONS.—

16 “(i) IN GENERAL.—Not later than 2
17 years after the Administrator makes a de-
18 termination under subparagraph (A) that
19 emission reductions are not sufficient, the
20 Administrator shall promulgate regulations
21 to protect the sensitive ecosystems referred
22 to in paragraph (3)(G)(ii).

23 “(ii) CONTENTS.—Regulations under
24 clause (i) shall include modifications to—

1 “(I) provisions relating to nitro-
 2 gen oxide and sulfur dioxide emission
 3 reductions;

4 “(II) provisions relating to allo-
 5 cations of nitrogen oxide and sulfur
 6 dioxide allowances; and

7 “(III) such other provisions as
 8 the Administrator determines to be
 9 necessary.”.

10 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR DEPOSI-**
 11 **TION MONITORING.**

12 (a) OPERATIONAL SUPPORT.—In addition to
 13 amounts made available under any other law, there are
 14 authorized to be appropriated for each of fiscal years 2006
 15 through 2015—

16 (1) for operational support of the National At-
 17 mospheric Deposition Program National Trends
 18 Network—

19 (A) \$2,000,000 to the United States Geo-
 20 logical Survey;

21 (B) \$600,000 to the Environmental Pro-
 22 tection Agency;

23 (C) \$600,000 to the National Park Serv-
 24 ice; and

25 (D) \$400,000 to the Forest Service;

1 (2) for operational support of the National At-
2 mospheric Deposition Program Mercury Deposition
3 Network—

4 (A) \$400,000 to the Environmental Pro-
5 tection Agency;

6 (B) \$400,000 to the United States Geo-
7 logical Survey;

8 (C) \$100,000 to the National Oceanic and
9 Atmospheric Administration; and

10 (D) \$100,000 to the National Park Serv-
11 ice;

12 (3) for the National Atmospheric Deposition
13 Program Atmospheric Integrated Research Moni-
14 toring Network \$1,500,000 to the National Oceanic
15 and Atmospheric Administration;

16 (4) for the Clean Air Status and Trends Net-
17 work \$5,000,000 to the Environmental Protection
18 Agency; and

19 (5) for the Temporally Integrated Monitoring of
20 Ecosystems and Long-Term Monitoring Program
21 \$2,500,000 to the Environmental Protection Agency.

22 (b) MODERNIZATION.—In addition to amounts made
23 available under any other law, there are authorized to be
24 appropriated—

1 (1) for equipment and site modernization of the
 2 National Atmospheric Deposition Program National
 3 Trends Network \$6,000,000 to the Environmental
 4 Protection Agency;

5 (2) for equipment and site modernization and
 6 network expansion of the National Atmospheric
 7 Deposition Program Mercury Deposition Network
 8 \$2,000,000 to the Environmental Protection Agency;

9 (3) for equipment and site modernization and
 10 network expansion of the National Atmospheric
 11 Deposition Program Atmospheric Integrated Re-
 12 search Monitoring Network \$1,000,000 to the Na-
 13 tional Oceanic and Atmospheric Administration; and

14 (4) for equipment and site modernization and
 15 network expansion of the Clean Air Status and
 16 Trends Network \$4,600,000 to the Environmental
 17 Protection Agency.

18 (c) AVAILABILITY OF AMOUNTS.—Each of the
 19 amounts appropriated under subsection (b) shall remain
 20 available until expended.

21 **SEC. 6. TECHNICAL AMENDMENTS.**

22 Title IV of the Clean Air Act (relating to noise pollu-
 23 tion) (42 U.S.C. 7641 et seq.)—

1 (1) is amended by redesignating sections 401
2 through 403 as sections 801 through 803, respec-
3 tively; and

4 (2) is redesignated as title VIII and moved to
5 appear at the end of that Act.

