

110TH CONGRESS
2D SESSION

H. R. 6186

To direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2008

Mr. MARKEY introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Science and Technology, Natural Resources, Agriculture, Foreign Affairs, Education and Labor, Transportation and Infrastructure, Oversight and Government Reform, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, 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 “Investing in Climate Action and Protection Act”.

- 1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Purposes.
 Sec. 4. Definitions.

TITLE I—CAPPING GREENHOUSE GAS EMISSIONS

Sec. 101. Amendment of Clean Air Act.

“TITLE VII—GREENHOUSE GAS EMISSIONS

“Sec. 700. Definitions.

“Subtitle A—Tracking Emissions

“Sec. 701. Purpose.
 “Sec. 702. Definitions.
 “Sec. 703. Determination of carbon dioxide equivalent value of greenhouse gases.
 “Sec. 704. Designation of greenhouse gases.
 “Sec. 705. Reporting requirements.
 “Sec. 706. Data quality and verification.
 “Sec. 707. Federal greenhouse gas registry.

“Subtitle B—Reducing Emissions

“Sec. 711. Emission allowance account.
 “Sec. 712. Compliance obligation.
 “Sec. 713. Penalty for noncompliance.

“Subtitle C—Distribution of Allowances

“Sec. 721. Auctions.
 “Sec. 722. Auction proceeds.
 “Sec. 723. Transitional assistance to manufacturers of trade-exposed primary goods.

“Subtitle D—Trading, Banking, and Borrowing

“Sec. 731. Trading.
 “Sec. 732. Banking.
 “Sec. 733. Borrowing.

“Subtitle E—Domestic Offsets

“Sec. 741. Establishment of domestic offset program.
 “Sec. 742. Eligible project types.
 “Sec. 743. Protocols and accounting methods.
 “Sec. 744. Project initiation.
 “Sec. 745. Offset verification and issuance of credits.
 “Sec. 746. Audits.
 “Sec. 747. Timing and the provision of offset credits.
 “Sec. 748. Environmental considerations.
 “Sec. 749. Ownership and transfer of offset credits.

“Subtitle F—International Emission Allowances and Offset Credits

- “Sec. 751. International emission allowances.
- “Sec. 752. International offset credits.
- “Sec. 753. Retirement.

“Subtitle G—Global Effort To Reduce Greenhouse Gas Emissions

- “Sec. 761. Definitions.
- “Sec. 762. Purposes.
- “Sec. 763. International negotiations.
- “Sec. 764. Determination of comparable action.
- “Sec. 765. International reserve allowance program.
- “Sec. 766. Adjustment of international reserve allowance requirements.

“Subtitle H—Standards for Noncovered Facilities and Coal-Fired Power Plants

- “Sec. 771. Performance standards for certain sources that are not covered entities.
- “Sec. 772. Performance standards for new coal-fired power plants.
- Sec. 102. Conforming amendments.
- Sec. 103. Complementary policies for hydrofluorocarbons.
- Sec. 104. Waiver of preemption for California greenhouse gas emission standards for vehicles.
- Sec. 105. Low-carbon fuel standard.

TITLE II—CARBON MARKET OVERSIGHT

- Sec. 201. Amendment of Federal Power Act.

“PART IV—REGULATION OF CARBON MARKETS

- “Sec. 401. Purposes.
- “Sec. 402. Definitions.
- “Sec. 403. Office of Carbon Market Oversight; jurisdiction.
- “Sec. 404. Regulation of carbon trading.
- “Sec. 405. Registration of carbon trading facilities, brokers, dealers, and carbon clearing organizations.
- “Sec. 406. Administrative enforcement.
- “Sec. 407. Civil judicial enforcement.
- “Sec. 408. Criminal enforcement.
- “Sec. 409. Market reports.
- “Sec. 410. Application of other provisions.

TITLE III—INVESTING IN AMERICA’S LOW-CARBON FUTURE

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- Sec. 301. Purpose.
- Sec. 302. Climate Trust tax credit for working families and senior citizens.
- Sec. 303. Climate Trust rebates for low-income households.

Subtitle B—Low-Carbon Technology Fund

- Sec. 311. Purposes.
- Sec. 312. Funding.

- Sec. 313. Renewable energy and energy efficiency research, development, and demonstration.
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- Sec. 345. Petition and certification of eligibility.
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- Sec. 351. Income support assistance.
- Sec. 352. Training and other adjustment assistance.
- Sec. 353. Reemployment adjustment assistance program.
- Sec. 354. Health coverage tax credits.
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- Sec. 361. Findings and purpose.
- Sec. 362. Definitions.
- Sec. 363. Funding.
- Sec. 364. National Climate Change Adaptation Council.
- Sec. 365. National Climate Change Adaptation Program.
- Sec. 366. National Climate Change Vulnerability Assessments.
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Subtitle G—Natural Resource Conservation Fund

- Sec. 371. Purposes.
- Sec. 372. Definitions.
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Subtitle H—Climate Change Education and Centers for Excellence

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TITLE IV—ENCOURAGING GLOBAL ACTION

Subtitle A—International Forest Protection Fund

- Sec. 401. Findings and purposes.
- Sec. 402. Definitions.
- Sec. 403. Funding.
- Sec. 404. Eligibility requirements and standards for forest carbon activities.
- Sec. 405. Assistance for forest carbon activities.
- Sec. 406. Capacity-building grants.
- Sec. 407. Annual reports.

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- Sec. 411. Purposes.
- Sec. 412. Definitions.
- Sec. 413. Interagency group.
- Sec. 414. Determination of eligible countries.
- Sec. 415. Funding.
- Sec. 416. Annual reports.

Subtitle C—International Climate Change Adaptation Program

- Sec. 421. Findings and purposes.
- Sec. 422. Definitions.
- Sec. 423. Establishment.
- Sec. 424. Functions of program.
- Sec. 425. Funding.
- Sec. 426. Monitoring and evaluation of program.

TITLE V—LEGAL FRAMEWORK FOR GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE

- Sec. 501. National regulations.
- Sec. 502. Liabilities for closed geological sequestration sites.

TITLE VI—BUILDING EFFICIENCY STANDARDS

- Sec. 601. Updating State building energy efficiency codes.
- Sec. 602. Conforming amendment.

TITLE VII—REVIEWS AND RECOMMENDATIONS

Sec. 701. National Academy of Sciences review and recommendations.

Sec. 702. Government Accountability Office review and recommendations.

Sec. 703. Presidential recommendations.

Sec. 704. Expedited congressional action on certain Presidential recommendations.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) unchecked global warming poses a signifi-
4 cant threat to—

5 (A) the national security and economy of
6 the United States;

7 (B) public health and welfare in the
8 United States;

9 (C) the well-being of other countries; and

10 (D) the global environment;

11 (2) according to the Fourth Assessment Report
12 of the Intergovernmental Panel on Climate Change,
13 global warming is unequivocal and attributable to
14 human activities, and evidence from all continents
15 and most oceans shows that impacts from climate
16 change are already occurring;

17 (3) under the United Nations Framework Con-
18 vention on Climate Change, done at New York on
19 May 9, 1992, the United States is committed to sta-
20 bilizing greenhouse gas concentrations in the atmos-
21 phere at a level that will prevent dangerous anthro-
22 pogenic interference with with climate system;

1 (4) according to the Fourth Assessment Report
2 of the Intergovernmental Panel on Climate Change,
3 stabilizing greenhouse gas concentrations in the at-
4 mosphere at a level that will prevent dangerous in-
5 terference with the climate system, including pre-
6 venting global mean surface temperature from in-
7 creasing to more than 3.6 degrees Fahrenheit (2 de-
8 grees Celsius) above preindustrial levels, will require
9 a global effort to reduce anthropogenic greenhouse
10 gas emissions worldwide by 50 to 85 percent below
11 2000 levels by 2050;

12 (5) the costs of policies to achieve such levels of
13 reduction are 5 to 20 times lower than the costs of
14 unchecked global warming, according to the Stern
15 Review of the Economics of Climate Change;

16 (6) prompt, decisive action is critical, since
17 global warming pollutants can persist in the atmos-
18 phere for more than a century;

19 (7) the ingenuity of the people of the United
20 States will allow the United States to become a lead-
21 er in curbing global warming;

22 (8) it is possible and desirable to cap green-
23 house gas emissions, from sources that together ac-
24 count for the majority of those emissions in the
25 United States, at the 2005 level in 2012, and to

1 lower the cap each year between 2012 and 2050, on
2 the condition that the system includes—

3 (A) robust programs to assist American
4 workers and middle- and low-income consumers
5 with the transition to a low-carbon economy;

6 (B) significant investment in energy effi-
7 ciency policies and research, development, dem-
8 onstration, and deployment of zero- and low-
9 carbon energy technologies;

10 (C) cost containment measures;

11 (D) measures to avoid windfall profits to
12 polluters;

13 (E) measures to promote a strong global
14 effort to combat climate change, including
15 measures to encourage major developing coun-
16 tries to reduce greenhouse gas emissions;

17 (F) programs to assist communities in the
18 United States and in the developing world to
19 adapt to any impacts of unavoidable climate
20 change; and

21 (G) periodic review of requirements and
22 programs;

23 (9) Congress may need to update the emissions
24 caps in order to account for continuing scientific

1 data and steps taken, or not taken, by foreign coun-
2 tries;

3 (10) accurate emission data and timely compli-
4 ance with the requirements of the greenhouse gas
5 emission reduction and trading program established
6 under this Act are needed to ensure that reductions
7 are achieved in a fair and efficient manner;

8 (11) Federal oversight of the markets for
9 tradable allowances and credits subject to the pro-
10 gram, and for derivatives thereof, is necessary to en-
11 sure transparency, fairness, and stability in such
12 markets; and

13 (12) further policies external to a cap-and-trade
14 program may be required, including with respect
15 to—

16 (A) the transportation sector, where reduc-
17 ing greenhouse gas emissions requires changes
18 in vehicles, fuels, and consumer behavior; and

19 (B) the built environment, where reducing
20 direct and indirect greenhouse gas emissions re-
21 quires changes in buildings, appliances, light-
22 ing, heating, cooling, and consumer behavior.

23 **SEC. 3. PURPOSES.**

24 The purposes of this Act are—

1 (1) to establish the core of a Federal program
2 that will reduce United States greenhouse gas emis-
3 sions substantially enough between 2008 and 2050
4 to avert the catastrophic impacts of global climate
5 change; and

6 (2) to accomplish that purpose while preserving
7 robust growth in the United States economy, cre-
8 ating new jobs, and avoiding the imposition of undue
9 hardship on United States citizens.

10 **SEC. 4. DEFINITIONS.**

11 As used in this Act:

12 (1) **ADDITIONAL; ADDITIONALITY.**—The terms
13 “additional” and “additionality”, except in subtitle
14 E of title III, mean the extent to which reductions
15 in greenhouse gas emissions or increases in seques-
16 tration are incremental to business-as-usual, meas-
17 ured as the difference between—

18 (A) the baseline; and

19 (B) net greenhouse gas emissions or se-
20 questration resulting from an offset project.

21 (2) **ADMINISTRATOR.**—The term “Adminis-
22 trator” means the Administrator of the Environ-
23 mental Protection Agency.

24 (3) **BASELINE.**—The term “baseline” means
25 the net greenhouse gas emissions or sequestration

1 that would have occurred in the absence of an offset
2 project.

3 (4) BIOLOGICAL SEQUESTRATION.—The term
4 “biological sequestration” means—

5 (A) the removal of carbon dioxide from the
6 atmosphere by biological means, such as by
7 growing plants; and

8 (B) the storage of carbon from that carbon
9 dioxide in the plants or related soils.

10 (5) CARBON DIOXIDE EQUIVALENT.—The term
11 “carbon dioxide equivalent” means, for each green-
12 house gas, the quantity of the greenhouse gas that
13 the Administrator determines, pursuant to section
14 703 or 704 of the Clean Air Act (as added by sec-
15 tion 101 of this Act), makes the same contribution
16 to global warming as 1 metric ton of carbon dioxide.

17 (6) DEVELOPING COUNTRY.—The term “devel-
18 oping country” means a country eligible to receive fi-
19 nancial assistance from the International Bank for
20 Reconstruction and Development (commonly known
21 as the World Bank).

22 (7) EMISSION ALLOWANCE.—The term “emis-
23 sion allowance” means an authorization, established
24 by the Administrator under section 711(a) of the
25 Clean Air Act (as added by section 101 of this Act),

1 to emit 1 carbon dioxide equivalent of greenhouse
2 gas.

3 (8) GEOLOGICAL SEQUESTRATION.—The term
4 “geological sequestration” means the isolation of
5 greenhouse gases, without reversal, in geological for-
6 mations, in accordance with section 1421(d) of the
7 Safe Drinking Water Act (42 U.S.C. 300h(d)) (as
8 added by section 501 of this Act), as determined by
9 the Administrator.

10 (9) GREENHOUSE GAS.—The term “greenhouse
11 gas” means any of—

12 (A) carbon dioxide;

13 (B) methane;

14 (C) nitrous oxide;

15 (D) sulfur hexafluoride;

16 (E) a hydrofluorocarbon;

17 (F) a perfluorocarbon;

18 (G) nitrogen trifluoride; or

19 (H) any other anthropogenic gas des-
20 ignated by the Administrator as a greenhouse
21 gas under section 704 of the Clean Air Act (as
22 added by section 101 of this Act).

23 (10) OFFSET CREDIT.—The term “offset cred-
24 it” means a credit issued by the Administrator
25 under subtitle E of title VII of the Clean Air Act (as

1 added by section 101 of this Act) which represents
2 1 carbon dioxide equivalent of—

3 (A) reduction in greenhouse gas emissions
4 that are not covered by the requirements of sec-
5 tion 712(a) of the Clean Air Act (as added by
6 section 101 of this Act); or

7 (B) increase in biological sequestration.

8 (11) OFFSET PROJECT.—The term “offset
9 project” means a project that reduces greenhouse
10 gas emissions not covered by the requirements of
11 section 712(a) of the Clean Air Act (as added by
12 section 101 of this Act) or increases biological se-
13 questration.

14 (12) REVERSAL.—The term “reversal” means
15 an intentional or unintentional release to the atmos-
16 phere of a significant quantity, as determined by the
17 Administrator, of greenhouse gas that was bio-
18 logically or geologically sequestered in order to ac-
19 complish the purposes of title VII of the Clean Air
20 Act (as added by section 101 of this Act).

21 (13) SEQUESTERED AND SEQUESTRATION.—
22 The terms “sequestered” and “sequestration” mean
23 the separation, isolation, or removal of greenhouse
24 gases from the atmosphere, as determined by the
25 Administrator.

1 **TITLE I—CAPPING GREENHOUSE**
2 **GAS EMISSIONS**

3 **SEC. 101. AMENDMENT OF CLEAN AIR ACT.**

4 The Clean Air Act (42 U.S.C. 7401 and following)
5 is amended by adding the following new title at the end
6 thereof:

7 **“TITLE VII—GREENHOUSE GAS**
8 **EMISSIONS**

9 **“SEC. 700. DEFINITIONS.**

10 “In this title:

11 “(1) ADDITIONAL; ADDITIONALITY.—The terms
12 ‘additional’ and ‘additionality’ mean the extent to
13 which reductions in greenhouse gas emissions or in-
14 creases in sequestration are incremental to business-
15 as-usual, measured as the difference between—

16 “(A) the baseline; and

17 “(B) net greenhouse gas emissions or se-
18 questration resulting from an offset project.

19 “(2) BASELINE.—The term ‘baseline’ means
20 the net greenhouse gas emissions or sequestration
21 that would have occurred in the absence of an offset
22 project.

23 “(3) BIOLOGICAL SEQUESTRATION.—The term
24 ‘biological sequestration’ means—

1 “(A) the removal of carbon dioxide from
2 the atmosphere by biological means, such as by
3 growing plants; and

4 “(B) the storage of carbon from that car-
5 bon dioxide in the plants or related soils.

6 “(4) CARBON DIOXIDE EQUIVALENT.—The
7 term ‘carbon dioxide equivalent’ means, for each
8 greenhouse gas, the quantity of the greenhouse gas
9 that the Administrator determines, pursuant to sec-
10 tion 703 or 704, makes the same contribution to
11 global warming as 1 metric ton of carbon dioxide.

12 “(5) COVERED ENTITY.—The term ‘covered en-
13 tity’ means, for each calendar year—

14 “(A) a facility within the electric power
15 sector that contains a fossil fuel-fired electricity
16 generating unit or units that together emit
17 more than 10,000 carbon dioxide equivalents of
18 greenhouse gas in that year;

19 “(B) an industrial facility that emits more
20 than 10,000 carbon dioxide equivalents of
21 greenhouse gas in that year;

22 “(C) a facility that produces, or an entity
23 that imports, in that year petroleum- or coal-
24 based liquid or gaseous fuel, the combustion of

1 which will emit more than 10,000 carbon diox-
2 ide equivalents of greenhouse gas;

3 “(D) a local distribution company that in
4 that year delivers natural gas, the combustion
5 of which will emit more than 10,000 carbon di-
6 oxide equivalents of greenhouse gas;

7 “(E) a facility that produces for sale or
8 distribution, or an entity that imports, in that
9 year more than 10,000 carbon dioxide equiva-
10 lents of hydrofluorocarbons, perfluorocarbons,
11 sulfur hexafluoride, nitrogen trifluoride, or any
12 other fluorinated gas that is a greenhouse gas,
13 as designated by the Administrator under sec-
14 tion 704, or any combination thereof; and

15 “(F) a site at which carbon dioxide is geo-
16 logically sequestered on a commercial scale.

17 “(6) DESTRUCTION CREDIT.—The term ‘de-
18 struction credit’ means a credit issued by the Ad-
19 ministrator under section 712(f).

20 “(7) DEVELOPING COUNTRY.—The term ‘devel-
21 oping country’ means a country eligible to receive fi-
22 nancial assistance from the International Bank for
23 Reconstruction and Development (commonly known
24 as the World Bank).

1 “(8) EMISSION ALLOWANCE.—The term ‘emis-
2 sion allowance’ means an authorization, established
3 by the Administrator under section 711(a), to emit
4 1 carbon dioxide equivalent of greenhouse gas.

5 “(9) FACILITY.—The term ‘facility’ means 1 or
6 more buildings, structures, or installations of an en-
7 tity on 1 or more contiguous or adjacent properties
8 located in the United States.

9 “(10) FAIR MARKET VALUE.—The term ‘fair
10 market value’ means the average market price, dur-
11 ing a specified time period, of an emission allowance.

12 “(11) GEOLOGICAL SEQUESTRATION; GEOLOGI-
13 CALLY SEQUESTERED.—The terms ‘geological se-
14 questration’ and ‘geologically sequestered’ mean the
15 isolation of greenhouse gases, without reversal, in
16 geological formations, in accordance with section
17 1421(d) of the Safe Drinking Water Act (42 U.S.C.
18 300h(d)) (as added by section 501 of the Investing
19 in Climate Action and Protection Act), as deter-
20 mined by the Administrator.

21 “(12) GREENHOUSE GAS.—The term ‘green-
22 house gas’ means any of—

23 “(A) carbon dioxide;

24 “(B) methane;

25 “(C) nitrous oxide;

1 “(D) sulfur hexafluoride;

2 “(E) a hydrofluorocarbon;

3 “(F) a perfluorocarbon;

4 “(G) nitrogen trifluoride; or

5 “(H) any other anthropogenic gas des-
6 ignated by the Administrator as a greenhouse
7 gas under section 704.

8 “(13) INDUSTRIAL FACILITY.—The term ‘in-
9 dustrial facility’ means—

10 “(A) any facility in the manufacturing sec-
11 tor (as defined in North American Industrial
12 Classification System codes 31, 32, and 33);

13 “(B) any natural gas processing plant; and

14 “(C) any other facility that produces
15 petroleum- or coal-based liquid or gaseous fuel.

16 “(14) INTERNATIONAL EMISSION ALLOW-
17 ANCE.—The term ‘international emission allowance’
18 means a tradable authorization to emit 1 carbon di-
19 oxide equivalent of greenhouse gas that—

20 “(A) is issued by a national or supra-
21 national foreign government pursuant to a gov-
22 ernmental program that imposes a mandatory
23 absolute tonnage limit on greenhouse gas emis-
24 sions from 1 or more foreign countries, or from
25 1 or more economic sectors in such country or

1 countries, pursuant to protocols adopted in ac-
2 cordance with the United Nations Framework
3 Convention on Climate Change, done at New
4 York on May 9, 1992; and

5 “(B) is not in the nature of an offset cred-
6 it or allowance awarded based on the achieve-
7 ment of an increase in biological sequestration
8 or a reduction in greenhouse gas emissions that
9 are not subject to the mandatory absolute ton-
10 nage limits referred to in subparagraph (A).

11 “(15) INTERNATIONAL OFFSET CREDIT.—The
12 term ‘international offset credit’ means—

13 “(A) a Certified Emission Reduction credit
14 that has been certified under the Clean Devel-
15 opment Mechanism of the Kyoto Protocol to the
16 United Nations Framework Convention on Cli-
17 mate Change, done at Kyoto on December 11,
18 1997; or

19 “(B) an equivalent tradable credit issued
20 under a successor protocol to the United Na-
21 tions Framework on Climate Change, done at
22 New York on May 9, 1992, provided that—

23 “(i) the credit represents 1 carbon di-
24 oxide equivalent of increase in biological
25 sequestration or reduction in greenhouse

1 gas emissions not subject to a govern-
2 mentally mandated absolute tonnage limit;
3 and

4 “(ii) such increase in biological se-
5 questration or reduction in greenhouse gas
6 emissions is real, verifiable, additional, per-
7 manent, and enforceable.

8 “(16) INTERNATIONAL RESERVE ALLOW-
9 ANCE.—The term ‘international reserve allowance’
10 means an allowance (denominated in carbon dioxide
11 equivalents) that is established pursuant to section
12 765(a)(2).

13 “(17) LEAKAGE.—The term ‘leakage’ means—

14 “(A) a significant unaccounted increase in
15 greenhouse gas emissions by a facility or entity
16 caused by an offset project that produces an ac-
17 counted reduction in greenhouse gas emissions,
18 as determined by the Administrator; or

19 “(B) a significant unaccounted decrease in
20 sequestration that is caused by an offset project
21 that results in an accounted increase in seques-
22 tration, as determined by the Administrator.

23 “(18) LOCAL DISTRIBUTION COMPANY.—The
24 term ‘local distribution company’ has the meaning

1 given that term in section 2(17) of the Natural Gas
2 Policy Act of 1978 (15 U.S.C. 3301(17)).

3 “(19) NATURAL GAS PROCESSING PLANT.—The
4 term ‘natural gas processing plant’ means a facility
5 in the United States that is designed to separate
6 natural gas liquids from natural gas.

7 “(20) OFFSET CREDIT.—The term ‘offset cred-
8 it’ means a credit issued by the Administrator under
9 subtitle E which represents 1 carbon dioxide equiva-
10 lent of—

11 “(A) reduction in greenhouse gas emissions
12 that are not covered by the requirements of sec-
13 tion 712(a); or

14 “(B) increase in biological sequestration.

15 “(21) OFFSET PROJECT.—The term ‘offset
16 project’ means a project that reduces greenhouse gas
17 emissions not covered by the requirements of section
18 712(a) or increases biological sequestration.

19 “(22) PROJECT DEVELOPER.—The term
20 ‘project developer’ means an individual or entity im-
21 plementing an offset project.

22 “(23) REGISTRY.—The term ‘Registry’ means
23 the Federal greenhouse gas registry established
24 under section 707(a).

1 “(24) RETIRE.—The term ‘retire’, with respect
2 to an emission allowance, offset credit, destruction
3 credit, international emission allowance, inter-
4 national offset credit, or international reserve allow-
5 ance, means to disqualify such allowance or credit
6 for any subsequent use under this title, regardless of
7 whether the use is a sale, exchange, or submission
8 of the allowance or credit in satisfying a compliance
9 obligation.

10 “(25) REVERSAL.—The term ‘reversal’ means
11 an intentional or unintentional release to the atmos-
12 phere of a significant quantity, as determined by the
13 Administrator, of greenhouse gas that was bio-
14 logically or geologically sequestered in order to ac-
15 complish the purposes of this title.

16 “(26) SEQUESTERED AND SEQUESTRATION.—
17 The terms ‘sequestered’ and ‘sequestration’ mean
18 the separation, isolation, or removal of greenhouse
19 gases from the atmosphere, as determined by the
20 Administrator.

21 **“Subtitle A—Tracking Emissions**

22 **“SEC. 701. PURPOSE.**

23 “The purpose of this subtitle is to establish a Federal
24 greenhouse gas registry that—

1 “(1) is complete, consistent, transparent, and
2 accurate;

3 “(2) will collect reliable and accurate data that
4 can be used by public and private entities to identify
5 sources of emissions and design efficient and effec-
6 tive energy security initiatives and greenhouse gas
7 emission reduction strategies; and

8 “(3) will provide appropriate high-quality data
9 to be used for implementing greenhouse gas reduc-
10 tion policies.

11 **“SEC. 702. DEFINITIONS.**

12 “In this subtitle:

13 “(1) AFFECTED ENTITY.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the term ‘affected entity’
16 means, for any calendar year—

17 “(i) a covered entity;

18 “(ii) another entity that emits a
19 greenhouse gas, as determined by the Ad-
20 ministrator; or

21 “(iii) any vehicle fleet, with emissions
22 of more than 10,000 carbon dioxide
23 equivalents in that year, if the Adminis-
24 trator determines that the inclusion of
25 such fleet will help achieve the purposes of

1 the Investing in Climate Action and Pro-
2 tection Act.

3 “(B) EXCLUSIONS.—The term ‘affected
4 entity’ does not include any entity that—

5 “(i) is not a covered entity;

6 “(ii) is owned or operated by a small
7 business (as described in part 121 of title
8 13, Code of Federal Regulations (or a suc-
9 cessor regulation)); and

10 “(iii) emits fewer than 10,000 carbon
11 dioxide equivalents in the year for which
12 the definition is being applied.

13 “(2) CARBON CONTENT.—The term ‘carbon
14 content’ means the quantity of carbon (in carbon di-
15 oxide equivalent) contained in a fuel.

16 “(3) CLIMATE REGISTRY.—The term ‘Climate
17 Registry’ means the greenhouse gas emissions 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 “(4) FEEDSTOCK FOSSIL FUEL.—The term
2 ‘feedstock fossil fuel’ means fossil fuel used as raw
3 material in a manufacturing process.

4 “(5) GREENHOUSE GAS EMISSIONS.—The term
5 ‘greenhouse gas emissions’ means emissions of a
6 greenhouse gas, including—

7 “(A) stationary combustion source emis-
8 sions emitted as a result of combustion of fuels
9 in stationary equipment, such as boilers, fur-
10 naces, burners, turbines, heaters, incinerators,
11 engines, flares, and other similar sources;

12 “(B) process emissions consisting of emis-
13 sions from chemical or physical processes other
14 than combustion;

15 “(C) fugitive emissions consisting of inten-
16 tional and unintentional emissions from equip-
17 ment leaks, such as joints, seals, packing, and
18 gaskets, or from piles, pits, cooling towers, and
19 other similar sources; and

20 “(D) biogenic emissions resulting from bio-
21 logical processes, such as anaerobic decomposi-
22 tion, nitrification, denitrification, and enteric
23 fermentation.

24 “(6) INDIAN TRIBE.—The term ‘Indian tribe’
25 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 450b).

3 “(7) SOURCE.—The term ‘source’ means any
4 building, structure, installation, unit, point, oper-
5 ation, vehicle, land area, or other item that emits or
6 may emit a greenhouse gas.

7 **“SEC. 703. DETERMINATION OF CARBON DIOXIDE EQUIVA-**
8 **LENT VALUE OF GREENHOUSE GASES.**

9 “(a) INITIAL DETERMINATION.—Not later than 90
10 days after the date of enactment of this title, the Adminis-
11 trator shall—

12 “(1) determine the quantity of each greenhouse
13 gas that makes the same contribution to global
14 warming as 1 metric ton of carbon dioxide; and

15 “(2) publish such determination in the Federal
16 Register.

17 “(b) PERIODIC REVIEW.—

18 “(1) Not later than January 1, 2013, and (ex-
19 cept as provided in paragraph (3)) not less than
20 every 5 years thereafter, the Administrator shall—

21 “(A) review and, if necessary, revise the
22 determinations made under subsection (a); and

23 “(B) publish in the Federal Register the
24 results of that review and any revisions.

1 “(2) A revised determination published under
2 this subsection shall take effect on January 1 of the
3 calendar year immediately after the calendar year in
4 which the determination was revised.

5 “(3) The Administrator may adjust the fre-
6 quency of review and revision under paragraph (1)
7 if the Administrator determines that such adjust-
8 ment is appropriate in order to synchronize such re-
9 view and revision with any similar review process
10 carried out pursuant to the United Nations Frame-
11 work Convention on Climate Change, done at New
12 York on May 9, 1992, or to an agreement negotiated
13 under that convention, except that in no event shall
14 the Administrator carry out such review and revision
15 any less frequently than every 10 years.

16 “(c) METHODOLOGY.—In determining the quantity
17 of a greenhouse gas that makes the same contribution to
18 global warming as 1 metric ton of carbon dioxide, for pur-
19 poses of this section or section 704, the Administrator
20 shall take into account the guidelines established by the
21 Intergovernmental Panel on Climate Change or a suc-
22 cessor organization under the United Nations.

23 **“SEC. 704. DESIGNATION OF GREENHOUSE GASES.**

24 “(a) DETERMINATION ON ADMINISTRATOR’S INITIA-
25 TIVE.—The Administrator shall—

1 “(1) designate as a greenhouse gas, for pur-
2 poses of section 700(12) of this title and section
3 4(9) of the Investing in Climate Action and Protec-
4 tion Act, any anthropogenic gas 1 metric ton of
5 which makes the same or greater contribution to
6 global warming as 1 metric ton of carbon dioxide, as
7 determined by the Administrator; and

8 “(2) publish in the Federal Register such des-
9 ignation, including the quantity of the gas that the
10 Administrator determines makes the same contribu-
11 tion to global warming as 1 metric ton of carbon di-
12 oxide.

13 “(b) PETITIONS TO DESIGNATE A GREENHOUSE
14 GAS.—

15 “(1) IN GENERAL.—Any person may petition
16 the Administrator to designate as a greenhouse gas
17 any anthropogenic gas 1 metric ton of which makes
18 the same or greater contribution to global warming
19 as 1 metric ton of carbon dioxide.

20 “(2) AVAILABILITY OF DATA.—Any such peti-
21 tion shall include a showing by the petitioner that
22 there are data on the gas adequate to support the
23 petition.

24 “(3) DETERMINATION.—Within one year after
25 receipt of a petition, the Administrator shall deter-

1 mine the quantity of the gas that makes the same
2 contribution to global warming as 1 metric ton of
3 carbon dioxide and shall take one of the following
4 actions:

5 “(A) If the Administrator determines that
6 1 metric ton of the gas makes a contribution to
7 global warming that is equal to or greater than
8 that made by 1 metric ton of carbon dioxide,
9 the Administrator shall grant the petition and
10 shall take the actions described in subsection
11 (a).

12 “(B) If the Administrator determines that
13 1 metric ton of the gas does not make a con-
14 tribution to global warming that is equal to or
15 greater than that made by 1 metric ton of car-
16 bon dioxide, the Administrator shall deny the
17 petition and shall publish in the Federal Reg-
18 ister a written explanation of the reasons for
19 the Administrator’s decision.

20 “(4) GROUNDS FOR DENIAL.—The Adminis-
21 trator may not deny a petition solely on the basis of
22 inadequate resources or time for review.

23 “(5) ACQUISITION OF INFORMATION.—If the
24 Administrator determines that information on the
25 gas is not sufficient to make a determination, the

1 Administrator shall use any authority available to
2 the Administrator, under any law administered by
3 the Administrator, to acquire such information.

4 “(c) MANUFACTURING NOTICES.—

5 “(1) NOTICE REQUIREMENT.—No person may
6 manufacture or import into the United States a
7 fluorinated gas after the date of enactment of this
8 title unless—

9 “(A) such gas is already designated as a
10 greenhouse gas for purposes of section 700(12)
11 of this title and section 4(9) of the Investing in
12 Climate Action and Protection Act;

13 “(B) the Administrator has determined
14 that 1 metric ton of such gas does not make a
15 contribution to global warming that is equal to
16 or greater than that made by 1 metric ton of
17 carbon dioxide; or

18 “(C) such person has submitted to the Ad-
19 ministrator, at least 90 days before such manu-
20 facture or import, a notice of such person’s in-
21 tent to manufacture or import such gas, includ-
22 ing the common or trade name, the chemical
23 identity, and the molecular structure of the gas.

24 “(2) REVIEW AND ACTION BY THE ADMINIS-
25 TRATOR.—Within one year after receipt of a notice

1 under paragraph (1)(C), the Administrator shall de-
2 termine the quantity of the relevant gas that makes
3 the same contribution to global warming as 1 metric
4 ton of carbon dioxide and shall take one of the fol-
5 lowing actions:

6 “(A) If the Administrator determines that
7 1 metric ton of the gas makes a contribution to
8 global warming that is equal to or greater than
9 that made by 1 metric ton of carbon dioxide,
10 the Administrator shall take the actions de-
11 scribed in subsection (a).

12 “(B) If the Administrator determines that
13 1 metric ton of the gas does not make a con-
14 tribution to global warming that is equal to or
15 greater than that made by 1 metric ton of car-
16 bon dioxide, the Administrator shall publish in
17 the Federal Register a written explanation of
18 the reasons for the Administrator’s decision.

19 “(d) EFFECT OF AFFIRMATIVE DETERMINATION.—
20 A determination published pursuant to subsection (a),
21 subsection (b)(3)(A), or subsection (c)(2)(A) shall—

22 “(1) be deemed to constitute the initial deter-
23 mination for the greenhouse gas for purposes of sec-
24 tion 703(a); and

1 “(2) take effect on January 1 of the calendar
2 year immediately following the calendar year in
3 which the determination is published.

4 “(e) REGULATIONS.—Not later than one year after
5 the date of enactment of this title, the Administrator shall
6 promulgate regulations to carry out this section.

7 **“SEC. 705. REPORTING REQUIREMENTS.**

8 “(a) IN GENERAL.—Subject to this section, each af-
9 fected entity shall submit to the Administrator, for inclu-
10 sion in the Registry, periodic reports, including annual
11 and quarterly data, that—

12 “(1) include—

13 “(A) the quantity and type of fossil fuels,
14 including feedstock fossil fuels, that are ex-
15 tracted, produced, refined, imported, exported,
16 or consumed by the entity; and

17 “(B) in the case of a local distribution
18 company, the quantity of natural gas delivered
19 by the local distribution company, including a
20 separate accounting of the quantity delivered to
21 entities that are not covered entities;

22 “(2) include the quantity of greenhouse gas
23 generated, produced, imported, exported, or con-
24 sumed by the entity;

1 “(3) include the quantity of greenhouse gas
2 that has been captured and sequestered by the enti-
3 ty;

4 “(4) include the quantity of electricity gen-
5 erated or exported by the entity, and information on
6 the quantity of greenhouse gases emitted when the
7 electricity was generated, as determined by the
8 methodology published by the Administrator under
9 section 706(a)(3);

10 “(5) include the quantity of electricity imported
11 or consumed by the entity, and information on the
12 quantity of greenhouse gases emitted when the im-
13 ported or consumed electricity was generated, as de-
14 termined by the methodology published by the Ad-
15 ministrator under section 706(a)(3);

16 “(6) include the aggregate quantity of all green-
17 house gas emissions from sources at the entity;

18 “(7) include greenhouse gas emissions ex-
19 pressed in metric tons of each greenhouse gas emit-
20 ted and in the quantity of carbon dioxide equivalents
21 of each greenhouse gas emitted;

22 “(8) include a list and description of sources of
23 greenhouse gas emissions at the entity;

1 “(9) include information about the entity, as
2 determined by the Administrator, which shall include
3 corporate ownership of the entity;

4 “(10) quantify greenhouse gas emissions in ac-
5 cordance with the measurement standards estab-
6 lished under section 706;

7 “(11) include other data necessary for accurate
8 and complete accounting of greenhouse gas emis-
9 sions, as determined by the Administrator;

10 “(12) include an appropriate certification re-
11 garding the accuracy and completeness of reported
12 data, as determined by the Administrator; and

13 “(13) are submitted electronically to the Ad-
14 ministrator, in such form and to such extent as may
15 be required by the Administrator.

16 “(b) DE MINIMIS EXEMPTIONS.—

17 “(1) IN GENERAL.—The Administrator may de-
18 termine—

19 “(A) whether certain sources at an af-
20 fected entity should be considered to be eligible
21 for a de minimis exemption from a requirement
22 for reporting under subsection (a); and

23 “(B) the level of greenhouse gases emitted
24 from a source that would qualify for such an
25 exemption.

1 “(2) FACTORS.—In making a determination
2 under paragraph (1), the Administrator shall con-
3 sider the availability and suitability of simplified
4 techniques and tools for quantifying emissions and
5 the cost to measure those emissions relative to the
6 purposes of this title, including the goal of collecting
7 complete and consistent entity-wide data.

8 “(c) VERIFICATION OF REPORT REQUIRED.—Before
9 including the information from a report required under
10 this section in the Registry, the Administrator shall verify
11 the completeness and accuracy of the report using infor-
12 mation provided under this section, obtained under section
13 114 or 307(a), or obtained under other provisions of law.

14 “(d) TIMING.—

15 “(1) CALENDAR YEARS 2007 THROUGH 2010.—
16 For a base period of calendar years 2007 through
17 2010, each affected entity shall submit required an-
18 nual data described in this section to the Adminis-
19 trator not later than March 31, 2011. The Adminis-
20 trator may waive reporting requirements for cal-
21 endar years 2007 through 2010 for an affected enti-
22 ty if the Administrator determines that the affected
23 entity did not keep data or records necessary to
24 meet reporting requirements.

1 “(2) SUBSEQUENT CALENDAR YEARS.—For cal-
 2 endar year 2011 and each subsequent calendar year,
 3 each affected entity shall submit quarterly data de-
 4 scribed in this section to the Administrator not later
 5 than 60 days after the end of the applicable quarter.

6 “(e) NO EFFECT ON OTHER REQUIREMENTS.—
 7 Nothing in this subtitle affects any requirement in effect
 8 as of the date of enactment of this title relating to the
 9 reporting of—

10 “(1) fossil fuel production, refining, importa-
 11 tion, exportation, or consumption data;

12 “(2) greenhouse gas emission data; or

13 “(3) other relevant data.

14 **“SEC. 706. DATA QUALITY AND VERIFICATION.**

15 “(a) PROTOCOLS AND METHODS.—

16 “(1) IN GENERAL.—The Administrator shall es-
 17 tablish by regulation, taking into account the work
 18 done by the Climate Registry, comprehensive proto-
 19 cols and methods to ensure the accuracy, complete-
 20 ness, consistency, and transparency of data on
 21 greenhouse gas emissions and fossil fuel production,
 22 refining, importation, exportation, and consumption
 23 submitted to the Registry that include—

1 “(A) accounting and reporting standards
2 for fossil fuel production, refining, importation,
3 exportation, and consumption;

4 “(B) a requirement that, where technically
5 and economically feasible, submitted data are
6 monitored using monitoring systems for fuel
7 flow or emissions, such as continuous emission
8 monitoring systems or equivalent systems of
9 similar rigor, accuracy, quality, and timeliness;

10 “(C) a requirement that, if an affected en-
11 tity has already been directed to monitor emis-
12 sions of a greenhouse gas using a continuous
13 emission monitoring system under existing law,
14 that system be used in complying with this title
15 with respect to the greenhouse gas;

16 “(D) for cases in which the Administrator
17 determines that monitoring emissions with the
18 precision, reliability, accessibility, and timeli-
19 ness similar to that provided by a continuous
20 emission monitoring system is not techno-
21 logically or economically feasible, standardized
22 methods for calculating greenhouse gas emis-
23 sions in specific industries using other readily
24 available and reliable information, such as fuel
25 consumption, materials consumption, produc-

1 tion, or other relevant activity data, on the con-
2 dition that those methods do not underreport
3 emissions, as compared with the continuous
4 emission monitoring system;

5 “(E) information on the accuracy of meas-
6 urement and calculation methods;

7 “(F) methods to avoid double-counting of
8 greenhouse gas emissions;

9 “(G) protocols to prevent an affected enti-
10 ty from avoiding the reporting requirements of
11 this subtitle (such as by reorganizing into mul-
12 tiple entities or outsourcing activities that re-
13 sult in greenhouse gas emissions); and

14 “(H) protocols for verification of data sub-
15 mitted by affected entities.

16 “(2) BEST PRACTICES.—The protocols and
17 methods developed under paragraph (1) shall incor-
18 porate and conform to the best practices from the
19 most recent Federal, State, and international proto-
20 cols for the measurement, accounting, reporting, and
21 verification of greenhouse gas emissions to ensure
22 the accuracy, completeness, and consistency of the
23 data.

24 “(3) ELECTRICITY GENERATION EMISSIONS.—
25 The Administrator shall establish and publish in the

1 Federal Register a methodology for calculating the
2 greenhouse gas emissions from the generation of
3 electricity, taking into account the location of the en-
4 tity and any regional variations in fuels used for
5 electric power generation.

6 “(b) VERIFICATION; INFORMATION BY REPORTING
7 ENTITIES.—Each affected entity shall—

8 “(1) provide information sufficient for the Ad-
9 ministrator to verify, in accordance with the proto-
10 cols and methods developed under subsection (a),
11 that the fossil fuel data and greenhouse gas emission
12 data of the affected entity have been completely and
13 accurately reported; and

14 “(2) ensure the submission or retention, for the
15 5-year period beginning on the date of provision of
16 the information, of—

17 “(A) data sources;

18 “(B) information on internal control activi-
19 ties;

20 “(C) information on assumptions used in
21 reporting emissions and fuels;

22 “(D) uncertainty analyses; and

23 “(E) other relevant data and information
24 to facilitate the verification of reports submitted
25 to the Registry.

1 “(c) WAIVER OF REPORTING REQUIREMENTS.—The
 2 Administrator may waive reporting requirements for spe-
 3 cific entities if the Administrator determines that suffi-
 4 cient and equally or more reliable data are available under
 5 other provisions of law.

6 “(d) MISSING DATA.—If information, satisfactory to
 7 the Administrator, is not provided for an affected entity,
 8 the Administrator shall—

9 “(1) prescribe methods to estimate emissions
 10 for the entity for each period for which data are
 11 missing, reflecting the highest emission levels that
 12 may reasonably have occurred during the period for
 13 which data are missing; and

14 “(2) take appropriate enforcement action pur-
 15 suant to this section and section 113.

16 **“SEC. 707. FEDERAL GREENHOUSE GAS REGISTRY.**

17 “(a) ESTABLISHMENT.—The Administrator shall es-
 18 tablish a Federal greenhouse gas registry.

19 “(b) ADMINISTRATION.—In establishing the Reg-
 20 istry, the Administrator shall—

21 “(1) design and operate the Registry;

22 “(2) provide coordination and technical assist-
 23 ance for the development of proposed protocols and
 24 methods, taking into account the duties carried out

1 by the Climate Registry, to be published by the Ad-
2 ministrator;

3 “(3)(A) develop an electronic format for report-
4 ing under guidelines established under section
5 706(a)(1); and

6 “(B) make the electronic format available to re-
7 porting entities;

8 “(4) verify and audit the data submitted by af-
9 fected entities;

10 “(5) establish consistent policies for calculating
11 carbon content and greenhouse gas emissions for
12 each type of fossil fuel reported under section 705;

13 “(6) calculate carbon content and greenhouse
14 gas emissions associated with the combustion of fos-
15 sil fuel data reported by affected entities; and

16 “(7) promptly publish on the Internet all infor-
17 mation contained in the Registry, except in any case
18 in which publishing the information would result in
19 a disclosure of—

20 “(A) information vital to national security,
21 as determined by the President; or

22 “(B) confidential business information that
23 cannot be derived from information that is oth-
24 erwise publicly available and that would cause
25 significant calculable competitive harm if pub-

1 lished (except that information on total green-
 2 house gas emissions shall not be considered to
 3 be confidential business information).

4 “(c) THIRD-PARTY VERIFICATION.—The Adminis-
 5 trator may use the services of third parties that have no
 6 conflicts of interest to verify reports required under sec-
 7 tion 705.

8 “(d) REGULATIONS.—Not later than December 31,
 9 2009, the Administrator shall promulgate final regulations
 10 to carry out this section.

11 **“Subtitle B—Reducing Emissions**

12 **“SEC. 711. EMISSION ALLOWANCE ACCOUNT.**

13 “(a) IN GENERAL.—The Administrator shall estab-
 14 lish a separate quantity of emission allowances for each
 15 of calendar years 2012 through 2050, in accordance with
 16 subsection (d).

17 “(b) IDENTIFICATION NUMBERS.—The Adminis-
 18 trator shall assign to each emission allowance established
 19 under subsection (a) a unique identification number that
 20 includes the calendar year for which that emission allow-
 21 ance was established.

22 “(c) LEGAL STATUS OF EMISSION ALLOWANCES.—
 23 “(1) IN GENERAL.—An emission allowance does
 24 not constitute a property right.

1 “(2) TERMINATION OR LIMITATION.—Nothing
 2 in this Act or any other provision of law shall be
 3 construed to limit or alter the authority of the
 4 United States to terminate or limit an emission al-
 5 lowance.

6 “(3) OTHER PROVISIONS UNAFFECTED.—Noth-
 7 ing in this Act relating to emission allowances shall
 8 affect the application of, or the responsibility for
 9 compliance with, any other provision of law to or of
 10 a covered entity.

11 “(d) ALLOWANCES FOR EACH CALENDAR YEAR.—
 12 The numbers of emission allowances established by the
 13 Administrator under subsection (a) for each of calendar
 14 years 2012 through 2050 shall be as follows:

“Calendar year	Number of emission allowances (in millions)
2012	6,098
2013	5,946
2014	5,794
2015	5,642
2016	5,490
2017	5,338
2018	5,186
2019	5,034
2020	4,983
2021	4,848
2022	4,713

“Calendar year	Number of emission allowances (in millions)
2023	4,578
2024	4,443
2025	4,308
2026	4,173
2027	4,038
2028	3,903
2029	3,768
2030	3,633
2031	3,498
2032	3,363
2033	3,228
2034	3,093
2035	2,958
2036	2,823
2037	2,688
2038	2,553
2039	2,418
2040	2,283
2041	2,148
2042	2,013
2043	1,878
2044	1,743
2045	1,608
2046	1,473
2047	1,338
2048	1,203
2049	1,068

“Calendar year	Number of emission allowances (in millions)
2050	930

1 **“SEC. 712. COMPLIANCE OBLIGATION.**

2 “(a) IN GENERAL.—Not later than 90 days after the
3 end of each of calendar years 2012 through 2050, the
4 owner or operator of a covered entity shall submit to the
5 Administrator a quantity of emission allowances calculated
6 as follows:

7 “(1) For a covered entity that is a facility with-
8 in the electric power sector, 1 emission allowance for
9 each carbon dioxide equivalent of greenhouse gas
10 that such facility emitted in the calendar year, ex-
11 cluding—

12 “(A) emissions resulting from the use at
13 that facility of petroleum- or coal-based liquid
14 or gaseous fuel (other than petroleum coke);
15 and

16 “(B) any greenhouse gas that is captured
17 and geologically sequestered.

18 “(2) For a covered entity that is an industrial
19 facility, 1 emission allowance for each carbon dioxide
20 equivalent of greenhouse gas that such facility emit-
21 ted in the calendar year, excluding—

1 “(A) emissions resulting from the use at
2 that facility of petroleum- or coal-based liquid
3 or gaseous fuel (other than petroleum coke);

4 “(B) emissions resulting from the use of
5 hydrofluorocarbons, perfluorocarbons, sulfur
6 hexafluoride, nitrogen trifluoride, or any other
7 fluorinated gas that is a greenhouse gas, as
8 designated by the Administrator under section
9 704, purchased for use at that facility; and

10 “(C) any greenhouse gas that is captured
11 and geologically sequestered.

12 “(3) For a covered entity that produced or im-
13 ported petroleum- or coal-based liquid or gaseous
14 fuel (other than petroleum coke), 1 emission allow-
15 ance for each carbon dioxide equivalent of green-
16 house gas that will be emitted from the combustion
17 of any such fuel produced for use in the United
18 States or imported during the calendar year, assum-
19 ing no capture or sequestration of any greenhouse
20 gas emissions.

21 “(4) For a covered entity that is a local dis-
22 tribution company, 1 emission allowance for each
23 carbon dioxide equivalent of greenhouse gas that will
24 be emitted from the combustion of the natural gas
25 such entity delivered during the calendar year, as-

1 suming no capture or sequestration of that green-
2 house gas, and excluding any natural gas that is de-
3 livered to a covered entity that is a facility described
4 in paragraph (1) or (2).

5 “(5) For a covered entity that produced for sale
6 or distribution, or imported, hydrofluorocarbons,
7 perfluorocarbons, sulfur hexafluoride, nitrogen
8 trifluoride, or any other fluorinated gas that is a
9 greenhouse gas, as designated by the Administrator
10 under section 704, 1 emission allowance for each
11 carbon dioxide equivalent of such greenhouse gas
12 produced for sale or distribution in the United
13 States, or imported, during the calendar year, except
14 that this paragraph shall not apply to
15 hydrofluorocarbons produced or imported for sale or
16 distribution during calendar years 2012 through
17 2019.

18 “(6) For a covered entity that is a geological
19 sequestration site, 1 emission allowance for each car-
20 bon dioxide equivalent of greenhouse gas that such
21 site emitted in the calendar year.

22 “(7) A covered entity to which more than 1 of
23 paragraphs (1) through (6) apply shall submit emis-
24 sion allowances in compliance with all applicable
25 paragraphs, except that a covered entity shall not be

1 required to submit more than 1 emission allowance
2 for the same emissions.

3 “(b) NOTICE REQUIREMENT FOR COVERED ENTI-
4 TIES RECEIVING NATURAL GAS FROM LOCAL DISTRIBUTION COMPANIES.—The owner or operator of a covered
5 entity that is an industrial facility and that takes delivery
6 of natural gas from a local distribution company shall, not
7 later than September 1 of each calendar year, notify such
8 local distribution company in writing that such industrial
9 facility will qualify as a covered entity under this title for
10 that calendar year.

12 “(c) ALTERNATIVE COMPLIANCE.—A covered entity
13 may—

14 “(1) satisfy up to 15 percent of its compliance
15 obligations under subsection (a) by submitting in
16 lieu of an emission allowance an offset credit issued
17 pursuant to subtitle E;

18 “(2) satisfy up to 15 percent of its compliance
19 obligations under subsection (a) by submitting in
20 lieu of an emission allowance an international emis-
21 sion allowance or an international offset credit ap-
22 proved by the Administrator under subtitle F;

23 “(3) submit in lieu of an emission allowance a
24 destruction credit obtained under subsection (f) of
25 this section.

1 “(d) RETIREMENT OF ALLOWANCES AND CRED-
2 ITS.—Immediately upon receipt of an emission allowance,
3 offset credit, or destruction credit under subsection (a),
4 the Administrator shall retire the emission allowance, off-
5 set credit, or destruction credit. Treatment of inter-
6 national emission allowances and international offset cred-
7 its submitted under this section shall be governed by sec-
8 tion 753.

9 “(e) DETERMINATION OF COMPLIANCE.—Not later
10 than July 1 of each year, the Administrator shall deter-
11 mine whether the owners and operators of all covered enti-
12 ties are in full compliance with subsection (a) for the pre-
13 ceding year.

14 “(f) DESTRUCTION CREDIT.—If the Administrator
15 determines that an entity has, during any of calendar
16 years 2012 through 2050, converted a greenhouse gas
17 other than methane by thermal, chemical, or other means
18 to another gas with a low- or zero-global warming poten-
19 tial, the Administrator shall establish and distribute to
20 that entity a quantity of destruction credits that is equal
21 to the number of carbon dioxide equivalents of reduction
22 in global warming potential achieved through such conver-
23 sion.

24 **“SEC. 713. PENALTY FOR NONCOMPLIANCE.**

25 “(a) EXCESS EMISSIONS PENALTY.—

1 “(1) IN GENERAL.—The owner or operator of
2 any covered entity that fails for any year to submit
3 to the Administrator by the deadline described in
4 section 712(a) or 733(c), 1 or more of the emission
5 allowances due pursuant to either of those sections
6 shall be liable for the payment to the Administrator
7 of an excess emissions penalty.

8 “(2) AMOUNT.—The amount of an excess emis-
9 sions penalty required to be paid under paragraph
10 (1) shall be an amount equal to the product obtained
11 by multiplying—

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

14 “(B) the greater of—

15 “(i) \$200; or

16 “(ii) 3 times the fair market value of
17 an emission allowance during the calendar
18 year for which the emission allowances
19 were due.

20 “(3) TIMING.—An excess emissions penalty re-
21 quired under this subsection shall be immediately
22 due and payable to the Administrator, without de-
23 mand, in accordance with such regulations as shall
24 be promulgated by the Administrator by the date

1 that is 1 year after the date of enactment of this
2 title.

3 “(4) DEPOSIT.—The Administrator shall de-
4 posit each excess emissions penalty paid under this
5 subsection in the Treasury of the United States.

6 “(5) NO EFFECT ON LIABILITY.—An excess
7 emissions penalty due and payable by the owner or
8 operator of a covered entity under this subsection
9 shall not diminish the liability of the owner or oper-
10 ator for any fine, penalty, or assessment against the
11 owner or operator for the same violation under any
12 other provision of this Act or any other law.

13 “(b) EXCESS EMISSION ALLOWANCE.—The owner or
14 operator of a covered entity that fails for any year to sub-
15 mit to the Administrator, by the deadline described in sec-
16 tion 712(a) or 733(c), 1 or more of the emission allow-
17 ances due pursuant to either of those sections shall be lia-
18 ble to offset the excess emissions by an equal quantity of
19 emission allowances during—

20 “(1) the following calendar year; or

21 “(2) such longer period as the Administrator
22 may prescribe.

1 **“Subtitle C—Distribution of**
2 **Allowances**

3 **“SEC. 721. AUCTIONS.**

4 “(a) IN GENERAL.—The Administrator shall, pursu-
5 ant to regulations promulgated under this section, auction
6 all emission allowances established under section 711, ex-
7 cept as provided in section 723.

8 “(b) INITIAL REGULATIONS.—Not later than 180
9 days after the date of enactment of this title, the Adminis-
10 trator shall promulgate regulations governing the auction
11 of allowances under this section. Such regulations shall in-
12 clude the following requirements:

13 “(1) FREQUENCY; FIRST AUCTION.—Auctions
14 shall be held four times per year at regular intervals,
15 with the first auction to be held no later than March
16 31, 2010.

17 “(2) AUCTION SCHEDULE; CURRENT AND FU-
18 TURE VINTAGES.—The Administrator shall, at each
19 quarterly auction, offer for sale both a portion of the
20 allowances with the same vintage as the year in
21 which the auction is being conducted and a portion
22 of the allowances with vintages from future years.
23 The preceding sentence shall not apply to auctions
24 held in 2010 and 2011, during which, by necessity,
25 the Administrator shall auction only allowances with

1 a vintage year that is later than the year in which
2 the auction is held. Beginning with the first auction
3 and at each quarterly auction held thereafter, the
4 Administrator may offer for sale allowances with
5 vintages of up to four years in advance of the year
6 in which the auction is being conducted.

7 “(3) AUCTION FORMAT.—Auctions shall follow
8 a single-round, sealed-bid, uniform price format.

9 “(4) PARTICIPATION; FINANCIAL ASSURANCE.—
10 Auctions shall be open to any person, except that
11 the Administrator may establish financial assurance
12 requirements to ensure that auction participants can
13 and will perform on their bids.

14 “(5) DISCLOSURE OF BENEFICIAL OWNER-
15 SHIP.—Each bidder in the auction shall be required
16 to disclose the person or entity sponsoring or bene-
17 fitting from the bidder’s participation in the auction
18 if such person or entity is, in whole or in part, other
19 than the bidder or the bidder’s employer.

20 “(6) BIDDING LIMITS.—No person may, di-
21 rectly or in concert with another participant, pur-
22 chase more than 33 percent of the allowances of-
23 fered for sale at any quarterly auction.

24 “(7) PUBLICATION OF INFORMATION.—After
25 the auction, the Administrator shall, in a timely

1 fashion, publish the identities of winning bidders,
2 the quantity of allowances obtained by each winning
3 bidder, and the auction clearing price.

4 “(8) OTHER REQUIREMENTS.—The Adminis-
5 trator may include in the regulations such other re-
6 quirements or provisions as the Administrator deems
7 necessary to promote effective, efficient, transparent,
8 and fair administration of auctions under this sec-
9 tion.

10 “(c) REVISION OF REGULATIONS.—The Adminis-
11 trator may, at any time, revise the initial regulations pro-
12 mulgated under subsection (b) based on the Administra-
13 tor’s experience in administering allowance auctions. Such
14 revised regulations need not meet the requirements identi-
15 fied in subsection (b) if the Administrator determines that
16 an alternative auction design would be more effective, tak-
17 ing into account factors including costs of administration,
18 transparency, fairness, and risks of collusion or manipula-
19 tion.

20 **“SEC. 722. AUCTION PROCEEDS.**

21 “(a) FUNDS ESTABLISHED.—There are established
22 in the Treasury of the United States the following funds:

23 “(1) The Investing in Climate Action and Pro-
24 tection Act Management Fund.

1 “(2) The Climate Change Education and Out-
2 reach Fund.

3 “(3) The Climate Trust Rebate Fund.

4 “(4) The Low-Carbon Technology Fund.

5 “(5) The National Energy Efficiency Fund.

6 “(6) The Agriculture and Forestry Carbon
7 Fund.

8 “(7) The Climate Change Worker Transition
9 Fund.

10 “(8) The National Climate Change Adaptation
11 Fund.

12 “(9) The Natural Resource Conservation Fund.

13 “(10) The International Forest Protection
14 Fund.

15 “(11) The International Clean Technology
16 Fund.

17 “(12) The International Climate Change Adap-
18 tation Fund.

19 “(b) AMOUNTS IN FUNDS.—Each Fund established
20 by subsection (a) shall consist of such amounts as are de-
21 posited into the respective Fund under this section.

22 “(c) INVESTING IN CLIMATE ACTION AND PROTEC-
23 TION ACT MANAGEMENT FUND.—

24 “(1) IN GENERAL.—For each of fiscal years
25 2010 through 2050, the Administrator shall deposit

1 into the Investing in Climate Action and Protection
2 Act Management Fund such percentage of the pro-
3 ceeds of the auctions conducted by the Adminis-
4 trator for such fiscal year under this section, not to
5 exceed 0.5 percent of the total value of the proceeds
6 from auctions conducted in that fiscal year, as the
7 President determines to be sufficient to efficiently
8 and effectively administer this title and title II of
9 the Investing in Climate Action and Protection Act.

10 “(2) USE OF FUNDS.—Funds from the Invest-
11 ing in Climate Action and Protection Act Manage-
12 ment Fund may be used by—

13 “(A) the Administrator for—

14 “(i) the costs of carrying out this
15 title, including the costs of promulgation of
16 regulations, development of policy guid-
17 ance, development and operation of infor-
18 mation systems, certification of monitoring
19 equipment, conducting facilities audits and
20 inspections, monitoring and modeling,
21 quality assurance and verification func-
22 tions, enforcement, administration, out-
23 reach, training, field audits, and financial
24 management; and

1 “(ii) contracting with the National
 2 Academy of Sciences for periodic review
 3 under the Investing in Climate Action and
 4 Protection Act; and

5 “(B) the Federal Energy Regulatory Com-
 6 mission for the costs of carrying out title II of
 7 the Investing in Climate Action and Protection
 8 Act.

9 “(3) TREATMENT.—Amounts in the Investing
 10 in Climate Action and Protection Act Management
 11 Fund—

12 “(A) shall be used only to advance the pur-
 13 poses described in section 3 of the Investing in
 14 Climate Action and Protection Act;

15 “(B) are subject to the availability of ap-
 16 propriations; and

17 “(C) shall remain available until expended.

18 “(d) CLIMATE CHANGE EDUCATION AND OUTREACH
 19 FUND.—For each of the fiscal years 2010 through 2050,
 20 the Administrator shall deposit \$50,000,000 from the auc-
 21 tion proceeds for such fiscal year in the Climate Change
 22 Education and Outreach Fund.

23 “(e) USE OF REMAINING PROCEEDS.—

24 “(1) FISCAL YEARS 2010 THROUGH 2019.—For
 25 each of fiscal years 2010 through 2019, the Admin-

1 istrator shall allocate the remaining proceeds of the
 2 auctions conducted by the Administrator during the
 3 fiscal year as follows:

“Fund	Percentage
General Fund of the Treasury	51
Climate Trust Rebate Fund	7.5
Low-Carbon Technology Fund	12.5
National Energy Efficiency Fund	12.5
Agriculture and Forestry Carbon Fund	4.5
Climate Change Worker Transition Fund	1.5
National Climate Change Adaptation Fund	2
Natural Resource Conservation Fund	1.5
International Forest Protection Fund	1.5
International Clean Technology Fund	3.5
International Climate Change Adaptation Fund	2

4 “(2) FISCAL YEARS 2020 THROUGH 2050.—For
 5 each of fiscal years 2020 through 2050, the Admin-
 6 istrator shall allocate the remaining proceeds of the
 7 auctions conducted by the Administrator during the
 8 fiscal year as follows:

“Fund	Percentage
General Fund of the Treasury	48
Climate Trust Rebate Fund	7
Low-Carbon Technology Fund	12.5
National Energy Efficiency Fund	12.5
Agriculture and Forestry Carbon Fund	5

“Fund	Percentage
Climate Change Worker Transition Fund	2
National Climate Change Adaptation Fund	2.5
Natural Resource Conservation Fund	2
International Forest Protection Fund	2
International Clean Technology Fund	4
International Climate Change Adaptation Fund	2.5

1 **“SEC. 723. TRANSITIONAL ASSISTANCE TO MANUFACTUR-**
2 **ERS OF TRADE-EXPOSED PRIMARY GOODS.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) CURRENTLY OPERATING MANUFACTURING
5 FACILITY.—The term ‘currently operating manufac-
6 turing facility’ means an eligible manufacturing fa-
7 cility that had significant operations during the cal-
8 endar year preceding the calendar year for which
9 emission allowances are being distributed under this
10 section.

11 “(2) ELIGIBLE MANUFACTURING FACILITY.—
12 The term ‘eligible manufacturing facility’ means an
13 industrial facility described in section 700(13)(A)
14 that is located in the United States and that prin-
15 cipally manufactures trade-exposed primary goods.

16 “(3) NEW ENTRANT MANUFACTURING FACIL-
17 ITY.—The term ‘new entrant manufacturing facility’
18 means an eligible manufacturing facility that will
19 begin operation during the calendar year for which

1 emission allowances are being distributed under this
2 section.

3 “(4) PRIMARY GOOD.—The term ‘primary good’
4 means—

5 “(A) a manufactured product (other than
6 fuel) that is sold in bulk for purposes of further
7 manufacture, such as aluminum, cement, iron
8 and steel, and bulk glass; and

9 “(B) paper.

10 “(5) PRODUCTION AMOUNT.—The term ‘pro-
11 duction amount’ means—

12 “(A) for a currently operating manufac-
13 turing facility, the quantity of the trade-exposed
14 primary good the facility produced, on average,
15 during the most recent 3 calendar years for
16 which data is available, or such shorter histor-
17 ical period as the facility has been in operation;
18 and

19 “(B) for a new entrant manufacturing fa-
20 cility, the expected production capacity for the
21 trade-exposed primary good by the facility for
22 the calendar year.

23 “(6) TRADE-EXPOSED PRIMARY GOOD.—The
24 term ‘trade-exposed primary good’ means a primary
25 good that the Administrator determines is likely to

1 be significantly disadvantaged in internationally
2 competitive markets as a result of direct and indi-
3 rect costs of compliance with this title.

4 “(b) CATEGORIES OF TRADE-EXPOSED PRIMARY
5 GOODS.—Not later than 180 days after the date of enact-
6 ment of this title, the Administrator shall publish in the
7 Federal Register a list of categories and subcategories of
8 trade-exposed primary goods for the purposes of this sec-
9 tion and subtitle G.

10 “(c) ELIGIBLE MANUFACTURING FACILITIES.—

11 “(1) LIST.—Not later than 120 days prior to
12 the start of each of calendar years 2012 through
13 2019, the Administrator shall publish in the Federal
14 Register a list of eligible manufacturing facilities for
15 each category and subcategory of trade-exposed pri-
16 mary goods listed under subsection (b). The list pub-
17 lished under this paragraph shall include informa-
18 tion on the production amount for each listed cat-
19 egory and subcategory of goods.

20 “(2) ALLOWANCE ALLOCATION.—In addition to
21 the list under paragraph (1), the publication under
22 this subsection shall specify the quantity of emission
23 allowances to be allocated to each eligible manufac-
24 turing facility pursuant to subsections (d) through
25 (i).

1 “(3) OBTAINING INFORMATION.—The Adminis-
2 trator shall issue regulations to provide the Adminis-
3 trator access to the information necessary to publish
4 the list required under paragraph (1). Such regula-
5 tions shall not require manufacturing facilities to
6 submit information available to the Administrator
7 from other Federal agencies or public sources of in-
8 formation.

9 “(d) TOTAL ALLOCATION.—For each of calendar
10 years 2012 through 2019, the Administrator shall allocate
11 6 percent of the quantity of emission allowances estab-
12 lished under section 711 for the relevant year to eligible
13 manufacturing facilities in accordance with this section.

14 “(e) DISTRIBUTION SYSTEM.—Not later than 1 year
15 after the date of enactment of this title, the Administrator
16 shall promulgate a regulation establishing a system for
17 distributing to the owners or operators of eligible manu-
18 facturing facilities the emission allowances described in
19 subsection (d). Such distribution shall occur by January
20 1 of the year for which the allowances are being distrib-
21 uted.

22 “(f) TOTAL ALLOCATION FOR EACH CATEGORY AND
23 SUBCATEGORY OF ELIGIBLE MANUFACTURING FACILI-
24 TIES.—The proportion of total emission allowances dis-
25 tributed by the Administrator for each calendar year to

1 each category and subcategory of eligible manufacturing
2 facilities shall be determined by the Administrator based
3 upon the relative predicted adverse impact of direct and
4 indirect costs of compliance with this title on each cat-
5 egory or subcategory. The Administrator shall establish
6 such proportion not later than January 1, 2011, and shall
7 revise such proportion by January 1 of each year there-
8 after only to reflect the predicted changes in production
9 levels of each category or subcategory.

10 “(g) INDIVIDUAL ALLOCATIONS TO ELIGIBLE MANU-
11 FACTURING FACILITIES.—The quantity of emission allow-
12 ances distributed by the Administrator for a calendar year
13 to an eligible manufacturing facility shall be a quantity
14 equal to the product obtained by multiplying—

15 “(1) the total quantity of emission allowances
16 available for distribution to all eligible manufac-
17 turing facilities in the appropriate category or sub-
18 category for the calendar year as determined under
19 subsection (f); and

20 “(2) the ratio that the production amount of
21 the facility bears to the sum of—

22 “(A) the total quantity of the trade-ex-
23 posed primary good produced, on average, over
24 the 3 preceding calendar years, by currently op-
25 erating manufacturing facilities; and

1 “(B) the expected production capacity for
2 the trade-exposed primary good of all new en-
3 trant manufacturing facilities for the calendar
4 year.

5 “(h) NEW ENTRANT MANUFACTURING FACILI-
6 TIES.—The system established pursuant to subsection (e)
7 shall authorize the Administrator to require the return to
8 the Administrator of an appropriate portion of the emis-
9 sion allowances distributed to a new entrant manufac-
10 turing facility if actual production by such facility is lower
11 than the production amount used to calculate the distribu-
12 tion to the facility.

13 “(i) FACILITIES THAT SHUT DOWN.—The system es-
14 tablished pursuant to subsection (e) shall ensure that—

15 “(1) emission allowances are not distributed to
16 an owner or operator for any facility that has been
17 permanently shut down at the time of the distribu-
18 tion;

19 “(2) if a facility receives a distribution of emis-
20 sion allowances under this section for a calendar
21 year and subsequently permanently shuts down dur-
22 ing that calendar year, the owner or operator of
23 such facility promptly returns to the Administrator
24 a quantity of emission allowances equal to the quan-
25 tity that the Administrator determines is the portion

1 that the owner or operator will no longer need to
2 meet its submission obligations for such facility
3 under section 712; and

4 “(3) the owner or operator of any facility that
5 permanently shuts down in a calendar year promptly
6 returns to the Administrator any emission allow-
7 ances that the Administrator has distributed for that
8 facility for any subsequent calendar year.

9 **“Subtitle D—Trading, Banking, and**
10 **Borrowing**

11 **“SEC. 731. TRADING.**

12 “(a) SALE, EXCHANGE, AND RETIREMENT OF EMIS-
13 SION ALLOWANCES.—Except as otherwise provided in this
14 title, the lawful holder of an emission allowance may, with-
15 out restriction, sell, exchange, transfer, submit for compli-
16 ance in accordance with section 712, or request that the
17 Administrator retire the emission allowance.

18 “(b) NO RESTRICTION ON TRANSACTIONS.—The
19 privilege of purchasing, holding, selling, exchanging, and
20 requesting retirement of emission allowances shall not be
21 restricted to the owners and operators of covered entities.

22 “(c) ALLOWANCE TRANSFER SYSTEM.—Not later
23 than 18 months after the date of enactment of this title,
24 the Administrator shall promulgate regulations to carry
25 out the provisions of this title relating to emission allow-

1 ances, including regulations providing that the transfer of
 2 emission allowances shall not be effective until such date
 3 as a written certification of the transfer, signed by a re-
 4 sponsible official of each party to the transfer, is received
 5 and recorded by the Administrator in accordance with
 6 those regulations.

7 “(d) ALLOWANCE TRACKING SYSTEM.—The regula-
 8 tions promulgated under subsection (c) shall include a sys-
 9 tem for issuing, recording, and tracking emission allow-
 10 ances that shall specify all necessary procedures and re-
 11 quirements for an orderly and competitive functioning of
 12 the emission allowance system.

13 **“SEC. 732. BANKING.**

14 “(a) IN GENERAL.—An emission allowance may be
 15 used to meet the requirements of section 712 in the cal-
 16 endar year for which the allowance is issued, as indicated
 17 in the identification number of the emission allowance, or
 18 any subsequent calendar year.

19 “(b) EFFECT OF TIME.—The passage of time shall
 20 not, by itself, cause an emission allowance to be retired
 21 or otherwise diminish the compliance value of the emission
 22 allowance.

23 **“SEC. 733. BORROWING.**

24 “(a) REGULATIONS.—Not later than 3 years after
 25 the date of enactment of this title, the Administrator shall

1 promulgate regulations under which, subject to the re-
2 quirements of this section, the owner or operator of a cov-
3 ered entity may—

4 “(1) borrow emission allowances from the Ad-
5 ministrator; and

6 “(2) for a calendar year, submit borrowed emis-
7 sion allowances to the Administrator in satisfaction
8 of up to 15 percent of the compliance obligation
9 under section 712(a).

10 “(b) LIMITATIONS.—An emission allowance borrowed
11 pursuant to this section shall be an emission allowance es-
12 tablished by the Administrator for a specific future cal-
13 endar year under section 711(a). The Administrator shall
14 not lend an emission allowance drawn from a calendar
15 year (as indicated in the identification number of the emis-
16 sion allowance) that is more than 5 years later than the
17 calendar year in which such loan is made.

18 “(c) REPAYMENT WITH INTEREST.—For each emis-
19 sion allowance that an owner or operator of a covered enti-
20 ty borrows pursuant to this section, such owner or oper-
21 ator shall, not later than December 31 of the calendar
22 year from which the borrowed emission allowance was
23 drawn (as indicated in the identification number of the
24 borrowed emission allowance), submit to the Adminis-

1 trator a quantity of emission allowances that is equal to
 2 the sum of—

3 “(1) 1; and

4 “(2) the product obtained by multiplying—

5 “(A) 0.1; and

6 “(B) the number of years, including pro-
 7 rated portions of years, between the date on
 8 which the emission allowance was borrowed and
 9 the date on which the loan is repaid.

10 **“Subtitle E—Domestic Offsets**

11 **“SEC. 741. ESTABLISHMENT OF DOMESTIC OFFSET PRO-** 12 **GRAM.**

13 “(a) REGULATIONS.—Not later than 18 months after
 14 the date of enactment of this title, the Administrator shall
 15 promulgate regulations establishing a program for the
 16 issuance of offset credits in accordance with the require-
 17 ments of this subtitle.

18 “(b) REQUIREMENTS.—The regulations described in
 19 subsection (a) shall, at minimum—

20 “(1) authorize the issuance of offset credits
 21 generated through qualifying offset projects within
 22 the United States that achieve greenhouse gas emis-
 23 sion reductions below, or increases in biological se-
 24 questration above, the project baseline;

1 “(2) ensure that such offset credits represent
2 real, verifiable, additional, permanent, and enforce-
3 able reductions in greenhouse gas emissions or in-
4 creases in biological sequestration; and

5 “(3) provide for the implementation of the re-
6 quirements of this subtitle.

7 “(c) PERIODIC REVIEW.—Not later than 5 years
8 after the date of enactment of this title, and periodically
9 thereafter, the Administrator shall review and revise, as
10 necessary, the regulations promulgated under this subtitle.

11 **“SEC. 742. ELIGIBLE PROJECT TYPES.**

12 “(a) ELIGIBLE PROJECT TYPES.—The types of
13 projects eligible to generate offset credits under this sub-
14 title shall be limited to projects that—

15 “(1) reduce greenhouse gas emissions, from ag-
16 ricultural facilities in the United States that are not
17 subject to performance standards issued under sec-
18 tion 771, resulting from enteric fermentation or ma-
19 nure management and disposal;

20 “(2) increase biological sequestration of carbon
21 through afforestation or reforestation of acreage in
22 the United States that was not forested as of June
23 3, 2008;

1 “(3) reduce fugitive greenhouse gas emissions
2 from petroleum and natural gas systems in the
3 United States; or

4 “(4) reduce greenhouse gas emissions from coal
5 mines in the United States that are not subject to
6 performance standards issued under section 771.

7 “(b) EXCLUSIONS.—The Administrator shall ensure
8 that no offset credits shall be generated under this subtitle
9 by—

10 “(1) any reduction of greenhouse gas emissions
11 that are covered by the compliance obligations set
12 forth in section 712(a); or

13 “(2) any activity receiving support under sub-
14 title D of title III of the Investing in Climate Action
15 and Protection Act.

16 **“SEC. 743. PROTOCOLS AND ACCOUNTING METHODS.**

17 “(a) DEVELOPMENT OF MONITORING AND QUAN-
18 TIFICATION TOOLS FOR OFFSET PROJECTS.—

19 “(1) IN GENERAL.—The Administrator shall
20 develop standardized tools for use in the monitoring
21 and quantification of net reductions in greenhouse
22 gas emissions or net increases in biological seques-
23 tration for each eligible offset project type.

1 “(2) TOOL DEVELOPMENT.—The tools de-
2 scribed in paragraph (1) shall, for each eligible off-
3 set project type, include applicable—

4 “(A) statistically sound field and remote
5 sensing sampling methods, procedures, tech-
6 niques, protocols, or programs;

7 “(B) models, factors, equations, or look-up
8 tables; and

9 “(C) any other process or tool considered
10 to be acceptable by the Administrator.

11 “(b) DEVELOPMENT OF ACCOUNTING AND DIS-
12 COUNTING METHODS.—

13 “(1) IN GENERAL.—The Administrator shall—

14 “(A) develop standardized methods for use
15 in estimating the baseline, accounting for
16 additionality and uncertainty, and discounting
17 for leakage for each eligible offset project type;
18 and

19 “(B) require that leakage be subtracted
20 from reductions in greenhouse gas emissions or
21 increases in biological sequestration attributable
22 to a project.

23 “(2) BASELINE ESTIMATION AND
24 ADDITIONALITY DETERMINATION.—The standard-
25 ized methods used to establish baselines and deter-

1 mine additionality shall, for each project type, at a
2 minimum—

3 “(A) in the case of an afforestation or re-
4 forestation project, determine the greenhouse
5 gas flux and carbon stock on comparable land
6 identified on the basis of—

7 “(i) similarity in current management
8 practices;

9 “(ii) similarity of regional, State, or
10 local policies or programs; and

11 “(iii) similarity in geographical and
12 biophysical characteristics;

13 “(B) in the case of an emission reduction
14 project, use as a basis emissions from com-
15 parable facilities; and

16 “(C) specify a selected time period and
17 provide for regular updating of baselines and
18 additionality standards to take account of
19 changes in business-as-usual practices; and

20 “(D) ensure that emission reductions or
21 increases in biological sequestration are not
22 considered additional that are the result of ac-
23 tivities that—

1 “(i) are required by or undertaken to
2 comply with any law, including any regula-
3 tion; or

4 “(ii) were commenced prior to the ini-
5 tiation of the offset project.

6 “(3) LEAKAGE.—The standardized methods
7 used to determine and discount for leakage shall, at
8 a minimum, take into consideration—

9 “(A) the scope of the offset project in
10 terms of activities and geography covered;

11 “(B) the markets relevant to the offset
12 project;

13 “(C) emission intensity per unit of produc-
14 tion, both inside and outside of the offset
15 project; and

16 “(D) a time period sufficient in length to
17 yield a stable leakage rate.

18 “(c) STANDARDS ADDRESSING PERMANENCE IN
19 AFFORESTATION AND REFORESTATION PROJECTS.—The
20 Administrator shall prescribe specific standards ensuring
21 that each offset allowance generated through an
22 afforestation or reforestation project represents a perma-
23 nent net increase in biological sequestration, and that full
24 account is taken of any actual or potential reversal of such
25 sequestration, with an adequate margin of safety. In pre-

1 scribing such standards, the Administrator shall seek to
2 maximize the certainty that the overall cap on greenhouse
3 gas emissions established by this title is not compromised.

4 “(d) UNCERTAINTY.—

5 “(1) IN GENERAL.—The Administrator shall
6 develop standardized methods for use in determining
7 and discounting for uncertainty for each offset
8 project type.

9 “(2) BASIS.—The standardized methods used
10 to determine and discount for uncertainty shall be
11 based on—

12 “(A) the robustness and rigor of the meth-
13 ods used by a project developer to monitor and
14 quantify reductions in greenhouse gas emissions
15 or net biological sequestration;

16 “(B) the robustness and rigor of methods
17 used to determine additionality, leakage, and
18 permanence; and

19 “(C) a proportional discount that increases
20 relative to uncertainty, as determined by the
21 Administrator to encourage better measurement
22 and accounting.

23 “(e) ACQUISITION OF NEW DATA AND REVIEW OF
24 METHODS.—The Administrator shall—

1 “(1) establish a comprehensive field sampling
2 program to improve the scientific bases on which the
3 standardized tools and methods developed under this
4 section are based; and

5 “(2) not less frequently than every five years,
6 review and, as appropriate, revise the standardized
7 tools and methods developed under this section,
8 based on—

9 “(A) validation of existing methods, proto-
10 cols, procedures, techniques, factors, equations,
11 or models;

12 “(B) development of new methods, proto-
13 cols, procedures, techniques, factors, equations,
14 or models;

15 “(C) increased availability of field data or
16 other datasets; and

17 “(D) any other information identified by
18 the Administrator that is necessary to meet the
19 objectives of this subtitle.

20 **“SEC. 744. PROJECT INITIATION.**

21 “(a) IN GENERAL.—The Administrator may pre-
22 scribe rules requiring project developers for such project
23 types as the Administrator considers appropriate, prior to
24 initiation of an offset project, to—

1 “(1) submit a petition for project initiation, in-
2 cluding—

3 “(A) a plan for monitoring and quantifying
4 reductions in emissions or net increases in bio-
5 logical sequestration resulting from the project;

6 “(B) a certification that the project will
7 not have significant adverse effects on the envi-
8 ronment; and

9 “(C) such other information as the Admin-
10 istrator considers necessary to meet the objec-
11 tives of this subtitle; and

12 “(2) obtain the Administrator’s approval of the
13 offset project, pursuant to subsection (b).

14 “(b) APPROVAL AND NOTIFICATION.—

15 “(1) IN GENERAL.—If the Administrator estab-
16 lishes project initiation requirements under sub-
17 section (a), the Administrator shall, not later than
18 60 days after the submission of a complete petition
19 under subsection (a)(1)—

20 “(A) determine whether the petition satis-
21 fies the applicable requirements of this subtitle;
22 and

23 “(B) notify the project developer of such
24 determination.

1 “(2) APPEAL.—The Administrator shall estab-
2 lish mechanisms for appeal and review of negative
3 determinations made under this subsection.

4 **“SEC. 745. OFFSET VERIFICATION AND ISSUANCE OF CRED-**
5 **ITS.**

6 “(a) IN GENERAL.—Offset credits may be claimed
7 for net emission reductions or increases in biological se-
8 questration annually, after accounting for any necessary
9 discounts in accordance with section 743, by submitting
10 a verification report for an offset project to the Adminis-
11 trator.

12 “(b) OFFSET VERIFICATION.—

13 “(1) SCOPE OF VERIFICATION.—A verification
14 report for an offset project—

15 “(A) shall be completed by a verifier ac-
16 credited in accordance with paragraph (3); and

17 “(B) shall be developed taking into consid-
18 eration—

19 “(i) the information and methodology
20 contained within any monitoring and quan-
21 tification plan submitted under section
22 744(a)(1)(A);

23 “(ii) data and subsequent analysis of
24 the offset project, including—

1 “(I) quantification of net emis-
 2 sion reductions or increases in biologi-
 3 cal sequestration;

4 “(II) determination of
 5 additionality;

6 “(III) calculation of leakage;

7 “(IV) assessment of permanence;

8 “(V) discounting for uncertainty;

9 and

10 “(VI) the adjustment of net
 11 emission reductions or increases in bi-
 12 ological sequestration by the discounts
 13 determined under clauses (II) through
 14 (V); and

15 “(iii) subject to the requirements of
 16 this subtitle, any other information identi-
 17 fied by the Administrator as being nec-
 18 essary to achieve the purposes of this sub-
 19 title.

20 “(2) VERIFICATION REPORT REQUIREMENTS.—

21 The Administrator shall specify the required compo-
 22 nents of a verification report, including—

23 “(A) the quantity of offsets generated;

24 “(B) the amount of discounts applied;

1 “(C) an assessment of methods (and the
2 appropriateness of those methods);

3 “(D) an assessment of quantitative errors
4 or omissions (and the effect of the errors or
5 omissions on offsets);

6 “(E) any potential conflicts of interest be-
7 tween a verifier and project developer; and

8 “(F) any other provision that the Adminis-
9 trator considers to be necessary to achieve the
10 purposes of this subtitle.

11 “(3) VERIFIER ACCREDITATION.—

12 “(A) IN GENERAL.—Not later than 18
13 months after the date of enactment of this title,
14 the Administrator shall promulgate regulations
15 establishing a process and requirements for ac-
16 creditation of third-party verifiers to ensure
17 that such verifiers are professionally qualified
18 and have no conflicts of interest.

19 “(B) PUBLIC ACCESSIBILITY.—Each
20 verifier meeting the requirements for accredita-
21 tion in accordance with this paragraph shall be
22 listed in a publicly accessible database, which
23 shall be maintained and updated by the Admin-
24 istrator.

25 “(c) REGISTRATION AND AWARDING OF OFFSETS.—

1 “(1) IN GENERAL.—Not later than 90 days
2 after the date on which the Administrator receives a
3 verification report required under subsection (b), the
4 Administrator shall—

5 “(A) determine whether the offsets satisfy
6 the applicable requirements of this subtitle; and

7 “(B) notify the project developer of that
8 determination.

9 “(2) AFFIRMATIVE DETERMINATION.—In the
10 case of an affirmative determination under para-
11 graph (1), the Administrator shall—

12 “(A) assign a unique serial number to each
13 offset credit to be issued;

14 “(B) register the offset credits, together
15 with—

16 “(i) a verification report issued pursu-
17 ant to this section; and

18 “(ii) any other information identified
19 by the Administrator as being necessary to
20 achieve the purposes of this subtitle; and

21 “(C) issue the offset credits.

22 “(3) APPEAL AND REVIEW.—The Administrator
23 shall establish mechanisms for the appeal and review
24 of determinations made under this subsection.

1 **“SEC. 746. AUDITS.**

2 “(a) REGULATIONS.—Not later than 2 years after
3 the date of enactment of this title, the Administrator shall
4 promulgate regulations governing the auditing of offset
5 projects and credits.

6 “(b) REQUIREMENTS.—The regulations promulgated
7 under this section shall specifically consider—

8 “(1) principles for initiating and conducting au-
9 dits;

10 “(2) the type or scope of audits, including—

11 “(A) reporting and recordkeeping; and

12 “(B) site review or visitation;

13 “(3) the rights and privileges of an audited
14 party; and

15 “(4) the establishment of an appeal process.

16 **“SEC. 747. TIMING AND THE PROVISION OF OFFSET CRED-
17 ITS.**

18 “(a) INITIATION OF OFFSET PROJECTS.—An offset
19 project that commences operation on or after the effective
20 date of regulations promulgated under section 741(a) shall
21 be eligible to generate offset credits under this subtitle
22 only if the offset project meets the other applicable re-
23 quirements of this subtitle.

24 “(b) PRE-EXISTING PROJECTS.—

25 “(1) IN GENERAL.—Subject to paragraph (2),
26 the Administrator may issue offset credits under this

1 subtitle for offset projects that, as of the effective
2 date of regulations promulgated under section
3 741(a), are registered under or meet the standards
4 of the Climate Registry, the California Action Reg-
5 istry, the GHG Registry, the Chicago Climate Ex-
6 change, the GHG CleanProjects Registry, or any
7 other Federal, State, or private reporting programs
8 or registries if the Administrator determines that
9 such offset projects satisfy the applicable require-
10 ments of this subtitle.

11 “(2) LIMITATION.—Offset credits shall be
12 issued under this subtitle only for reductions in
13 emissions or increases in biological sequestration
14 that occur after the date of promulgation of regula-
15 tions under section 741(a).

16 **“SEC. 748. ENVIRONMENTAL CONSIDERATIONS.**

17 “(a) COORDINATION TO MINIMIZE NEGATIVE EF-
18 FECTS.—In promulgating and implementing regulations
19 under this subtitle, the Administrator shall act (including
20 by rejecting projects, if necessary) to avoid or minimize,
21 to the maximum extent practicable, adverse effects on
22 human health or the environment resulting from the im-
23 plementation of offset projects under this subtitle.

24 “(b) USE OF NATIVE TREE SPECIES IN
25 AFFORESTATION AND REFORESTATION PROJECTS.—Not

1 later than 18 months after the date of enactment of this
2 title, the Administrator shall promulgate regulations for
3 the selection and use of tree species in afforestation and
4 reforestation offset projects—

5 “(1) to ensure native species are given primary
6 consideration in such projects;

7 “(2) to prohibit the use of federally-designated
8 or State-designated noxious weeds; and

9 “(3) to prohibit the use of a species listed by
10 a regional or State invasive plant council within the
11 applicable region or State.

12 **“SEC. 749. OWNERSHIP AND TRANSFER OF OFFSET CRED-**
13 **ITS.**

14 “(a) OWNERSHIP.—Initial ownership of an offset
15 credit shall lie with a project developer, unless otherwise
16 specified in a legally-binding contract or agreement.

17 “(b) TRANSFERABILITY.—An offset credit generated
18 pursuant to this subtitle may be sold, traded, or trans-
19 ferred, on the conditions that—

20 “(1) the offset credit has not expired or been
21 retired or canceled; and

22 “(2) liability and responsibility for mitigating
23 and compensating for reversals of registered offset
24 credits is specified in accordance with such rules as
25 the Administrator may prescribe.

1 **“Subtitle F—International Emission**
2 **Allowances and Offset**
3 **Credits**

4 **“SEC. 751. INTERNATIONAL EMISSION ALLOWANCES.**

5 “(a) REGULATIONS.—Not later than 2 years after
6 the date of enactment of this title, the Administrator shall
7 promulgate regulations providing for the approval of quali-
8 fying international emission allowances for submission
9 under section 712 or section 765.

10 “(b) REQUIREMENTS.—The regulations promulgated
11 under subsection (a) shall require that, in order to be ap-
12 proved for use under this title, an international emission
13 allowance must be issued by a governmental program that
14 is at least as stringent as the program established by this
15 title, including comparable monitoring, compliance, and
16 enforcement.

17 **“SEC. 752. INTERNATIONAL OFFSET CREDITS.**

18 “(a) REGULATIONS.—The Administrator shall, fol-
19 lowing the promulgation of regulations governing domestic
20 offset allowances under subtitle E of this title, promulgate
21 regulations providing for the approval of categories or sub-
22 categories of qualifying international offset credits for sub-
23 mission under section 712 or section 765.

24 “(b) REQUIREMENTS.—The regulations promulgated
25 under subsection (a) shall require that, in order for a cat-

1 egory or subcategory of international offset credits to be
2 approved for use under this title—

3 “(1) such international offset credits shall not
4 have been awarded based on land use, land use
5 change, or forestry activities;

6 “(2) such international offset credits have not
7 been awarded based on the destruction of
8 hydrofluorocarbons;

9 “(3) the methods, protocols, and standards for
10 approval of such international offset credits shall be
11 at least as stringent as the methods, protocols, and
12 standards applicable to offset allowances issued
13 under subtitle E of this title, except that the listing
14 of eligible project types in section 742 shall not
15 apply to this section; and

16 “(4) the foreign country in which the project
17 that generated the international offset credits was
18 carried out—

19 “(A) has taken comparable action to re-
20 duce greenhouse gas emissions within that
21 country, as determined by the President pursu-
22 ant to section 764(b);

23 “(B) was responsible, in the most recent
24 calendar year for which emissions data is avail-

1 able, for less than 0.5 percent of total global
2 greenhouse gas emissions; or

3 “(C) is identified by the United Nations as
4 among the least developed of developing coun-
5 tries.

6 **“SEC. 753. RETIREMENT.**

7 “(a) ENTITY CERTIFICATION.—The owner or oper-
8 ator of an entity that submits an international emission
9 allowance or international offset credit under section 712
10 or section 765 shall certify to the Administrator that such
11 international emission allowance or international offset
12 credit has not previously been used to comply with any
13 foreign or international greenhouse gas regulatory pro-
14 gram.

15 “(b) RETIREMENT.—

16 “(1) FOREIGN AND INTERNATIONAL REGU-
17 LATORY ENTITIES.—The Administrator shall seek,
18 by whatever means appropriate, to ensure that any
19 relevant foreign and international regulatory enti-
20 ties—

21 “(A) are notified of the submission, for
22 purposes of compliance with this title, of any
23 international emission allowance or inter-
24 national offset credit; and

“(B) provide for the disqualification of such international emission allowance or international offset credit for any subsequent use under the relevant foreign or international greenhouse gas regulatory program, regardless of whether such use is a sale, exchange, or submission to satisfy a compliance obligation.

“(2) DISQUALIFICATION FROM FURTHER USE.—The Administrator shall ensure that, once an international emission allowance or international offset credit has been submitted for purposes of compliance with this title, such allowance or credit shall be disqualified from any further use under this title.

“Subtitle G—Global Effort To Reduce Greenhouse Gas Emissions

“SEC. 761. DEFINITIONS.

“In this subtitle:

“(1) COMPARABLE ACTION.—The term ‘comparable action’ means any greenhouse gas regulatory programs, requirements, and other measures adopted by a foreign country that, in combination, are at least comparable in effect to actions carried out by the United States to limit greenhouse gas emissions pursuant to this Act, as determined by the Presi-

1 dent, taking into consideration the level of economic
2 development of the foreign country.

3 “(2) COMPLIANCE YEAR.—The term ‘compli-
4 ance year’ means each calendar year for which the
5 requirements of this title apply to a category or sub-
6 category of trade-exposed primary goods produced in
7 a covered foreign country that is imported into the
8 United States.

9 “(3) COVERED FOREIGN COUNTRY.—The term
10 ‘covered foreign country’ means a foreign country
11 that is included on the covered list prepared under
12 section 765(b)(3).

13 “(4) FOREIGN COUNTRY.—The term ‘foreign
14 country’ means a member of, or observer govern-
15 ment to, the World Trade Organization, other than
16 the United States.

17 “(5) INDIRECT GREENHOUSE GAS EMISSIONS.—
18 The term ‘indirect greenhouse gas emissions’ means
19 any emissions of a greenhouse gas resulting from
20 the generation of electricity that is consumed during
21 the manufacture of a good.

22 “(6) INTERNATIONAL AGREEMENT.—The term
23 ‘international agreement’ means any international
24 agreement to which the United States is a party, in-
25 cluding the Marrakesh agreement establishing the

1 World Trade Organization, done at Marrakesh on
2 April 15, 1994.

3 “(7) TRADE-EXPOSED PRIMARY GOOD.—The
4 term ‘trade-exposed primary good’ has the meaning
5 given that term in section 723(a)(6).

6 “(8) UNITED STATES IMPORTER.—The term
7 ‘United States importer’ means an entity that im-
8 ports into the United States a trade-exposed primary
9 good produced in a covered foreign country.

10 **“SEC. 762. PURPOSES.**

11 “The purposes of this subtitle are—

12 “(1) to promote a strong global effort to signifi-
13 cantly reduce greenhouse gas emissions;

14 “(2) to ensure, to the maximum extent prac-
15 ticable, that greenhouse gas emissions occurring out-
16 side the United States do not undermine the envi-
17 ronmental objectives of the United States in ad-
18 dressing global climate change; and

19 “(3) to encourage effective international action
20 to achieve those objectives through—

21 “(A) agreements negotiated between the
22 United States and foreign countries; and

23 “(B) measures carried out by the United
24 States that comply with applicable international
25 agreements.

1 **“SEC. 763. INTERNATIONAL NEGOTIATIONS.**

2 “(a) FINDING.—Congress finds that the purposes de-
3 scribed in section 762 can be most effectively addressed
4 and achieved through agreements negotiated between the
5 United States and foreign countries.

6 “(b) NEGOTIATING OBJECTIVE.—

7 “(1) STATEMENT OF POLICY.—It is the policy
8 of the United States to work proactively under the
9 United Nations Framework Convention on Climate
10 Change and in other appropriate forums to establish
11 binding agreements committing all major greenhouse
12 gas-emitting nations to contribute equitably to the
13 reduction of global greenhouse gas emissions.

14 “(2) INTENT OF CONGRESS REGARDING OBJEC-
15 TIVE.—To the extent that the agreements described
16 in subsection (a) involve measures that will affect
17 international trade in any good or service, it is the
18 intent of Congress that the negotiating objective of
19 the United States shall be to focus multilateral and
20 bilateral international agreements on the reduction
21 of greenhouse gas emissions to advance achievement
22 of the purposes described in section 762.

23 “(c) NOTIFICATION TO FOREIGN COUNTRIES.—

24 “(1) REQUIREMENT.—Immediately upon enact-
25 ment of this Act, the President shall notify each for-

1 foreign country of the negotiating objective under sub-
2 section (b).

3 “(2) REQUEST FOR COMPARABLE ACTION.—No-
4 tification shall include a request that any foreign
5 country that would not otherwise be excluded under
6 subparagraph (B) or (C) of section 765(b)(2) take
7 comparable action to limit greenhouse gas emissions
8 of the foreign country.

9 **“SEC. 764. DETERMINATION OF COMPARABLE ACTION.**

10 “(a) INTERAGENCY REVIEW.—

11 “(1) INTERAGENCY GROUP.—

12 “(A) ESTABLISHMENT.—The President
13 shall establish an interagency group to carry
14 out this subsection.

15 “(B) CHAIRPERSON.—The chairperson of
16 the interagency group established under sub-
17 paragraph (A) shall be the Secretary of State.

18 “(C) REQUIREMENT.—The Administrator
19 shall be a member of the interagency group.

20 “(2) DETERMINATIONS.—The interagency
21 group established under paragraph (1)(A) shall de-
22 termine whether, and the extent to which, each for-
23 eign country has taken comparable action to limit
24 the greenhouse gas emissions of the foreign country.

1 “(3) REPORT TO PRESIDENT.—Not later than
 2 January 1, 2010, and annually thereafter, the inter-
 3 agency group shall submit to the President a report
 4 describing the determinations of the interagency
 5 group under paragraph (2).

6 “(b) PRESIDENTIAL DETERMINATIONS.—Not later
 7 than January 1, 2011, and annually thereafter, the Presi-
 8 dent shall—

9 “(1) determine whether each foreign country
 10 has taken comparable action to limit the greenhouse
 11 gas emissions of the foreign country, taking into
 12 consideration applicable reports submitted under
 13 subsection (a)(3);

14 “(2) submit to Congress an annual report de-
 15 scribing the determinations of the President under
 16 paragraph (1); and

17 “(3) publish the determinations in the Federal
 18 Register.

19 **“SEC. 765. INTERNATIONAL RESERVE ALLOWANCE PRO-**
 20 **GRAM.**

21 “(a) ESTABLISHMENT.—

22 “(1) IN GENERAL.—The Administrator shall es-
 23 tablish a program under which the Administrator,
 24 during the 1-year period beginning on January 1,
 25 2019, and annually thereafter, shall offer for sale to

1 United States importers international reserve allow-
2 ances in accordance with this subsection.

3 “(2) SOURCE.—International reserve allowances
4 under paragraph (1) shall be issued from a special
5 reserve of allowances that is separate from, and es-
6 tablished in addition to, the quantity of allowances
7 established under section 711.

8 “(3) PRICE.—The price of international reserve
9 allowances shall be the fair market value of emission
10 allowances during the previous 12 months, as deter-
11 mined by the Administrator.

12 “(4) SERIAL NUMBER.—The Administrator
13 shall assign a unique serial number to each inter-
14 national reserve allowance issued under this sub-
15 section.

16 “(5) TRADING SYSTEM.—The Administrator
17 may establish, by rule, a system for the sale, ex-
18 change, purchase, and transfer of international re-
19 serve allowances.

20 “(6) COVERED ENTITIES.—International re-
21 serve allowances may not be submitted by covered
22 entities to comply with the allowance submission re-
23 quirements of section 712.

24 “(7) PROCEEDS.—All proceeds from the sale of
25 international reserve allowances under this sub-

1 section shall be deposited in the International Clean
2 Technology Fund established under section 722(a).

3 “(b) FOREIGN COUNTRY LISTS.—

4 “(1) IN GENERAL.—Not later than January 1,
5 2019, and annually thereafter, the President shall
6 develop and publish in the Federal Register, to-
7 gether with the determinations under section 764(b),
8 2 lists of foreign countries, in accordance with this
9 subsection.

10 “(2) EXCLUDED LIST.—The President shall
11 identify and publish in a list, to be known as the ‘ex-
12 cluded list’—

13 “(A) each foreign country determined by
14 the President under section 764(b)(1) to have
15 taken comparable action to limit the greenhouse
16 gas emissions of the foreign country;

17 “(B) each foreign country determined by
18 the President to be responsible for less than 0.5
19 percent of total global greenhouse gas emissions
20 for the most recent calendar year for which
21 emissions and other relevant data are available;
22 and

23 “(C) each foreign country the United Na-
24 tions has identified as among the least-devel-
25 oped of developing countries.

1 “(3) COVERED LIST.—The President shall iden-
2 tify and publish in a list, to be known as the ‘cov-
3 ered list’, each foreign country that is not included
4 on the excluded list under paragraph (2).

5 “(c) WRITTEN DECLARATIONS.—

6 “(1) IN GENERAL.—Effective beginning Janu-
7 ary 1, 2020, a United States importer shall, as a
8 condition of importation or withdrawal for consump-
9 tion from a warehouse of a trade-exposed primary
10 good, submit to the Administrator and the appro-
11 priate office of U.S. Customs and Border Protection
12 a written declaration with respect to each such im-
13 portation or withdrawal.

14 “(2) CONTENTS.—A written declaration under
15 paragraph (1) shall contain a statement that—

16 “(A) the applicable trade-exposed primary
17 good is accompanied by a sufficient number of
18 international reserve allowances, as determined
19 under subsection (d); or

20 “(B) the trade-exposed primary good was
21 produced in a foreign country on the excluded
22 list published under subsection (b)(2).

23 “(3) INCLUSION.—A written declaration under
24 paragraph (1) shall include the unique serial number
25 of each international reserve allowance associated

1 with the importation of the applicable trade-exposed
2 primary good.

3 “(4) FAILURE TO DECLARE.—An imported
4 trade-exposed primary good produced in a covered
5 foreign country that is not accompanied by a written
6 declaration under this subsection shall not be per-
7 mitted to enter the customs territory of the United
8 States.

9 “(5) CORRECTED DECLARATION.—

10 “(A) IN GENERAL.—If, after making a
11 declaration required under this subsection, an
12 importer has reason to believe that the declara-
13 tion contains information that is not correct,
14 the importer shall provide a corrected declara-
15 tion by not later than 30 days after the date of
16 discovery of the error, in accordance with sub-
17 paragraph (B).

18 “(B) METHOD.—A corrected declaration
19 under subparagraph (A) shall be in the form of
20 a letter or other written statement to the Ad-
21 ministrator and the office of U.S. Customs and
22 Border Protection to which the original declara-
23 tion was submitted.

24 “(d) QUANTITY OF ALLOWANCES REQUIRED.—

1 “(1) METHODOLOGY.—Not later than January
2 1, 2018, the Administrator shall establish, by rule,
3 a method for calculating the required number of
4 international reserve allowances per unit of trade-ex-
5 posed primary good that a United States importer
6 must submit, together with a written declaration
7 under subsection (c), for each category or sub-
8 category of trade-exposed primary goods produced in
9 each covered foreign country.

10 “(2) INITIAL COMPLIANCE YEAR.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), the methodology under paragraph
13 (1) shall establish an international reserve al-
14 lowance requirement (per unit imported into the
15 United States) for the initial compliance year
16 for each category or subcategory of trade-ex-
17 posed primary goods produced in each covered
18 foreign country that is equal to the quotient ob-
19 tained by dividing—

20 “(i) the total greenhouse gas emis-
21 sions (including indirect greenhouse gas
22 emissions) from the covered foreign coun-
23 try that are attributable to the category or
24 subcategory of trade-exposed primary
25 goods produced in that country during the

1 most recent year for which data are avail-
2 able; by

3 “(ii) the total quantity of the category
4 or subcategory of trade-exposed primary
5 good produced in the covered foreign coun-
6 try during the same calendar year.

7 “(B) ADJUSTMENTS.—The Administrator
8 shall adjust the requirement under subpara-
9 graph (A) to take into account the level of eco-
10 nomic development of the covered foreign coun-
11 try in which the trade-exposed primary goods
12 were produced.

13 “(3) SUBSEQUENT COMPLIANCE YEARS.—For
14 each subsequent compliance year, the Administrator
15 shall revise the international reserve allowance re-
16 quirement applicable to each category or subcategory
17 of imported trade-exposed primary goods produced
18 in each covered foreign country to reflect changes in
19 the factors described in paragraph (2).

20 “(4) PUBLICATION.—Not later than 90 days
21 before the beginning of each compliance year, the
22 Administrator shall publish in the Federal Register
23 a schedule describing the required number of inter-
24 national reserve allowances for each category or sub-
25 category of imported trade-exposed primary goods

1 produced in each covered foreign country, as cal-
2 culated under this subsection.

3 “(e) INTERNATIONAL EMISSION ALLOWANCES AND
4 OFFSET CREDITS.—A United States importer may satisfy
5 up to 15 percent of its obligation under this section by
6 submitting, in lieu of an international reserve allowance,
7 an international emission allowance approved by the Ad-
8 ministrator under section 751 or an international offset
9 credit approved by the Administrator under section 752.

10 “(f) RETIREMENT OF ALLOWANCES.—The Adminis-
11 trator shall retire each international reserve allowance
12 submitted to achieve compliance with this section. Treat-
13 ment of international allowances and international offset
14 credits submitted under this section shall be governed by
15 section 753.

16 “(g) CONSISTENCY WITH INTERNATIONAL AGREE-
17 MENTS.—The Administrator, in consultation with the Sec-
18 retary of State, shall adjust the international reserve al-
19 lowance requirements established under this section (in-
20 cluding the quantity of international reserve allowances re-
21 quired for each category or subcategory of trade-exposed
22 primary goods produced in a covered foreign country) as
23 the Administrator determines to be necessary to ensure
24 that the United States complies with all applicable inter-
25 national agreements.

1 “(h) FINAL REGULATIONS.—Not later than January
2 1, 2018, the Administrator shall promulgate such regula-
3 tions as the Administrator determines to be necessary to
4 carry out this section.

5 **“SEC. 766. ADJUSTMENT OF INTERNATIONAL RESERVE AL-**
6 **LOWANCE REQUIREMENTS.**

7 “(a) IN GENERAL.—Not later than January 1, 2023,
8 and annually thereafter, the President shall prepare and
9 submit to Congress a report that assesses the effectiveness
10 of the applicable international reserve allowance require-
11 ments under section 765 with respect to the trade-exposed
12 primary goods produced in each covered foreign country.

13 “(b) INADEQUATE REQUIREMENTS.—If the Presi-
14 dent determines that an applicable international reserve
15 allowance requirement is not adequate to achieve the pur-
16 poses of this subtitle, the President, simultaneously with
17 the submission of the report under subsection (a), shall—

18 “(1) adjust the requirement; or

19 “(2) take such other action as the President is
20 authorized to take by law and determines to be nec-
21 essary to improve the effectiveness of the require-
22 ment, in accordance with all applicable international
23 agreements.

1 “(c) EFFECTIVE DATE.—An adjustment under sub-
2 section (b)(1) shall take effect beginning on January 1
3 of a compliance year, as determined by the President.

4 **“Subtitle H—Standards for Non-**
5 **covered Facilities and Coal-**
6 **Fired Power Plants**

7 **“SEC. 771. PERFORMANCE STANDARDS FOR CERTAIN**
8 **SOURCES THAT ARE NOT COVERED ENTITIES.**

9 “(a) DEFINITION.—For purposes of this section, the
10 term ‘performance standard source’ means a stationary
11 source of methane or nitrous oxide emissions that are not
12 covered by the compliance requirements of section 712 and
13 that exceed 10,000 carbon dioxide equivalents per year,
14 including coal mines, landfills, wastewater treatment oper-
15 ations, and animal feeding operations. Such term shall not
16 include sources of emissions from agricultural soil man-
17 agement, rice cultivation, field burning of agricultural resi-
18 dues, or management of forest lands.

19 “(b) LIST OF CATEGORIES.—Not later than 90 days
20 after the date of enactment of this title, the Administrator
21 shall publish a list of all categories or subcategories of per-
22 formance standard sources subject to the requirements of
23 this section. The Administrator shall review such list at
24 least once every 5 years, and shall revise the list as nec-
25 essary.

1 “(c) RULEMAKING.—Not later than 2 years after ini-
2 tial publication of the list under subsection (b), the Ad-
3 ministrator shall issue a final rule for each category or
4 subcategory of performance standard sources requiring
5 such sources to operate in conformance with the standards
6 established under subsection (d). Such rules shall establish
7 compliance dates for each category or subcategory listed
8 under subsection (b), which shall be no later than 3 years
9 after the issuance of the rule under this subsection. The
10 Administrator shall, not less often than every 8 years, re-
11 view and, as necessary, revise the rules issued under this
12 subsection, taking into account developments in practices,
13 processes, and control technologies.

14 “(d) STANDARDS.—

15 “(1) ESTABLISHMENT.—The rules issued under
16 subsection (c) shall establish, for each category or
17 subcategory of performance standard sources listed
18 under subsection (b), standards for the best avail-
19 able control technologies and practices for reducing
20 methane or nitrous oxide emissions from sources in
21 that category or subcategory.

22 “(2) CONSIDERATIONS.—In establishing stand-
23 ards under paragraph (1), the Administrator shall
24 consider—

25 “(A) compliance costs;

1 “(B) health and environmental impacts not
2 associated with methane and nitrous oxide
3 emissions;

4 “(C) energy requirements; and

5 “(D) technologies and practices developed
6 or used outside the United States.

7 “(3) NEW SOURCES.—In establishing standards
8 under paragraph (1), the Administrator may impose
9 stricter requirements for new sources than for
10 sources in existence before the issuance of the rule
11 under subsection (c).

12 “(4) ALTERNATIVE COMPLIANCE THRESH-
13 OLD.—The Administrator may establish an optional
14 alternative compliance threshold for a category or
15 subcategory of performance standard sources based
16 on the volume or size of the source’s operations,
17 where such alternative threshold is demonstrated to
18 be an accurate indicator of the mass of methane and
19 nitrous oxide emissions from the source and is equiv-
20 alent to a 10,000 carbon dioxide equivalent per year
21 threshold.

22 “(5) ALTERNATIVE MEANS OF COMPLIANCE.—
23 The Administrator may approve a request by an
24 owner or operator of a performance standard source
25 to use an alternative means of compliance with the

1 requirements for such source under the applicable
 2 rule issued under subsection (c) if such alternative
 3 will achieve a reduction in emissions at least equal
 4 to reductions achieved under the performance stand-
 5 ards in the applicable rule.

6 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
 7 tion shall be construed to limit the Administrator’s duties
 8 or authority under section 111 or any other section of this
 9 Act.

10 **“SEC. 772. PERFORMANCE STANDARDS FOR NEW COAL-**
 11 **FIRED POWER PLANTS.**

12 “(a) COVERED EGUS DEFINED.—For purposes of
 13 this section, the term ‘covered EGU’ means an electric
 14 generating unit that—

15 “(1) has a rated capacity of 25 megawatts or
 16 more;

17 “(2) derives at least 50 percent of its annual
 18 fuel input from coal, petroleum coke, or any com-
 19 bination of these fuels; and

20 “(3) commences construction on or after Janu-
 21 ary 1, 2009.

22 “(b) STANDARDS OF EMISSION PERFORMANCE FOR
 23 COVERED ELECTRIC GENERATING UNITS.—

1 “(1) OBLIGATIONS OF COVERED EGUS.—Each
2 covered EGU shall achieve, on the compliance sched-
3 ule set forth in paragraph (2), either—

4 “(A) the capture and geological sequestra-
5 tion of not less than 85 percent of the total car-
6 bon dioxide emissions produced by the covered
7 EGU on an annual average basis; or

8 “(B) a greater rate of capture and geologi-
9 cal sequestration as established by regulations
10 promulgated by the Administrator under sub-
11 section (c), provided that such regulations were
12 promulgated prior to commencement of con-
13 struction of the covered EGU.

14 “(2) COMPLIANCE SCHEDULE.—(A) Covered
15 EGUs that commence operation prior to January 1,
16 2020, must be in compliance with the emission per-
17 formance standard applicable under regulations pro-
18 mulgated under subsection (c) by either—

19 “(i) January 1, 2016; or

20 “(ii) four years after the covered EGU
21 commences operation,

22 whichever occurs later.

23 “(B) Any other covered EGU must be in com-
24 pliance with the emission performance standard on
25 the date when it commences operation except that,

1 prior to January 1, 2025, such EGU may obtain a
2 compliance date extension of up to 18 months if the
3 owner or operator can demonstrate to the Adminis-
4 trator's satisfaction that it is unable to meet the
5 emission performance standard because of technical
6 infeasibility.

7 “(c) REGULATIONS.—

8 “(1) INITIAL REGULATIONS.—Not later than
9 180 days after the date of enactment of this title,
10 the Administrator shall promulgate regulations im-
11 plementing the requirements of this section.

12 “(2) REVISED REGULATIONS.—Not later than
13 January 1, 2012, and at 5-year intervals thereafter,
14 the Administrator shall, by rule, increase the min-
15 imum rate of capture and geological sequestration of
16 carbon dioxide emissions under subsection (b)(1)(A)
17 if the Administrator determines that a greater rate
18 of capture and geological sequestration is achievable
19 through the application of the best available control
20 technology, taking into account the cost of achieving
21 such increase, energy impacts, and any health and
22 environmental impacts not associated with carbon
23 dioxide emissions.”.

1 **SEC. 102. CONFORMING AMENDMENTS.**

2 (a) **FEDERAL ENFORCEMENT.**—Section 113 of the
3 Clean Air Act (42 U.S.C. 7413) is amended as follows:

4 (1) In subsection (a)(3), by striking “or title
5 VI,” and inserting “title VI, or title VII,”.

6 (2) In subsection (b), by striking “or a major
7 stationary source” and inserting “a major stationary
8 source, or a covered entity under title VII,” in the
9 material preceding paragraph (1).

10 (3) In paragraph (2), by striking “or title VI”
11 and inserting “title VI, or title VII”.

12 (4) In subsection (c)—

13 (A) in the first sentence of paragraph (1),
14 by striking “or title VI (relating to strato-
15 spheric ozone control),” and inserting “title VI
16 (relating to stratospheric ozone control), or title
17 VII (relating to reduction of greenhouse gas
18 emissions),”; and

19 (B) in the first sentence of paragraph (3),
20 by striking “or VI” and inserting “VI, or VII”.

21 (5) In subsection (d)(1)(B), by striking “or VI”
22 and inserting “VI, or VII”.

23 (6) In subsection (f), in the first sentence, by
24 striking “or VI” and inserting “VI, or VII”.

25 (b) **INSPECTIONS, MONITORING, AND ENTRY.**—Sec-
26 tion 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is

1 amended by striking “section 112,” and all that follows
 2 through “(ii)” and inserting the following: “section 112,
 3 any regulation of solid waste combustion under section
 4 129, or any regulation of greenhouse gas emissions under
 5 title VII, (ii)”.

6 (c) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL
 7 REVIEW.—Section 307 of the Clean Air Act (42 U.S.C.
 8 7607) is amended as follows:

9 (1) In subsection (a), by striking “, or section
 10 306” and inserting “section 306,or title VII”.

11 (2) In subsection (b)(1)—

12 (A) by striking “,” and inserting “,” in
 13 each place such punctuation appears; and

14 (B) by striking “section 120,” in the first
 15 sentence and inserting “section 120, any final
 16 action under title VII,”.

17 (3) In subsection (d)(1) by amending subpara-
 18 graph (S) to read as follows:

19 “(S) the promulgation or revision of any
 20 regulation under title VII,”.

21 **SEC. 103. COMPLEMENTARY POLICIES FOR**
 22 **HYDROFLUOROCARBONS.**

23 (a) NATIONAL RECYCLING AND EMISSION REDUC-
 24 TION PROGRAM.—Section 608 of the Clean Air Act (42
 25 U.S.C. 7671g) is amended as follows:

1 (1) By adding at the end the following:

2 “(d) DEFINITION OF HYDROFLUOROCARBON SUB-
3 STITUTE.—In this section, the term ‘hydrofluorocarbon
4 substitute’ means a hydrofluorocarbon or other green-
5 house gas that has a global warming potential of more
6 than 150 and that is used in or for types of equipment,
7 appliances, or processes that previously relied on class I
8 or class II substances.”.

9 (2) In subsection (a), by adding the following
10 new paragraph at the end:

11 “(4)(A) Not later than 1 year after the date of
12 enactment of this paragraph, the Administrator shall
13 promulgate regulations establishing standards and
14 requirements regarding the sale or distribution, or
15 offer for sale and distribution in interstate com-
16 merce, use, and disposal of hydrofluorocarbon sub-
17 stitutes for class I and class II substances not cov-
18 ered by paragraph (1), including the use, recycling,
19 and disposal of those hydrofluorocarbon substitutes
20 during the maintenance, service, repair, or disposal
21 of appliances and industrial process refrigeration
22 equipment.

23 “(B) The standards and requirements estab-
24 lished under subparagraph (A) shall take effect not

1 later than 1 year after the date of promulgation of
2 the regulations.”.

3 (3) In subsection (b), by inserting “and
4 hydrofluorocarbon substitutes for those substances”
5 after “substances” in the matter preceding para-
6 graph (1), by inserting “(or hydrofluorocarbon sub-
7 stitutes for those substances)” after “substances” in
8 paragraph (1), and by inserting “(or a
9 hydrofluorocarbon substitute for such substance)”
10 after “substance” in paragraphs (2) and (3) in each
11 place such term appears.

12 (b) SERVICING OF MOTOR VEHICLE AIR CONDI-
13 TIONERS.—Section 609 of the Clean Air Act (42 U.S.C.
14 7671h) is amended as follows:

15 (1) In subsection (b), by adding at the end the
16 following:

17 “(5) The term ‘hydrofluorocarbon substitute’
18 means a hydrofluorocarbon or other greenhouse gas
19 that has a global warming potential of more than
20 150 and that is used in or for types of equipment,
21 appliances, or processes that previously relied on
22 class I or class II substances.”.

23 (2) In subsection (e)—

24 (A) by striking “OF CLASS I OR CLASS II
25 SUBSTANCES” in the subsection heading; and

1 (B) by adding at the end the following:
2 “Effective beginning January 1, 2010, it shall
3 be unlawful for any person to sell or distribute,
4 or offer for sale or distribution, in interstate
5 commerce to any person (other than a person
6 performing service for consideration on motor
7 vehicle air-conditioning systems in compliance
8 with this section) any hydrofluorocarbon sub-
9 stitute that is suitable for use in a motor vehi-
10 cle air-conditioning system and that is in a con-
11 tainer that contains less than 20 pounds of the
12 hydrofluorocarbon substitute.”.

13 **SEC. 104. WAIVER OF PREEMPTION FOR CALIFORNIA**
14 **GREENHOUSE GAS EMISSION STANDARDS**
15 **FOR VEHICLES.**

16 Section 209 of the Clean Air Act (42 U.S.C. 7543)
17 is amended by adding at the end the following:

18 “(f) WAIVER.—Notwithstanding subsection (b) or
19 any other provision of law, the application for a waiver
20 of preemption dated December 21, 2005, submitted to the
21 Administrator pursuant to subsection (b) by the State of
22 California for regulations of that State to control green-
23 house gas emissions from motor vehicles shall be consid-
24 ered to be approved.”.

1 **SEC. 105. LOW-CARBON FUEL STANDARD.**

2 (a) DEFINITIONS.—Section 211(o)(1) of the Clean
3 Air Act (42 U.S.C. 7545(o)(1)) is amended—

4 (1) by redesignating subparagraphs (G)
5 through (L) as subparagraphs (J) through (O), re-
6 spectively;

7 (2) by inserting after subparagraph (F) the fol-
8 lowing:

9 “(G) CULTIVATED NOXIOUS PLANT.—The
10 term ‘cultivated noxious plant’ means a plant
11 that is included on—

12 “(i) the Federal noxious weed list
13 maintained by the Animal and Plant
14 Health Inspection Service; or

15 “(ii) any comparable State list.

16 “(H) FUEL EMISSION BASELINE.—The
17 term ‘fuel emission baseline’ means the average
18 lifecycle greenhouse gas emissions per unit of
19 energy of the aggregate of all transportation
20 fuels sold or introduced into commerce in cal-
21 endar year 2005, as determined by the Admin-
22 istrator under paragraph (13).

23 “(I) FUEL PROVIDER.—The term ‘fuel
24 provider’ includes, as the Administrator deter-
25 mines to be appropriate, any individual or enti-
26 ty that produces, refines, blends, or imports any

1 transportation fuel in commerce in, or into, the
2 United States.”; and

3 (3) by striking subparagraph (O) (as redesign-
4 nated by paragraph (1)) and inserting the following:

5 “(O) TRANSPORTATION FUEL.—The term
6 ‘transportation fuel’ means fuel for use in
7 motor vehicles, nonroad vehicles, nonroad en-
8 gines, or aircraft.”.

9 (b) ESTABLISHMENT.—Section 211(o) of the Clean
10 Air Act (42 U.S.C. 7545(o)) is amended by adding at the
11 end the following:

12 “(13) ADVANCED CLEAN FUEL PERFORMANCE
13 STANDARD.—

14 “(A) METHODOLOGY AND BASELINE.—Not
15 later than January 1, 2010, the Administrator
16 shall, by regulation—

17 “(i) establish a methodology for use in
18 determining the lifecycle greenhouse gas
19 emissions per unit of energy of all trans-
20 portation fuels in commerce for which the
21 Administrator has not already established
22 such a methodology; and

23 “(ii) determine the fuel emission base-
24 line.

1 “(B) PERFORMANCE STANDARD.—Not
2 later than January 1, 2010, the Administrator
3 shall, by regulation, establish a requirement ap-
4 plicable to transportation fuel providers to re-
5 duce, on an annual average basis, the average
6 lifecycle greenhouse gas emissions per unit of
7 energy of the aggregate quantity of transpor-
8 tation fuel produced, refined, blended, or im-
9 ported by the fuel provider to a level that is, to
10 the maximum extent practicable—

11 “(i) by not later than calendar year
12 2011 and in subsequent calendar years
13 thereafter, at least equal to or less than
14 the fuel emission baseline;

15 “(ii) by not later than calendar year
16 2012, equivalent to the difference between
17 the fuel emission baseline and the lifecycle
18 greenhouse gas emissions per unit of en-
19 ergy reduced by the volumetric renewable
20 fuel requirements of paragraph (2)(B);

21 “(iii) by not later than calendar year
22 2023, at least 5 percent less than the fuel
23 emission baseline; and

1 “(iv) by not later than calendar year
2 2028, at least 10 percent less than the fuel
3 emission baseline.

4 “(C) PREVENTION OF AIR QUALITY DETE-
5 RIORATION.—

6 “(i) STUDY.—Not later than 18
7 months after the date of enactment of this
8 paragraph, the Administrator shall com-
9 plete a study to determine whether the
10 greenhouse gas emission reductions re-
11 quired under subparagraph (B) will ad-
12 versely impact air quality as a result of
13 changes in vehicle and engine emissions of
14 air pollutants regulated under this Act.

15 “(ii) CONSIDERATIONS.—The study
16 shall include consideration of different
17 blend levels, types of transportation fuels,
18 and available vehicle technologies and ap-
19 propriate national, regional, and local air
20 quality control measures.

21 “(iii) REGULATIONS.—Not later than
22 3 years after the date of enactment of this
23 paragraph, the Administrator shall ei-
24 ther—

1 “(I) promulgate fuel regulations
2 to implement appropriate measures to
3 mitigate, to the maximum extent
4 practicable and taking into consider-
5 ation the results of the study con-
6 ducted under this clause, any adverse
7 impacts on air quality as a result of
8 the greenhouse gas emission reduc-
9 tions required by this subsection; or

10 “(II) make a determination that
11 no such measures are necessary.

12 “(D) PERFORMANCE STANDARD FOR CAL-
13 ENDAR YEAR 2033 AND THEREAFTER.—For cal-
14 endar year 2033, and every 5 years thereafter,
15 the Administrator, in consultation with the Sec-
16 retary of Agriculture and the Secretary of En-
17 ergy, shall revise the applicable performance
18 standard under subparagraph (B) to reduce, to
19 the maximum extent practicable, the average
20 lifecycle greenhouse gas emissions per unit of
21 energy of the aggregate quantity of transpor-
22 tation fuel sold or introduced into commerce in
23 the United States.

24 “(E) REVISION OF REGULATIONS.—In ac-
25 cordance with the purposes of the Investing in

1 Climate Action and Protection Act, the Admin-
2 istrator may, as appropriate, revise the regula-
3 tions promulgated under subparagraphs (A)
4 and (B) as necessary to reflect or respond to
5 changes in the transportation fuel market or
6 other relevant circumstances.

7 “(F) METHOD OF CALCULATION FOR HY-
8 DROGEN AND ELECTRICITY.—In calculating
9 under subparagraph (A)(i) the lifecycle green-
10 house gas emissions of hydrogen or electricity
11 (when used as a transportation fuel), the Ad-
12 ministrator shall—

13 “(i) include emission resulting from
14 the production of the hydrogen or elec-
15 tricity; and

16 “(ii) consider the energy delivered
17 by—

18 “(I) 6.4 kilowatt-hours of elec-
19 tricity;

20 “(II) 32 standard cubic feet of
21 hydrogen; or

22 “(III) 1.25 gallons of liquid hy-
23 drogen,

24 to be equivalent to the energy delivered by
25 1 gallon of ethanol.

1 “(G) DETERMINATION OF LIFECYCLE
2 GREENHOUSE GAS EMISSIONS.—In carrying out
3 this paragraph, the Administrator shall use the
4 best available scientific and technical informa-
5 tion to determine the lifecycle greenhouse gas
6 emissions per unit of energy of transportation
7 fuels derived from—

8 “(i) renewable biomass;

9 “(ii) electricity, including the entire
10 lifecycle of the fuel;

11 “(iii) 1 or more fossil fuels, including
12 the entire lifecycle of the fuels; and

13 “(iv) hydrogen, including the entire
14 lifecycle of the fuel.

15 “(H) EQUIVALENT EMISSIONS.—In car-
16 rying out this subparagraph, the Administrator
17 shall consider transportation fuel derived from
18 cultivated noxious plants, and transportation
19 fuel derived from biomass sources other than
20 renewable biomass, to have emissions per unit
21 of energy equivalent to the greater of—

22 “(i) the lifecycle greenhouse gas emis-
23 sions of such transportation fuel; or

24 “(ii) the fuel emission baseline.

1 “(I) ELECTION TO PARTICIPATE.—An elec-
2 tricity provider may elect to participate in the
3 program under this paragraph if the electricity
4 provider provides and separately tracks elec-
5 tricity for transportation through a meter
6 that—

7 “(i) measures the electricity used for
8 transportation separately from electricity
9 used for other purposes; and

10 “(ii) allows for load management and
11 time-of-use rates.

12 “(J) CREDITS.—

13 “(i) IN GENERAL.—The regulations
14 promulgated to carry out this paragraph
15 shall permit fuel providers to generate
16 credits for achieving, during a calendar
17 year, greater reductions in lifecycle green-
18 house gas emissions of the fuel provided,
19 blended, or imported by the fuel provider
20 than are required under subparagraph (B).

21 “(ii) METHOD OF CALCULATION.—
22 The number of credits received by a fuel
23 provider under clause (i) for a calendar
24 year shall be the product obtained by mul-
25 tiplying the aggregate quantity of fuel pro-

1 duced, distributed, or imported by the fuel
2 provider during the calendar year by the
3 difference between—

4 “(I) the lifecycle greenhouse gas
5 emissions per unit of energy of that
6 quantity of fuel; and

7 “(II) the maximum lifecycle
8 greenhouse gas emissions per unit of
9 energy of that quantity of fuel per-
10 mitted for the calendar year under
11 subparagraph (B).

12 “(K) COMPLIANCE.—

13 “(i) IN GENERAL.—Each fuel provider
14 subject to this paragraph shall dem-
15 onstrate compliance with this paragraph,
16 including, as necessary, through the use of
17 credits generated, banked, or purchased.

18 “(ii) NO LIMITATION ON TRADING OR
19 BANKING.—There shall be no limit on the
20 ability of any fuel provider to trade or
21 bank credits pursuant to this subpara-
22 graph.

23 “(iii) USE OF BANKED CREDITS.—A
24 fuel provider may use banked credits under

1 this subparagraph with no discount or
2 other adjustment to the credits.

3 “(iv) INABILITY TO GENERATE OR
4 PURCHASE SUFFICIENT CREDITS.—A fuel
5 provider that is unable to generate or pur-
6 chase sufficient credits to meet the require-
7 ments of subparagraph (B) may carry the
8 compliance deficit forward, subject to the
9 condition that the fuel provider, for the
10 calendar year following the year for which
11 the deficit is created—

12 “(I) achieves compliance with
13 subparagraph (B); and

14 “(II) generates or purchases ad-
15 ditional credits to offset the deficit
16 from the preceding calendar year.

17 “(v) TYPES OF CREDITS.—To encour-
18 age innovation in transportation fuels—

19 “(I) only credits created in the
20 production of transportation fuels
21 may be used for the purpose of com-
22 pliance described in clause (i); and

23 “(II) credits created by or in
24 other sectors, such as manufacturing,
25 may not be used for that purpose.

“(L) IMPACT ON FOOD PRODUCTION.—Not later than 18 months after the date of enactment of this paragraph, the Administrator shall evaluate and consider promulgating regulations to address any significant impacts on access to, and production of, food due to the sourcing and production of fuels used to comply with this Act.

“(M) NO EFFECT ON STATE AUTHORITY.—Nothing in this paragraph affects the authority of any State to establish, or to maintain in effect, any transportation fuel standard that reduces greenhouse gas emissions.”.

TITLE II—CARBON MARKET OVERSIGHT

SEC. 201. AMENDMENT OF FEDERAL POWER ACT.

The Federal Power Act (16 U.S.C. 791a and following) is amended by adding the following new part at the end thereof:

“PART IV—REGULATION OF CARBON MARKETS

“SEC. 401. PURPOSES.

“The purposes of this part are to—

“(1) provide for the establishment of markets for emission allowances, offset credits, and derivatives based on such allowances and credits (including

1 futures and options markets), through a system of
2 effective self-regulation of trading facilities, clearing
3 systems, and market participants;

4 “(2) ensure transparency and fair competition
5 in those markets; and

6 “(3) ensure that those markets will function in
7 a stable and efficient manner so as to avoid harm
8 to the environmental objectives of title I of the In-
9 vesting in Climate Action and Protection Act or the
10 United States economy.

11 **“SEC. 402. DEFINITIONS.**

12 “In this part:

13 “(1) CARBON CLEARING ORGANIZATION.—

14 “(A) IN GENERAL.—The term ‘carbon
15 clearing organization’ means a clearinghouse,
16 clearing association, clearing corporation, or
17 similar entity, facility, system, or organization
18 that—

19 “(i) enables each party to an agree-
20 ment, contract, or transaction involving a
21 regulated instrument to substitute,
22 through novation or otherwise, the credit
23 of the organization for the credit of the
24 parties;

1 “(ii) arranges or provides, on a multi-
2 lateral basis, for the settlement or netting
3 of obligations resulting from agreements,
4 contracts, or transactions involving regu-
5 lated instruments executed by participants
6 in the organization; or

7 “(iii) otherwise provides clearing serv-
8 ices or arrangements that mutualize or
9 transfer among participants in the organi-
10 zation the credit risk arising from agree-
11 ments, contracts, or transactions involving
12 regulated instruments executed by the par-
13 ticipants.

14 “(B) EXCLUSIONS.—The term ‘carbon
15 clearing organization’ does not include an enti-
16 ty, facility, system, or organization solely be-
17 cause it arranges or provides for—

18 “(i) settlement, netting, or novation of
19 obligations resulting from agreements, con-
20 tracts, or transactions, on a bilateral basis
21 and without a central counterparty; or

22 “(ii) settlement or netting of cash
23 payments through an interbank payment
24 system.

1 “(2) COMMISSION.—The term ‘Commission’
2 means the Federal Energy Regulatory Commission.

3 “(3) CONTRACT OF SALE.—The term ‘contract
4 of sale’ includes a sale, an agreement of sale, and an
5 agreement to sell.

6 “(4) DEALER.—The term ‘dealer’ means an in-
7 dividual, association, partnership, corporation, or
8 trust that—

9 “(A) is engaged in soliciting or in accept-
10 ing orders for the purchase or sale of a regu-
11 lated instrument on or subject to the rules of
12 a registered carbon trading facility; and

13 “(B) in or in connection with the solicita-
14 tion or acceptance of such an order, accepts
15 money, securities, or property (or extends credit
16 in lieu thereof) to margin, guarantee, or secure
17 any trade or contract that results or may result
18 therefrom.

19 “(5) DIRECTOR.—The term ‘Director’ means
20 the Director of the Office of Carbon Market Over-
21 sight.

22 “(6) ELIGIBLE CONTRACT PARTICIPANT.—The
23 term ‘eligible contract participant’ has the meaning
24 given the term in section 1a(12) of the Commodity
25 Exchange Act (7 U.S.C. 1a(12)).

1 “(7) EMISSION ALLOWANCE.—The term ‘emis-
2 sion allowance’ has the meaning given that term in
3 section 700(8) of the Clean Air Act.

4 “(8) FLOOR BROKER.—The term ‘floor broker’
5 means any person who, in or surrounding any pit,
6 ring, post, or other place provided by a registered
7 carbon trading facility for the meeting of persons
8 similarly engaged, purchases or sells for any other
9 person a regulated instrument on or subject to the
10 rules of the trading facility.

11 “(9) FLOOR TRADER.—The term ‘floor trader’
12 means any person who, in or surrounding any pit,
13 ring, post, or other place provided by a registered
14 carbon trading facility for the meeting of persons
15 similarly engaged, purchases, or sells solely for the
16 person’s own account, a regulated instrument on or
17 subject to the rules of the trading facility.

18 “(10) INTRODUCING BROKER.—The term ‘in-
19 troducing broker’ means any person (except an indi-
20 vidual who elects to be and is registered as an asso-
21 ciated person of a dealer) engaged in soliciting or in
22 accepting orders for the purchase or sale of a regu-
23 lated instrument on or subject to the rules of a reg-
24 istered carbon trading facility, who does not accept
25 money, securities, or property (or extend credit in

1 lieu thereof) to margin, guarantee, or secure any
2 trade or contract that results or may result from
3 such a solicitation or acceptance.

4 “(11) MEMBER.—The term ‘member’ means,
5 with respect to a trading facility or a carbon clearing
6 organization, an individual, association, partnership,
7 corporation, or trust owning or holding membership
8 in, admitted to membership representation on, or
9 having trading privileges on the trading facility or
10 carbon clearing organization.

11 “(12) OFFSET CREDIT.—The term ‘offset cred-
12 it’ has the meaning given that term in section
13 700(20) of the Clean Air Act.

14 “(13) REGULATED ALLOWANCE.—The term
15 ‘regulated allowance’ means an emission allowance
16 or an offset credit.

17 “(14) REGULATED ALLOWANCE DERIVATIVE.—
18 The term ‘regulated allowance derivative’ means an
19 instrument that is or includes an instrument—

20 “(A) which—

21 “(i) is of the character of, or is com-
22 monly known to the trade as, an ‘option’,
23 ‘privilege’, ‘indemnity’, ‘bid’, ‘offer’, ‘put’,
24 ‘call’, ‘advance guaranty’, or ‘decline guar-
25 anty’; or

1 “(ii) is a contract of sale for future
2 delivery; and

3 “(B) the value of which, in whole or in
4 part, is directly linked to the price of a regu-
5 lated allowance or another regulated allowance
6 derivative.

7 “(15) REGULATED INSTRUMENT.—The term
8 ‘regulated instrument’ means a regulated allowance
9 or a regulated allowance derivative.

10 “(16) TRADING FACILITY.—The term ‘trading
11 facility’ means a person or group of persons that
12 constitutes, maintains, or provides a physical or elec-
13 tronic facility or system in which multiple partici-
14 pants have the ability to execute or trade agree-
15 ments, contracts, or transactions involving a regu-
16 lated instrument by accepting bids and offers made
17 by other participants that are open to multiple par-
18 ticipants in the facility or system.

19 “(17) UNITED STATES.—The term ‘United
20 States’ includes the territories and possessions of the
21 United States.

22 **“SEC. 403. OFFICE OF CARBON MARKET OVERSIGHT; JURIS-**
23 **DICTION.**

24 “(a) ESTABLISHMENT OF OFFICE OF CARBON MAR-
25 KET OVERSIGHT.—

1 “(1) IN GENERAL.—There is established in the
2 Federal Energy Regulatory Commission an Office of
3 Carbon Market Oversight, which shall be headed by
4 a Director for Carbon Market Oversight. The posi-
5 tion of Director for Carbon Market Oversight shall
6 be in addition to the Directors of other offices at the
7 Commission.

8 “(2) APPOINTMENT OF DIRECTOR.—The Direc-
9 tor for Carbon Market Oversight shall be appointed
10 by the Commission and shall be an individual who
11 is, by reason of background and experience in the
12 regulation of commodities, securities, or other finan-
13 cial markets, especially qualified to direct a program
14 of oversight of the market in regulated instruments.

15 “(b) ADMINISTRATION OF THIS PART.—The Com-
16 mission, acting through the Director for Carbon Market
17 Oversight, shall administer this part.

18 “(c) EXCLUSIVE JURISDICTION OVER REGULATED
19 INSTRUMENTS NOT SUBJECT TO THE SECURITIES
20 LAWS.—

21 “(1) IN GENERAL.—The Commission shall have
22 exclusive jurisdiction over accounts, agreements, and
23 transactions involving a regulated instrument,
24 whether inside or outside the United States, that are
25 not subject to the jurisdiction of the Securities and

1 Exchange Commission. The preceding sentence shall
2 not supersede or limit the jurisdiction conferred on
3 courts of the United States or any State.

4 “(2) EXCEPTION.—Notwithstanding paragraph
5 (1), nothing in this part shall be construed to limit
6 any authority of the Administrator of the Environ-
7 mental Protection Agency under the Clean Air Act
8 (42 U.S.C. 7401 and following).

9 “(d) REGULATIONS.—The Commission shall promul-
10 gate regulations governing the implementation of this part
11 not later than 1 year after the date of the enactment of
12 this title, and shall revise the regulations from time to
13 time thereafter.

14 **“SEC. 404. REGULATION OF CARBON TRADING.**

15 “(a) LIMITATION OF CERTAIN ACTIVITIES TO ENTI-
16 TIES REGISTERED UNDER THIS PART.—

17 “(1) CARBON TRADING FACILITY ACTIVITIES.—

18 “(A) IN GENERAL.—It shall be unlawful
19 for a person to offer to enter into, execute, con-
20 firm the execution of, or conduct an office or a
21 business for the purpose of soliciting, accepting
22 an order for, or otherwise dealing in, an agree-
23 ment, contract, or transaction involving a con-
24 tract for the purchase or sale of a regulated in-
25 strument, unless—

1 “(i) the transaction is conducted on or
2 subject to the rules of a trading facility
3 designated as a registered carbon trading
4 facility under section 405(a);

5 “(ii) the contract for the purchase or
6 sale is executed or consummated by or
7 through such a trading facility; and

8 “(iii) the contract for the purchase or
9 sale is evidenced by a record in writing
10 which shows the date, the parties to the
11 contract and their addresses, the property
12 covered and its price, and the terms of de-
13 livery.

14 “(B) EXCEPTION FOR DERIVATIVE TRANS-
15 ACTIONS BETWEEN ELIGIBLE CONTRACT PAR-
16 TICIPANTS.—Subparagraph (A) shall not apply
17 to an agreement, contract, or transaction in-
18 volving only a regulated allowance derivative be-
19 tween persons who are eligible contract partici-
20 pants at the time at which the persons enter
21 into the agreement, contract, or transaction.

22 “(2) BROKER OR DEALER ACTIVITIES.—It shall
23 be unlawful for a person to act in the capacity of an
24 introducing broker, a dealer, a floor broker, or a
25 floor trader, in connection with the purchase or sale

1 of a regulated instrument, unless the person is reg-
2 istered in that capacity with the Commission, and
3 the registration is not suspended, revoked, or ex-
4 pired.

5 “(3) CARBON CLEARING ORGANIZATION ACTIVI-
6 TIES.—

7 “(A) IN GENERAL.—It shall be unlawful
8 for an entity, directly or indirectly, to perform
9 the functions described in section 402(1) with
10 respect to a regulated instrument, unless the
11 entity is registered with the Commission as a
12 carbon clearing organization under section
13 405(c), and the registration is not suspended,
14 revoked, or expired.

15 “(B) EXCEPTION FOR CLEARING OF DE-
16 RIVATIVE TRANSACTIONS BETWEEN ELIGIBLE
17 CONTRACT PARTICIPANTS.—Subparagraph (A)
18 shall not apply to functions performed with re-
19 spect to an agreement, contract, or transaction
20 involving only a regulated allowance derivative
21 between persons who are eligible contract par-
22 ticipants at the time at which the persons enter
23 into the agreement, contract, or transaction.

24 “(b) PROHIBITION ON PRICE OR MARKET MANIPU-
25 LATION, FRAUD, AND FALSE OR MISLEADING STATE-

1 MENTS OR REPORTS.—It shall be unlawful for a person,
2 directly or indirectly—

3 “(1) in connection with a transaction involving
4 a regulated instrument, to—

5 “(A) use any manipulative or deceptive de-
6 vice or contrivance in violation of such regula-
7 tions as the Commission may prescribe to pro-
8 tect the public interest or consumers;

9 “(B) corner or attempt to corner the in-
10 strument; or

11 “(C) cheat or defraud, or attempt to cheat
12 or defraud, any other person;

13 “(2) for the purpose of creating a false or mis-
14 leading appearance of active trading in a regulated
15 instrument, or a false or misleading appearance with
16 respect to the market for such an instrument, to—

17 “(A) effect any transaction in the instru-
18 ment which involves no change in the beneficial
19 ownership of the instrument;

20 “(B) enter an order for the purchase of
21 the instrument, with the knowledge that an
22 order or orders of substantially the same size,
23 at substantially the same time, and at substan-
24 tially the same price, for the sale of any such

1 instrument, has been or will be entered by or
2 for the same or different parties; or

3 “(C) enter an order for the sale of the in-
4 strument with the knowledge that an order or
5 orders of substantially the same size, at sub-
6 stantially the same time, and at substantially
7 the same price, for the purchase of the instru-
8 ment, has been or will be entered by or for the
9 same or different parties;

10 “(3) to deliver or cause to be delivered a know-
11 ingly false, misleading, or inaccurate report con-
12 cerning information or conditions that affect or tend
13 to affect the price of a regulated instrument;

14 “(4) to make, or cause to be made, in an appli-
15 cation, report, or document required to be filed
16 under this part or any rule or regulation prescribed
17 under this part, a statement which is false or mis-
18 leading with respect to a material fact, or to omit
19 any material fact required to be stated therein or
20 necessary to make the statements therein not mis-
21 leading; or

22 “(5) to falsify, conceal, or cover up by any
23 trick, scheme, or artifice a material fact, make any
24 false, fictitious, or fraudulent statements or rep-
25 resentations, or make or use any false writing or

1 document that contains a false, fictitious, or fraudu-
2 lent statement or entry, to an entity registered
3 under this part acting in furtherance of its official
4 duties under this part.

5 “(c) PREVENTION OF EXCESSIVE SPECULATION.—

6 “(1) IN GENERAL.—To prevent, decrease, or
7 eliminate burdens associated with excessive specula-
8 tion relating to regulated instruments, the Commis-
9 sion shall prescribe regulations establishing such po-
10 sition or transaction limitations and position ac-
11 countability requirements as the Commission deter-
12 mines to be necessary with respect to any regulated
13 instrument.

14 “(2) INAPPLICABILITY TO BONA FIDE HEDGING
15 TRANSACTIONS AND POSITIONS.—The limitations
16 and requirements prescribed under paragraph (1)
17 shall not apply to a position or transaction that is
18 a bona fide hedging position or transaction, as de-
19 fined by the Commission consistent with the pur-
20 poses of this part.

21 “(d) LARGE TRADER REPORTING.—

22 “(1) IDENTIFICATION REQUIREMENTS FOR
23 LARGE TRADERS.—For the purpose of monitoring
24 the effect on the markets of transactions involving a
25 substantial volume or a large fair market value or

1 exercise value and for the purpose of otherwise as-
2 sisting the Commission in the enforcement of this
3 part, each large trader shall—

4 “(A) provide such information to the Com-
5 mission as the Commission may by regulation
6 prescribe as necessary or appropriate, identi-
7 fying the large trader and all accounts in or
8 through which the large trader effects such a
9 transaction; and

10 “(B) identify, in accordance with such reg-
11 ulations as the Commission may prescribe as
12 necessary or appropriate, to any broker or deal-
13 er registered under this part, by or through
14 whom the large trader directly or indirectly ef-
15 fects transactions in regulated instruments, the
16 large trader and all accounts directly or indi-
17 rectly maintained with the broker or dealer by
18 the large trader in or through which the trans-
19 actions are effected.

20 “(2) RECORDKEEPING AND REPORTING RE-
21 QUIREMENTS FOR BROKERS AND DEALERS.—

22 “(A) RECORDKEEPING.—Each broker or
23 dealer registered under this part shall make
24 and keep for prescribed periods such records as
25 the Commission, by regulation, deems necessary

1 or appropriate with respect to transactions in
2 regulated instruments that—

3 “(i) equal or exceed the reporting ac-
4 tivity level; and

5 “(ii) are effected, directly or indi-
6 rectly—

7 “(I) by or through the registered
8 broker or dealer of a large trader;

9 “(II) for any person that the
10 broker or dealer knows is a large
11 trader; or

12 “(III) for any person that the
13 broker or dealer has reason to know is
14 a large trader on the basis of trans-
15 actions effected by or through the
16 broker or dealer.

17 “(B) REPORTING.—The records required
18 under subparagraph (A) shall be available for
19 reporting to the Commission on the morning of
20 the day following the day the transactions are
21 effected, and shall be reported to the Commis-
22 sion immediately on request by the Director.

23 “(3) AGGREGATION RULES.—The Commission
24 may prescribe regulations governing the manner in
25 which transactions and accounts shall be aggregated

1 for the purpose of this subsection, including aggre-
2 gation on the basis of common ownership or control.

3 “(4) EXAMINATION OF BROKER AND DEALER
4 RECORDS.—All records required to be made and
5 kept pursuant to this subsection by brokers and
6 dealers registered under this part, with respect to
7 transactions effected by large traders, are subject at
8 any time, or from time to time, to such reasonable
9 periodic, special, or other examinations by represent-
10 atives of the Commission as the Commission deems
11 necessary or appropriate in the public interest, for
12 the protection of investors, or otherwise in further-
13 ance of the purposes of this part.

14 “(5) FACTORS TO BE CONSIDERED IN COMMIS-
15 SION ACTIONS.—In carrying out this subsection, the
16 Commission shall take into account—

17 “(A) existing reporting systems;

18 “(B) the costs associated with maintaining
19 information with respect to transactions ef-
20 fected by large traders and reporting the infor-
21 mation to the Commission; and

22 “(C) the relationship between the United
23 States and international markets in regulated
24 instruments.

1 “(6) EXEMPTIONS.—The Commission, by regu-
2 lation or order, consistent with the purposes of this
3 part, may exempt any person or class of persons or
4 any transaction or class of transactions, condi-
5 tionally, on specified terms and conditions, or for
6 stated periods, from the operation of this subsection
7 and the regulations prescribed under this subsection.

8 “(7) AUTHORITY OF COMMISSION TO LIMIT DIS-
9 CLOSURE OF INFORMATION.—Notwithstanding any
10 other provision of law, the Commission shall not be
11 compelled to disclose any information required to be
12 kept or reported under this subsection. Nothing in
13 this subsection shall authorize the Commission to
14 withhold information from Congress, or prevent the
15 Commission from complying with a request for infor-
16 mation from any other Federal department or agen-
17 cy requesting information for purposes within the
18 scope of its jurisdiction, or complying with an order
19 of a court of the United States in an action brought
20 by the United States or the Commission. For pur-
21 poses of section 552 of title 5, United States Code,
22 this subsection shall be considered a statute de-
23 scribed in section 552(b)(3)(B).

24 “(8) DEFINITIONS.—In this subsection:

1 “(A) LARGE TRADER.—The term ‘large
2 trader’ means every person who, for the per-
3 son’s own account or an account for which the
4 person exercises investment discretion, effects
5 transactions for the purchase or sale of a regu-
6 lated instrument, directly or indirectly by or
7 through a broker or dealer registered under this
8 part, in an aggregate amount equal to or in ex-
9 cess of the identifying activity level.

10 “(B) IDENTIFYING ACTIVITY LEVEL.—The
11 term ‘identifying activity level’ means trans-
12 actions in regulated instruments at or above a
13 level of volume, fair market value, or exercise
14 value as shall be fixed from time to time by the
15 Commission by regulation, specifying the time
16 interval during which the transactions shall be
17 aggregated.

18 “(C) REPORTING ACTIVITY LEVEL.—The
19 term ‘reporting activity level’ means trans-
20 actions in regulated instruments at or above a
21 level of volume, fair market value, or exercise
22 value as shall be fixed from time to time by the
23 Commission by regulation or order, specifying
24 the time interval during which the transactions
25 shall be aggregated.

1 “(D) PERSON.—The term ‘person’ means
2 a natural person, company, government, or po-
3 litical subdivision, agency, or instrumentality of
4 a government, and includes 2 or more persons
5 acting as a partnership, limited partnership,
6 syndicate, or other group, but does not include
7 a foreign central bank.

8 “(e) RECORDKEEPING; REPORTING; ACCESS TO
9 BOOKS AND RECORDS.—

10 “(1) MEMBERS OF REGISTERED ENTITIES.—
11 Each member of an entity registered under this part
12 shall—

13 “(A) keep books and records, and make
14 such reports as are required by the Commis-
15 sion, regarding the transactions and positions
16 of the member, and the transactions and posi-
17 tions of the customer involved, in regulated in-
18 struments, in such form and manner, and for
19 such period, as may be required by the Com-
20 mission; and

21 “(B) make the books and records available
22 for inspection by any representative of the Com-
23 mission or the Department of Justice.

24 “(2) REGISTERED ENTITIES.—Each entity reg-
25 istered under this part shall—

1 “(A) maintain daily trading records (in-
2 cluding a time-stamped audit trail), that in-
3 clude such information, in such form, and for
4 such period as the Commission may require by
5 regulation; and

6 “(B) make such reports from the records,
7 at such times and places, and in such form, as
8 the Commission may require by regulation to
9 protect the public interest and the interest of
10 persons trading in regulated instruments.

11 **“SEC. 405. REGISTRATION OF CARBON TRADING FACILI-**
12 **TIES, BROKERS, DEALERS, AND CARBON**
13 **CLEARING ORGANIZATIONS.**

14 “(a) CARBON TRADING FACILITIES.—

15 “(1) APPLICATION.—A trading facility may
16 apply to the Commission for designation as a reg-
17 istered carbon trading facility by submitting to the
18 Commission an application that contains such infor-
19 mation and commitments as the Commission may
20 require.

21 “(2) REQUIREMENTS FOR DESIGNATION.—To
22 be designated as a registered carbon trading facility,
23 the trading facility shall demonstrate to the Com-
24 mission the following:

1 “(A) PREVENTION OF MARKET MANIPULA-
2 TION.—The trading facility is capable of pre-
3 venting market manipulation through market
4 surveillance, compliance, and enforcement prac-
5 tices and procedures, including methods for
6 conducting real-time monitoring of trading and
7 comprehensive and accurate trade reconstruc-
8 tions.

9 “(B) FAIR AND EQUITABLE TRADING.—
10 The trading facility has established, and is ca-
11 pable of enforcing, rules to ensure fair and eq-
12 uitable trading through the trading facility, and
13 the capacity to detect, investigate, and dis-
14 cipline any person that violates the rules.

15 “(C) ESTABLISHMENT AND ENFORCEMENT
16 OF RULES GOVERNING OPERATION OF TRADE
17 EXECUTION FACILITY.—The trading facility has
18 established, and is capable of enforcing, rules
19 governing the manner of operation of the trade
20 execution facility maintained by the trading fa-
21 cility, including the operation of any electronic
22 matching platform.

23 “(D) FINANCIAL INTEGRITY OF TRANS-
24 ACTIONS.—The trading facility has established,
25 and is capable of enforcing, rules and proce-

1 dures for ensuring the financial integrity of
2 transactions entered into by or through the
3 trading facility, including the clearance and set-
4 tlement of the transactions.

5 “(E) DISCIPLINARY PROCEDURES.—The
6 trading facility has established, and is capable
7 of enforcing procedures that authorize the trad-
8 ing facility to discipline, suspend, or expel mem-
9 bers or market participants that violate the
10 rules of the trading facility, or similar methods
11 for performing the same functions, including
12 delegation of the functions to third parties.

13 “(F) PUBLIC ACCESS.—The trading facil-
14 ity is capable of providing the public with ac-
15 cess to the rules, regulations, and contract spec-
16 ifications of the trading facility.

17 “(G) ABILITY TO OBTAIN INFORMATION.—
18 The trading facility has established, and is ca-
19 pable of enforcing rules that allow the trading
20 facility to obtain any necessary information to
21 perform any of the functions described in this
22 paragraph, including the capacity to carry out
23 such international information-sharing agree-
24 ments as the Commission may require.

1 “(3) MAINTENANCE OF DESIGNATION.—To
2 maintain the designation of a trading facility as a
3 registered carbon trading facility, the trading facility
4 shall comply (and shall have reasonable discretion in
5 establishing the manner in which it complies) with
6 the following:

7 “(A) COMPLIANCE WITH RULES OF THE
8 TRADING FACILITY.—The trading facility shall
9 monitor and enforce compliance with the rules
10 of the trading facility, including the terms and
11 conditions of any contracts to be traded on or
12 through the trading facility and any limitations
13 on access to the trading facility.

14 “(B) CONTRACTS NOT READILY SUBJECT
15 TO MANIPULATION.—The trading facility shall
16 list on the trading facility only contracts that
17 are not readily susceptible to manipulation.

18 “(C) MONITORING OF TRADING.—The
19 trading facility shall monitor trading on or
20 through the facility to prevent manipulation,
21 price distortion, and disruptions of the delivery
22 or cash-settlement process.

23 “(D) POSITION LIMITATIONS OR ACCOUNT-
24 ABILITY.—To reduce the potential threat of
25 market manipulation, the trading facility shall

1 adopt position limitations or position account-
2 ability for speculators, where necessary and ap-
3 propriate.

4 “(E) EMERGENCY AUTHORITY.—The trad-
5 ing facility shall adopt rules to provide for the
6 exercise of emergency authority, in consultation
7 or cooperation with the Commission, where nec-
8 essary and appropriate, including the authority
9 to—

10 “(i) liquidate or transfer open posi-
11 tions in any contract;

12 “(ii) suspend or curtail trading in any
13 regulated instrument; and

14 “(iii) require market participants to
15 meet special margin requirements.

16 “(F) AVAILABILITY OF GENERAL INFOR-
17 MATION.—The trading facility shall make avail-
18 able to market authorities, market participants,
19 and the public information concerning—

20 “(i) the terms and conditions of the
21 contracts traded on or through the trading
22 facility; and

23 “(ii) the mechanisms for executing
24 transactions on or through the trading fa-
25 cility.

1 “(G) DAILY PUBLICATION OF TRADING IN-
2 FORMATION.—The trading facility shall make
3 public daily information on settlement prices,
4 volume, open interest, and opening and closing
5 ranges for all regulated instruments traded on
6 the trading facility.

7 “(H) EXECUTION OF TRANSACTIONS.—
8 The trading facility shall provide a competitive,
9 open, and efficient market and mechanism for
10 executing transactions on or through the trad-
11 ing facility.

12 “(I) SECURITY OF TRADE INFORMATION.—
13 The trading facility shall maintain rules and
14 procedures to provide for the recording and safe
15 storage of all identifying trade information in a
16 manner that enables the trading facility to use
17 the information to assist the prevention of cus-
18 tomer and market abuses and provide evidence
19 of violations of the rules of the trading facility.

20 “(J) FINANCIAL INTEGRITY OF CON-
21 TRACTS.—The trading facility shall establish
22 and enforce rules providing for the financial in-
23 tegrity of any contract traded on or through the
24 trading facility (including the clearance and set-
25 tlement of the transactions), and rules to en-

1 sure the financial integrity of introducing bro-
2 kers, dealers, floor brokers, and floor traders
3 doing business on or through the trading facil-
4 ity, and the protection of customer funds.

5 “(K) PROTECTION OF MARKET PARTICI-
6 PANTS.—The trading facility shall establish and
7 enforce rules to protect market participants
8 from abusive practices committed by any party
9 acting as an agent for the participants.

10 “(L) DISPUTE RESOLUTION.—The trading
11 facility shall establish and enforce rules regard-
12 ing and provide facilities for alternative dispute
13 resolution as appropriate for market partici-
14 pants and any market intermediaries.

15 “(M) GOVERNANCE FITNESS STAND-
16 ARDS.—The trading facility shall establish and
17 enforce appropriate fitness standards for direc-
18 tors, members of any disciplinary committee,
19 members of the trading facility, and any other
20 person with direct access to the trading facility
21 (including any parties affiliated with any of the
22 persons described in this subparagraph).

23 “(N) CONFLICTS OF INTEREST.—The
24 trading facility shall establish and enforce rules
25 to minimize conflicts of interest in the decision-

1 making process of the trading facility and es-
2 tablish a process for resolving any such conflict
3 of interest.

4 “(O) COMPOSITION OF BOARDS OF MUTU-
5 ALLY OWNED TRADING FACILITIES.—In the
6 case of a mutually owned trading facility, the
7 trading facility shall ensure that the composi-
8 tion of the governing board reflects market par-
9 ticipants.

10 “(P) RECORDKEEPING.—The trading facil-
11 ity shall maintain records of all activities re-
12 lated to the business of the trading facility in
13 a form and manner acceptable to the Commis-
14 sion for a period of 5 years.

15 “(Q) ANTITRUST CONSIDERATIONS.—Un-
16 less necessary or appropriate to achieve the
17 purposes of this part, the trading facility shall
18 endeavor to avoid—

19 “(i) adopting any rules or taking any
20 actions that result in any unreasonable re-
21 straints of trade; or

22 “(ii) imposing any material anti-
23 competitive burden on trading on or
24 through the trading facility.

1 “(b) BROKERS, DEALERS, AND THEIR ASSOCI-
2 ATES.—The Commission may prescribe regulations gov-
3 erning—

4 “(1) the eligibility of a person to act in the ca-
5 pacity of an introducing broker, a dealer, or a floor
6 broker, or a floor trader in the United States;

7 “(2) the registration of introducing brokers,
8 dealers, floor brokers, and floor traders with the
9 Commission; and

10 “(3) the conduct of a person registered pursu-
11 ant to regulations prescribed under paragraph (2),
12 and of a partner, officer, employee, or agent of the
13 registered person, in connection with transactions in-
14 volving a regulated instrument.

15 “(c) CARBON CLEARING ORGANIZATIONS.—

16 “(1) APPLICATION.—An entity may apply to
17 the Commission for registration as a carbon clearing
18 organization by submitting to the Director an appli-
19 cation that contains such information and commit-
20 ments as the Commission may require for the pur-
21 pose of making the determinations required for ap-
22 proval under paragraph (2).

23 “(2) REQUIREMENTS FOR REGISTRATION.—To
24 be registered and to maintain registration as a car-
25 bon clearing organization, an applicant shall dem-

1 onstrate to the Commission that the applicant com-
2 plies (and shall have reasonable discretion in estab-
3 lishing the manner in which it complies) with the
4 following core principles:

5 “(A) FINANCIAL RESOURCES.—The appli-
6 cant shall demonstrate that the applicant has
7 adequate financial, operational, and managerial
8 resources to discharge the responsibilities of a
9 carbon clearing organization.

10 “(B) PARTICIPANT AND PRODUCT ELIGI-
11 BILITY.—The applicant shall establish—

12 “(i) appropriate admission and con-
13 tinuing eligibility standards (including ap-
14 propriate minimum financial requirements)
15 for members of and participants in the ap-
16 plicant; and

17 “(ii) appropriate standards for deter-
18 mining eligibility of agreements, contracts,
19 or transactions submitted to the applicant.

20 “(C) RISK MANAGEMENT.—The applicant
21 shall have the ability to manage the risks asso-
22 ciated with discharging the responsibilities of a
23 carbon clearing organization through the use of
24 appropriate tools and procedures.

1 “(D) SETTLEMENT PROCEDURES.—The
2 applicant shall have the ability to—

3 “(i) complete settlements on a timely
4 basis under varying circumstances;

5 “(ii) maintain an adequate record of
6 the flow of funds associated with each
7 transaction that the applicant clears; and

8 “(iii) comply with the terms and con-
9 ditions of any permitted netting or offset
10 arrangements with other carbon clearing
11 organizations.

12 “(E) TREATMENT OF FUNDS.—The appli-
13 cant shall have standards and procedures de-
14 signed to protect and ensure the safety of mem-
15 ber and participant funds.

16 “(F) DEFAULT RULES AND PROCE-
17 DURES.—The applicant shall have rules and
18 procedures designed to allow for efficient, fair,
19 and safe management of events when members
20 or participants become insolvent or otherwise
21 default on their obligations to the applicant.

22 “(G) RULE ENFORCEMENT.—The appli-
23 cant shall—

24 “(i) maintain adequate arrangements
25 and resources for the effective monitoring

1 and enforcement of compliance with rules
2 of the applicant and for resolution of dis-
3 putes; and

4 “(ii) have the authority and ability to
5 discipline, limit, suspend, or terminate the
6 activities of a member or participant for
7 violations of rules of the applicant.

8 “(H) SYSTEM SAFEGUARDS.—The appli-
9 cant shall demonstrate that the applicant—

10 “(i) has established and will maintain
11 a program of oversight and risk analysis to
12 ensure that the automated systems of the
13 applicant function properly and have ade-
14 quate capacity and security; and

15 “(ii) has established and will maintain
16 emergency procedures and a plan for dis-
17 aster recovery, and will periodically test
18 backup facilities sufficient to ensure daily
19 processing, clearing, and settlement of
20 transactions.

21 “(I) REPORTING.—The applicant shall pro-
22 vide to the Director all information necessary
23 for the Commission to conduct oversight of the
24 activities of the applicant.

1 “(J) RECORDKEEPING.—The applicant
2 shall maintain for a period of 5 years records
3 of all activities related to the activities of the
4 applicant as a carbon clearing organization in a
5 form and manner acceptable to the Commis-
6 sion.

7 “(K) PUBLIC INFORMATION.—The appli-
8 cant shall make information concerning the
9 rules and operating procedures governing the
10 clearing and settlement systems (including de-
11 fault procedures) available to market partici-
12 pants.

13 “(L) INFORMATION-SHARING.—The appli-
14 cant shall—

15 “(i) enter into and abide by the terms
16 of all appropriate and applicable domestic
17 and international information-sharing
18 agreements; and

19 “(ii) use relevant information obtained
20 from the agreements in carrying out the
21 risk management program of the applicant.

22 “(M) ANTITRUST CONSIDERATIONS.—Un-
23 less appropriate to achieve the purposes of this
24 part, the applicant shall avoid—

1 “(i) adopting any rule or taking any
2 action that results in any unreasonable re-
3 straint of trade; or

4 “(ii) imposing any material anti-
5 competitive burden on trading on a reg-
6 istered carbon trading facility.

7 **“SEC. 406. ADMINISTRATIVE ENFORCEMENT.**

8 “(a) INVESTIGATIONS.—

9 “(1) IN GENERAL.—The Commission may make
10 such investigations as the Commission deems nec-
11 essary to determine whether any person has violated,
12 is violating, or is about to violate this part, a regula-
13 tion or order issued under this part, or a rule of an
14 entity registered under this part, or to secure infor-
15 mation which may serve as a basis for recom-
16 mending legislation concerning matters to which this
17 part relates. In conducting any such investigation,
18 the Commission may request the assistance of ap-
19 propriate Federal agencies.

20 “(2) PUBLICATION OF RESULTS.—The Commis-
21 sion may publish the results of any such investiga-
22 tion and such general statistical information gath-
23 ered in the investigation as the Commission deems
24 of interest to the public.

1 “(3) PUBLIC DISCLOSURE OF INFORMATION
2 AND DATA.—

3 “(A) IN GENERAL.—The Commission may
4 not publish data and information that would
5 separately disclose a transaction or market po-
6 sition of any person, a trade secret, or the
7 names of a customer, except where the disclo-
8 sure is made in connection with a congressional
9 proceeding or in an administrative or judicial
10 proceeding brought under this part.

11 “(B) AUTHORITY TO WITHHOLD INFORMA-
12 TION.—The Commission may withhold from
13 public disclosure any data or information con-
14 cerning or obtained in connection with any
15 pending investigation of any person under this
16 part.

17 “(4) DISCLOSURE OF REGISTRATION INFORMA-
18 TION TO OTHER GOVERNMENT ENTITIES.—The
19 Commission shall provide any registration informa-
20 tion maintained by the Commission under this part
21 on any registrant on reasonable request made by any
22 department or agency of any State or any political
23 subdivision of a State. Whenever the Administrator
24 determines that such information may be appro-
25 priate for use by any department or agency of a

1 State or political subdivision of a State, the Commis-
2 sion shall provide such information without request.

3 “(b) REVIEW OF ADVERSE ACTION BY REGISTERED
4 CARBON TRADING FACILITY.—

5 “(1) IN GENERAL.—

6 “(A) DISCIPLINARY ACTIONS.—The Com-
7 mission may, in accordance with such standards
8 and procedures as the Commission deems ap-
9 propriate, review a decision by a registered car-
10 bon trading facility to suspend, expel, otherwise
11 discipline a member of the trading facility, or
12 deny access to the trading facility.

13 “(B) OTHER ACTIONS.—On application of
14 any person who is adversely affected by any
15 other registered carbon trading facility decision,
16 the Commission may review the decision and
17 issue such order with respect to the decision as
18 the Commission deems appropriate to protect
19 the public interest.

20 “(2) SCOPE OF AUTHORITY.—The Commission
21 may affirm, modify, set aside, or remand a trading
22 facility decision reviewed under paragraph (1), after
23 a determination on the record as to whether the de-
24 cision was made in accordance with the rules of the
25 trading facility.

1 “(c) ENFORCEMENT PROCEEDINGS AGAINST CER-
2 TAIN PERSONS.—

3 “(1) SERVICE OF COMPLAINT.—If the Commis-
4 sion has reason to believe that a person (other than
5 a registered carbon trading facility or carbon clear-
6 ing organization) has violated this part or a regula-
7 tion or order issued under this part, the Commission
8 may serve upon the person a complaint stating the
9 charges of the Commission in that respect, which
10 complaint shall have attached or contain a notice of
11 hearing, specifying a day and place not less than 3
12 days after the service of the complaint, requiring the
13 person to show cause why an order should not be
14 made prohibiting the person from trading on or sub-
15 ject to the rules of any registered carbon trading fa-
16 cility, and directing that all such trading facilities
17 refuse all privileges to the person, until further no-
18 tice of the Commission and to show cause why the
19 registration of the person, if registered with the
20 Commission in any capacity, should not be sus-
21 pended or revoked.

22 “(2) INVESTIGATORY POWERS.—

23 “(A) IN GENERAL.—For the purpose of se-
24 curing effective enforcement of this part, and
25 for the purpose of any investigation or pro-

ceeding under this part, the Commission (except as provided in subparagraph (C)) may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.

“(B) AUTHORITY TO COMPEL ATTENDANCE OF WITNESSES, AND PRODUCTION OF RECORDS.—The attendance of witnesses and the production of records may be required from any place in the United States, any State or any foreign country or jurisdiction at any designated place of hearing.

“(C) EFFECT OF FAILURE TO OBEY SUBPOENA.—

“(i) AUTHORITY TO SEEK COURT ASSISTANCE.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States in the jurisdiction in which the investigation or proceeding is conducted, or where the person resides or transacts business, in requiring

1 the attendance and testimony of witnesses
2 and the production of books, papers, cor-
3 respondence, memoranda, and other
4 records.

5 “(ii) REMEDIES.—

6 “(I) IN GENERAL.—The court
7 may issue an order requiring the per-
8 son to appear before the Commission
9 or an Administrative Law Judge or
10 other officer designated by the Com-
11 mission, there to produce records, if
12 so ordered, or to give testimony touch-
13 ing the matter under investigation or
14 in question.

15 “(II) EFFECT OF FAILURE TO
16 OBEY COURT ORDER.—Any failure to
17 obey the order of the court may be
18 punished by the court as a contempt
19 of the court.

20 “(3) PENALTIES.—

21 “(A) Upon evidence received in a pro-
22 ceeding under paragraph (1), the Commission
23 may issue an order—

24 “(i) prohibiting the person from trad-
25 ing on or subject to the rules of any reg-

1 istered carbon trading facility, and requir-
2 ing all such facilities to refuse the person
3 all privileges for such period as may be
4 specified in the order;

5 “(ii) if the person is registered with
6 the Commission in any capacity, sus-
7 pending, for a period of not more than 6
8 months, or revoking, the registration of the
9 person;

10 “(iii) assessing the person, in accord
11 with the gravity of the violation, a civil
12 penalty of not more than the greater of
13 \$100,000 or triple the monetary gain to
14 the person for each such violation; and

15 “(iv) requiring restitution to cus-
16 tomers of damages proximately caused by
17 the violation.

18 “(B) AMOUNT OF CIVIL PENALTY BASED
19 ON GRAVITY OF VIOLATION.—In determining
20 the amount of the money penalty, if any, to be
21 assessed under subparagraph (A)(iii), the Com-
22 mission shall consider the appropriateness of
23 the penalty to the gravity of the violation.

24 “(C) NOTICE OF ORDER.—The Commis-
25 sion shall send notice of the order forthwith by

1 registered mail or by certified mail, or deliver
2 the notice to the offending person and the gov-
3 erning board of each registered carbon trading
4 facility.

5 “(4) APPEALS.—A petition for review of an
6 order issued under paragraph (3) of this subsection
7 may be filed in the Court of Appeals for the District
8 of Columbia Circuit.

9 “(d) AUTHORITY TO SUSPEND OR REVOKE REG-
10 ISTERED CARBON TRADING FACILITY DESIGNATION OR
11 CARBON CLEARING ORGANIZATION REGISTRATION.—The
12 Commission may suspend for a period of not more than
13 6 months, or revoke, the designation of a trading facility
14 as a registered carbon trading facility, or the registration
15 of an entity as a carbon clearing organization, if, after
16 notice and opportunity for a hearing on the record, the
17 Commission finds that—

18 “(1) the trading facility or the entity, as the
19 case may be, has not complied with a requirement
20 of section 405(a)(3), or section 405(c)(2), as the
21 case may be; or

22 “(2) a director, officer, employee, or agent of
23 the trading facility or entity, as the case may be, has
24 violated this part or a regulation or order issued
25 under this part.

1 “(e) CEASE AND DESIST ORDERS.—If the Commis-
2 sion finds that a person has violated this part or a regula-
3 tion or order issued under this part, the Commission may,
4 in conjunction with an order issued against the person
5 under subsection (c)(1), after notice and opportunity for
6 a hearing on the record, and subject to appeal as provided
7 for in subsection (c)(4), issue an order directing the per-
8 son to cease and desist from the violation.

9 “(f) TRADING SUSPENSIONS; EMERGENCY AUTHOR-
10 ITY.—

11 “(1) TRADING SUSPENSIONS.—If the Commis-
12 sion determines that the public interest so requires,
13 the Commission may, by order, summarily suspend
14 all trading of regulated instruments on any trading
15 facility or otherwise, for a period not exceeding 90
16 calendar days. The action described in the preceding
17 sentence shall not take effect unless the Commission
18 notifies the President of the decision of the Commis-
19 sion, and the President notifies the Commission that
20 the President does not disapprove of the decision.

21 “(2) EMERGENCY ORDERS.—

22 “(A) IN GENERAL.—The Commission, in
23 an emergency, may by order summarily take
24 such action to alter, supplement, suspend, or
25 impose requirements or restrictions with respect

1 to any matter or action subject to regulation by
2 the Commission or an entity registered under
3 this part, as the Commission determines is nec-
4 essary in the public interest—

5 “(i) to maintain or restore fair and
6 orderly markets in regulated instruments;
7 or

8 “(ii) to ensure prompt, accurate, and
9 safe clearance and settlement of trans-
10 actions in regulated instruments.

11 “(B) EFFECTIVE PERIOD.—An order of
12 the Commission under this paragraph shall con-
13 tinue in effect for the period specified by the
14 Commission, and may be extended. Except as
15 provided in subparagraph (C), an order of the
16 Commission under this paragraph may not con-
17 tinue in effect for more than 10 business days,
18 including extensions.

19 “(C) EXTENSION.—An order of the Com-
20 mission under this paragraph may be extended
21 to continue in effect for more than 10 business
22 days if, at the time of the extension, the Com-
23 mission finds that the emergency still exists and
24 determines that the continuation of the order
25 beyond 10 business days is necessary in the

1 public interest and for the protection of inves-
2 tors to attain an objective described in clause
3 (i) or (ii) of subparagraph (A). In no event
4 shall an order of the Commission under this
5 paragraph continue in effect for more than 30
6 calendar days.

7 “(D) EXEMPTION.—In exercising the au-
8 thority provided by this paragraph, the Com-
9 mission shall not be required to comply with
10 section 553 of title 5, United States Code.

11 “(3) TERMINATION OF EMERGENCY ACTIONS
12 BY PRESIDENT.—The President may direct that ac-
13 tion taken by the Commission under paragraph (2)
14 shall not continue in effect.

15 “(4) COMPLIANCE WITH ORDERS.—A member
16 of a trading facility, introducing broker, dealer, floor
17 broker, or floor trader shall not effect any trans-
18 action in, or induce the purchase or sale of, any reg-
19 ulated instrument in contravention of an order of
20 the Commission under this subsection, unless the
21 order has been stayed, modified, or set aside as pro-
22 vided in paragraph (5) or has ceased to be effective
23 on direction of the President as provided in para-
24 graph (3).

1 “(5) LIMITATIONS ON REVIEW OF ORDERS.—

2 An order of the Commission pursuant to this sub-
3 section shall be subject to review by the United
4 States Court of Appeals for the District of Columbia
5 Circuit. Review shall be based on an examination of
6 all the information before the Commission at the
7 time the order was issued. The reviewing court shall
8 not enter a stay, writ of mandamus, or similar relief
9 unless the court finds, after notice and hearing be-
10 fore a panel of the court, that the Commission’s ac-
11 tion is arbitrary, capricious, an abuse of discretion,
12 or otherwise not in accordance with law.

13 “(6) EMERGENCY DEFINED.—In this sub-
14 section, the term ‘emergency’ means—

15 “(A) a major market disturbance charac-
16 terized by or constituting—

17 “(i) sudden and excessive fluctuations
18 of prices of regulated instruments gen-
19 erally, or a substantial threat thereof, that
20 threaten fair and orderly markets; or

21 “(ii) a substantial disruption of the
22 safe or efficient operation of the national
23 system for clearance and settlement of
24 transactions in regulated instruments, or a
25 substantial threat thereof; or

1 “(B) a major disturbance that substan-
2 tially disrupts, or threatens to substantially dis-
3 rupt—

4 “(i) the functioning of markets in reg-
5 ulated instruments, or any significant por-
6 tion or segment of the markets; or

7 “(ii) the transmission or processing of
8 transactions in regulated instruments.

9 “(g) OTHER AUTHORITY TO ISSUE ORDERS.—The
10 Commission may issue such other orders as may be nec-
11 essary to ensure compliance with this part or a regulation
12 prescribed under this part.

13 **“SEC. 407. CIVIL JUDICIAL ENFORCEMENT.**

14 “(a) IN GENERAL.—If it appears to the Commission
15 that a person has engaged, is engaging, or is about to en-
16 gage in any act or practice constituting a violation of this
17 part or a regulation or order issued under this part, the
18 Commission may bring an action in the appropriate dis-
19 trict court of the United States or United States court
20 of any territory or other place subject to the jurisdiction
21 of the United States, to enjoin the act or practice, or to
22 enforce compliance with this part or a regulation or order
23 issued under this part.

24 “(b) FORMS OF RELIEF.—

1 “(1) INJUNCTIVE RELIEF; RESTRAINING
2 ORDER.—On a proper showing, the court shall grant
3 a permanent or temporary injunction or issue a re-
4 straining order, without bond.

5 “(2) CIVIL MONEY PENALTY.—

6 “(A) IN GENERAL.—The Commission may
7 seek and the court, on a proper showing, shall
8 have jurisdiction to impose on any person found
9 in the action brought under this section to have
10 committed a violation a civil penalty in an
11 amount that is not more than the greater of
12 \$100,000 or triple the monetary gain to the
13 person for the violation.

14 “(B) ENFORCEMENT OF PENALTY BY THE
15 ATTORNEY GENERAL.—If a person on whom
16 such a penalty is imposed fails to pay the pen-
17 alty within the time prescribed in the order of
18 the court, the Commission may refer the matter
19 to the Attorney General who shall recover the
20 penalty by action in the appropriate United
21 States district court.

22 **“SEC. 408. CRIMINAL ENFORCEMENT.**

23 “(a) VIOLATIONS GENERALLY.—Whoever knowingly
24 violates section 404 or any regulation promulgated under
25 section 404, or willfully violates any other provision of this

1 part or a regulation issued under this part the violation
2 of which is made unlawful or the observance of which is
3 required by or under this part, shall be fined not more
4 than \$1,000,000 (or not more than \$500,000, if the viola-
5 tor is an individual), imprisoned not more than 5 years,
6 or both, and shall pay the costs of prosecution.

7 “(b) FAILURE TO COMPLY WITH CEASE AND DESIST
8 ORDER.—

9 “(1) IN GENERAL.—If, after the period allowed
10 for appeal of an order issued under section 406(e)
11 or after the affirmance of such an order, a person
12 subject to the order fails or refuses to comply with
13 the order, the person shall be—

14 “(A) fined not more than the greater of
15 \$100,000 or triple the monetary gain to the
16 person, imprisoned not less than 6 months nor
17 more than 1 year, or both; or

18 “(B) if the failure or refusal to comply in-
19 volves a violation referred to in subsection (a)
20 of this section, shall be subject to the penalties
21 provided in such subsection for the violation.

22 “(2) SPECIAL RULE.—Each day during which a
23 failure or refusal to comply with such an order con-
24 tinues is deemed a separate offense for purposes of
25 paragraph (1).

1 **“SEC. 409. MARKET REPORTS.**

2 “(a) COLLECTION AND ANALYSIS OF INFORMA-
3 TION.—The Commission shall, on a continuous basis, col-
4 lect and analyze the following information on the func-
5 tioning of the markets for regulated instruments estab-
6 lished under this part:

7 “(1) The status of, and trends in, the markets,
8 including prices, trading volumes, transaction types,
9 and trading channels and mechanisms.

10 “(2) Spikes, collapses, and volatility in prices of
11 regulated instruments, and the causes therefor.

12 “(3) The relationship between the market for
13 emission allowances, offset credits, and allowance de-
14 rivatives, and the spot and futures markets for en-
15 ergy commodities, including electricity.

16 “(4) Evidence of fraud or manipulation in any
17 such market, the effects on any such market of any
18 such fraud or manipulation (or threat of fraud or
19 manipulation) that the Commission has identified,
20 and the effectiveness of corrective measures under-
21 taken by the Commission to address the fraud or
22 manipulation, or threat.

23 “(5) The economic effects of the markets, in-
24 cluding to macro- and micro-economic effects of un-
25 expected significant increases and decreases in the
26 price of regulated instruments.

1 “(6) Any changes in the roles, activities, or
2 strategies of various market participants.

3 “(7) Regional, industrial, and consumer re-
4 sponses to the market, and energy investment re-
5 sponses to the markets.

6 “(8) Any other issue related to the markets
7 that the Commission deems appropriate.

8 “(b) QUARTERLY REPORTS TO THE CONGRESS.—
9 Not later than 1 month after the end of each calendar
10 quarter, the Commission shall submit to the President, the
11 Committee on Energy and Commerce of the House of
12 Representatives, and the Committee on Environment and
13 Public Works of the Senate, and make available to the
14 public, a report on the matters described in subsection (a)
15 with respect to the quarter, including recommendations
16 for any administrative or statutory measures the Commis-
17 sion considers necessary to address any threats to the
18 transparency, fairness, or integrity of the markets in regu-
19 lated instruments.

20 **“SEC. 410. APPLICATION OF OTHER PROVISIONS.**

21 “The provisions of sections 3, 306 through 308, and
22 313 through 317 of this Act shall not apply to the admin-
23 istration or enforcement of this part.”.

1 **TITLE III—INVESTING IN AMER-**
2 **ICA’S LOW-CARBON FUTURE**
3 **Subtitle A—Climate Trust Tax**
4 **Credits and Rebates**

5 **SEC. 301. PURPOSE.**

6 The purpose of this subtitle is to distribute proceeds
7 from emission allowance auctions under title VII of the
8 Clean Air Act (as added by section 101 of this Act) to
9 middle- and low-income households, through refundable
10 tax credits for wage earners and senior citizens and
11 monthly rebates to low-income citizens, to offset any in-
12 creased direct or indirect energy costs such households
13 may experience as a result of the regulation of greenhouse
14 gas emissions.

15 **SEC. 302. CLIMATE TRUST TAX CREDIT FOR WORKING FAM-**
16 **ILIES AND SENIOR CITIZENS.**

17 (a) IN GENERAL.—Subpart C of part IV of sub-
18 chapter A of chapter 1 of the Internal Revenue Code of
19 1986 (relating to refundable credits) is amended by redес-
20 ignating section 36 as section 37 and by inserting after
21 section 35 the following new section:

22 **“SEC. 36. CLIMATE TRUST TAX CREDIT.**

23 “(a) IN GENERAL.—In the case of an eligible indi-
24 vidual, there shall be allowed as a credit against the tax
25 imposed by this subtitle for the taxable year an amount

1 equal to the energy cost increase attributable to carbon
2 regulation.

3 “(b) ENERGY COST INCREASE ATTRIBUTABLE TO
4 CARBON REGULATION.—For purposes of this section—

5 “(1) IN GENERAL.—The energy cost increase
6 attributable to carbon regulation for any taxable
7 year shall be an amount equal to the applicable per-
8 centage of the base projected energy cost increase.

9 “(2) APPLICABLE PERCENTAGE.—The applica-
10 ble percentage shall be determined in accordance
11 with the following table:

“In the case of:	With:	The ap- plicable percent- age is:
An eligible individual making a joint return	No qualifying children	140
	1 qualifying child	170
	2 or more qualifying children ..	200
An eligible individual not mak- ing a joint return	No qualifying children	90
	1 qualifying child	140
	2 qualifying children	170

12 “(3) BASE PROJECTED ENERGY COST IN-
13 CREASE.—The term ‘base projected energy cost in-
14 crease’ means the base projected cost increase in ef-
15 fect under the Climate Trust Rebate Program (sec-
16 tion 303 of the Investing in Climate Action and Pro-
17 tection Act) for the calendar in which the taxable
18 year of the taxpayer begins.

1 “(c) LIMITATIONS.—

2 “(1) PHASE-IN.—In the case of a taxpayer with
3 earned income for the taxable year of less than
4 \$8,000, the amount allowed as a credit under sub-
5 section (a) shall not exceed the amount which bears
6 the same ratio to the amount which would be so al-
7 lowed as—

8 “(A) the earned income of the taxpayer for
9 the taxable year, bears to

10 “(B) \$8,000.

11 “(2) PHASE-OUT.—

12 “(A) IN GENERAL.—The amount which
13 would (but for this paragraph) be allowed as a
14 credit under subsection (a) shall be reduced
15 (but not below zero) by the amount determined
16 under subparagraph (B).

17 “(B) AMOUNT OF REDUCTION.—The
18 amount determined under this subparagraph is
19 the amount which bears the same ratio to the
20 amount which would be so allowed as—

21 “(i) the excess of—

22 “(I) the taxpayer’s adjusted
23 gross income (or, if greater, earned
24 income) for the taxable year, over

1 “(II) the applicable amount,
2 bears to
3 “(ii) the applicable denominator.
4 “(C) APPLICABLE AMOUNT; APPLICABLE
5 NUMERATOR.—The applicable amount and ap-
6 plicable denominator shall be determined in ac-
7 cordance with the following table:

“In the case of:	The ap- plicable amount is:	The ap- plicable denomi- nator is:
An eligible individual making a joint return	\$70,000	\$40,000
An eligible individual with one or more qualifying children and not making a joint return	\$50,000	\$30,000
Any other eligible individual	\$30,000	\$20,000

8 “(d) DEFINITIONS AND SPECIAL RULES.—
9 “(1) ELIGIBLE INDIVIDUAL.—For purposes of
10 this section—
11 “(A) IN GENERAL.—The term ‘eligible in-
12 dividual’ means, with respect to a taxable year,
13 any individual who—
14 “(i) has earned income for such tax-
15 able year, and
16 “(ii) is not a dependent for whom a
17 deduction is allowable under section 151 to
18 another taxpayer for any taxable year be-
19 ginning in the same calendar year as such
20 taxable year.

1 “(B) CERTAIN ELIGIBLE INDIVIDUAL
2 RULES MADE APPLICABLE.—Rules similar to
3 the rules of subparagraphs (B) through (F) of
4 section 32(c)(1) shall apply.

5 “(2) EARNED INCOME QUALIFYING CHILD.—
6 For purposes of this section, the term ‘earned in-
7 come’ shall have the meaning given such term by
8 section 32(c).

9 “(3) QUALIFYING CHILD.—For purposes of this
10 section, the term ‘qualifying child’ shall have the
11 meaning given such term by section 24.

12 “(4) MARRIED INDIVIDUALS.—In the case of an
13 individual who is married (within the meaning of
14 section 7703), this section shall apply only if a joint
15 return is filed for the taxable year under section
16 6103.

17 “(5) COORDINATION WITH CLIMATE TRUST RE-
18 BATE PROGRAM.—

19 “(A) IN GENERAL.—The amount which
20 would be allowed as a credit to a taxpayer
21 under subsection (a) shall, before the applica-
22 tion of subsection (c), be reduced (but not
23 below zero) by the amounts received by the tax-
24 payer under the Climate Trust Rebate Program
25 under section 303 of the Investing in Climate

1 Action and Protection Act for months beginning
2 in the taxable year.

3 “(B) ALLOCATION OF CLIMATE TRUST RE-
4 BATES.—For purposes of this subparagraph, in
5 the case of 2 or more eligible individuals who
6 are members of the same household (as defined
7 for purposes of the Climate Trust Rebate Pro-
8 gram) with respect to which an amount is re-
9 ceived under such program for any month, for
10 each such month beginning in the taxable year
11 such an individual shall be treated as receiving
12 an amount equal to—

13 “(i) the amount received with respect
14 to such household for such month, divided
15 by

16 “(ii) the number of eligible individuals
17 who are members of such household at the
18 beginning of such month.

19 “(e) SENIOR CITIZENS CLIMATE TRUST CREDIT.—

20 “(1) IN GENERAL.—In the case of an individual
21 with qualifying retirement income for the taxable
22 year, the taxpayer may elect to apply subsections (c)
23 and (d)(1) by substituting ‘qualifying retirement in-
24 come’ for ‘earned income’.

1 “(2) LIMITATION.—If the taxpayer makes the
2 election described in paragraph (1) for the taxable
3 year, the amount allowed as a credit under sub-
4 section (a) for such taxable year shall not exceed an
5 amount equal to 55 percent of the amount which
6 would (but for this paragraph) be so allowed.

7 “(3) QUALIFYING INCOME.—For purposes of
8 this section, the term ‘qualifying retirement income’
9 means—

10 “(A) a distribution (other than a rollover)
11 from—

12 “(i) a plan described in section 401(a)
13 which includes a trust exempt from tax
14 under section 501(a),

15 “(ii) an annuity plan described in sec-
16 tion 403(a),

17 “(iii) an annuity contract described in
18 section 403(b),

19 “(iv) an individual retirement account
20 described in section 408(a),

21 “(v) an individual retirement annuity
22 described in section 408(b),

23 “(vi) a Roth IRA (as defined in
24 408A(b)),

1 “(vii) an eligible deferred compensa-
 2 tion plan (as defined in section 457),

3 “(viii) a governmental plan (as de-
 4 fined in section 414(d)),

5 “(ix) a trust described in section
 6 501(c)(18), or

7 “(x) any other plan, contract, account,
 8 annuity, or trust which, at any time, has
 9 been determined by the Secretary to be
 10 such a plan, contract, account, annuity, or
 11 trust,

12 “(B) social security benefits (within the
 13 meaning of section 86(d)),

14 “(C) any compensation or pension received
 15 under chapter 11, chapter 13, or chapter 15 of
 16 title 38, United States Code, and

17 “(D) any other amount received which is
 18 in the nature of a retirement benefit payment.”.

19 (b) APPROPRIATIONS FOR REFUND.—Section
 20 1324(b)(2) of title 31, United States Code, is amended
 21 by striking “or 53(e)” and inserting “, 53(e), or 36”.

22 (c) CLERICAL AMENDMENT.—The table of sections
 23 for subpart C of part IV of subchapter A of chapter 1
 24 of such Code is amended by striking the item relating to
 25 section 36 and inserting the following new items:

“Sec. 36. Climate trust tax credit.

“Sec. 37. Overpayments of tax.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2009.

4 **SEC. 303. CLIMATE TRUST REBATES FOR LOW-INCOME**
5 **HOUSEHOLDS.**

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

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Environ-
9 mental Protection Agency or, if the President des-
10 ignates an alternative agency under subsection
11 (b)(1), the head of such agency.

12 (2) BASE PROJECTED COST INCREASE.—The
13 term “base projected cost increase” means an
14 amount equal to the projected average annual in-
15 crease, for a year in direct and indirect energy costs
16 for a 1-person household in the middle quintile of
17 the income scale, that results from the regulation of
18 greenhouse gas emissions under title VII of the
19 Clean Air Act (as added by section 101 of this Act),
20 provided that each quintile shall—

21 (A) be based on income adjusted for house-
22 hold size; and

23 (B) have an equal aggregate number of in-
24 dividuals.

1 (3) ELDERLY OR DISABLED MEMBER.—The
2 term “elderly or disabled member” has the meaning
3 given such term in section 3 of the Food Stamp Act
4 of 1977 (7 U.S.C. 2012).

5 (4) ELECTRONIC BENEFIT TRANSFER CARD.—
6 The term “electronic benefit transfer card” means a
7 card that makes a rebate provided under the Pro-
8 gram accessible to a household through an Elec-
9 tronic Benefits Transfer System.

10 (5) ELECTRONIC BENEFIT TRANSFER SYS-
11 TEM.—The term “Electronic Benefit Transfer Sys-
12 tem” means a system by which rebates provided
13 under the Program are issued from and stored in a
14 central databank by means of electronic benefit
15 transfer cards.

16 (6) HOUSEHOLD.—The term “household”
17 means—

18 (A) an individual who lives alone; or

19 (B) a group of individuals who live to-
20 gether.

21 (7) STATE.—The term “State” means any of
22 the several States, the District of Columbia, the
23 Commonwealth of Puerto Rico, American Samoa,
24 the United States Virgin Islands, Guam, or the
25 Commonwealth of the Northern Mariana Islands.

1 (8) STATE AGENCY.—The term “State agency”
2 means—

3 (A) an agency of a State (including the
4 local offices of such agency) that has the re-
5 sponsibility for the administration of federally
6 aided public assistance programs in such State;
7 or

8 (B) in a State in which such programs are
9 operated on a decentralized basis, the cor-
10 responding local agencies that administer such
11 programs.

12 (b) CLIMATE TRUST REBATE PROGRAM.—

13 (1) FORMULATION AND ADMINISTRATION OF
14 PROGRAM.—The Administrator of the Environ-
15 mental Protection Agency, or the head of such other
16 Executive agency (as defined in section 105 of title
17 5 of the United States Code) as the President may
18 designate, shall formulate and administer in accord-
19 ance with this section a program to be known as the
20 “Climate Trust Rebate Program” (in this section re-
21 ferred to as the “Program”).

22 (2) STATE PARTICIPATION IN THE PROGRAM.—
23 At the request of a State, eligible households in such
24 State shall be provided an opportunity to receive
25 compensation through the issuance of a rebate in ac-

1 cordance with this section for increased energy re-
2 lated costs resulting from compliance with the re-
3 quirements of title VII of the Clean Air Act.

4 (3) FUNDING.—Rebates under this section shall
5 be funded from the Climate Trust Rebate Fund es-
6 tablished under section 722(a) of the Clean Air Act.
7 Such funds shall be available for expenditure, with-
8 out further appropriation or fiscal year limitation, to
9 carry out this section.

10 (c) ELIGIBILITY.—Subject to subsection (d), a house-
11 hold shall be eligible to participate in the Program if the
12 State agency designated by the chief executive officer of
13 such State to carry out the Program in such State deter-
14 mines that—

15 (1) such household contains 1 or more individ-
16 uals who participate in the food stamp program
17 under the Food Stamp Act of 1977 (7 U.S.C. 2011
18 et seq.); or

19 (2) such household, without regard to whether
20 such household includes an elderly or disabled mem-
21 ber, meets—

22 (A) the gross income standard described in
23 section 5(c)(2) of the Food Stamp Act of 1977
24 (7 U.S.C. 2014(c)(2)); and

1 (B) the financial resources limit described
2 in section 5(g) the Food Stamp Act of 1977 (7
3 U.S.C. 2014(g)).

4 (d) LIMITATIONS.—The Administrator shall establish
5 procedures to ensure that—

6 (1) individuals who are not—

7 (A) citizens or nationals of the United
8 States; or

9 (B) immigrants lawfully residing in the
10 United States;

11 are excluded for the purpose of calculating rebates
12 under subsection (e); and

13 (2) households do not receive more than 1 re-
14 bate per month.

15 (e) REBATE CALCULATION.—

16 (1) BASE PROJECTED COST INCREASE.—Not
17 later than October 1 of 2009, and of each subse-
18 quent calendar year, the Administrator of the En-
19 ergy Information Administration shall calculate and
20 publish the base projected cost increase for the fol-
21 lowing year.

22 (2) MAXIMUM REBATE AMOUNT.—The max-
23 imum rebate amount for each month of a calendar
24 year shall be—

25 (A) set by the Administrator; and

1 (B) equal to $\frac{1}{12}$ of—

2 (i) 90 percent of the base projected
3 cost increase for a household containing 1
4 individual;

5 (ii) 140 percent of the base projected
6 cost increase for a household containing 2
7 individuals;

8 (iii) 170 percent of the base projected
9 cost increase for a household containing 3
10 individuals; and

11 (iv) 200 percent of the base projected
12 cost increase for a household containing 4
13 or more individuals.

14 (3) MONTHLY REBATE AMOUNTS.—Eligible
15 households shall receive a monthly rebate calculated
16 in the following manner:

17 (A) A household with gross income, as de-
18 termined in the manner provided in section 5 of
19 the Food Stamp Act of 1977 (7 U.S.C. 2014),
20 that is less than 50 percent of the poverty line
21 shall receive the maximum rebate amount for a
22 household of equal size.

23 (B) A household with gross income, as de-
24 termined in the manner provided in section 5 of
25 the Food Stamp Act of 1977 (7 U.S.C. 2014),

1 that is not less than 50 percent of the poverty
2 line and not more than 130 percent of the pov-
3 erty line shall receive a rebate in an amount de-
4 termined in accordance with a schedule of
5 phase-down rates based on household size, es-
6 tablished by the Administrator and specifying
7 the amount by which the otherwise applicable
8 maximum rebate amount shall be reduced for
9 each dollar by which such gross income exceeds
10 50 percent of the poverty line. The phase-down
11 rate shall be—

12 (i) for household sizes of 4 or fewer
13 individuals, equal to the maximum rebate
14 amount divided by 80 percent of the pov-
15 erty line applicable to the particular house-
16 hold size involved; and

17 (ii) for household sizes of 5 or more
18 individuals, equal to a rate determined in
19 accordance with a methodology established
20 by the Administrator.

21 (C) Households with gross income exceed-
22 ing 130 percent of the poverty line shall not be
23 eligible to receive a rebate under the Program.

24 (f) SCHEDULE AND STANDARDS FOR IMPLEMENTA-

25 TION OF PROGRAM.—The Administrator shall establish by

1 rule a schedule and standards to implement the Program.

2 Such standards shall—

3 (1) specify the required level of household pro-
4 tection regarding privacy, ease of rebate use, and ac-
5 cess to the rebates under the Program;

6 (2) prohibit the imposition of any fee on a
7 household for the withdrawal or expenditure of any
8 part of such rebates;

9 (3) require States participating in the Program
10 to provide such rebates to recipient households
11 through an Electronic Benefit Transfer System or
12 by direct deposits into accounts established by
13 household members at financial institutions; and

14 (4) provide for the interoperability of the Pro-
15 gram among States and among law enforcement au-
16 thorities that monitor compliance with the Program.

17 (g) STATE ADMINISTRATION OF PROGRAM.—A par-
18 ticipating State, and the State agency designated under
19 subsection (b), shall be responsible for—

20 (1) certifying the eligibility of households to re-
21 ceive rebates under the Program; and

22 (2) issuance and control of rebates, and ac-
23 countability therefor.

24 (h) REIMBURSEMENT OF STATE ADMINISTRATIVE
25 COSTS.—Subject to standards established by the Adminis-

1 trator, the Administrator shall reimburse each partici-
2 pating State as follows for administrative costs incurred
3 by the designated State agency to carry out the Program:

4 (1) For 3 years such costs shall be reimbursed
5 at the rate of—

6 (A) 90 percent of any automated data
7 processing improvement, and Electronic Benefit
8 Transfer contract amendment, necessary to pro-
9 vide rebates under the Program; and

10 (B) 75 percent of such costs remaining.

11 (2) For subsequent years such costs shall be re-
12 imbursed at the rate of 50 percent.

13 (i) TREATMENT OF REBATES.—The amount of any
14 rebate received under the Program shall not be considered
15 to be income or resources for any purpose under any Fed-
16 eral, State, or local law, including any law relating to tax-
17 ation (including income tax) or public assistance (includ-
18 ing programs that provide health care, cash aid, child care,
19 nutrition assistance, and housing assistance). No partici-
20 pating State (or political subdivision thereof) shall de-
21 crease any assistance otherwise provided to an individual
22 or a household based on the fact that a household applied
23 for or received a rebate under the Program.

Subtitle B—Low-Carbon Technology Fund

SEC. 311. PURPOSES.

The purposes of this subtitle are—

(1) to encourage rapid, sustained, and cost-effective development, demonstration, and deployment of advanced low-carbon energy and efficiency technologies that substantially reduce greenhouse gas emissions; and

(2) to do so in a manner that encourages economic growth and job creation in the United States, establishes the United States as a global leader in low-carbon energy technology innovation and production, and minimizes the cost of meeting the climate protection objectives of this Act.

SEC. 312. FUNDING.

The Secretary of Energy shall utilize the Low-Carbon Technology Fund established under section 722(a) of the Clean Air Act (as added by section 101 of this Act) to carry out a comprehensive program of research, development, demonstration, and deployment of low-carbon energy and efficiency technologies as provided in this subtitle. Funds deposited in the Low-Carbon Technology Fund shall be available for expenditure, without further

1 appropriation or fiscal year limitation, to carry out this
2 subtitle.

3 **SEC. 313. RENEWABLE ENERGY AND ENERGY EFFICIENCY**
4 **RESEARCH, DEVELOPMENT, AND DEM-**
5 **ONSTRATION.**

6 (a) IN GENERAL.—In each of fiscal years 2010
7 through 2020, the Secretary of Energy shall use 35 per-
8 cent of the funds deposited in the Low-Carbon Technology
9 Fund for renewable energy and energy efficiency tech-
10 nology programs in accordance with this section. In addi-
11 tion to amounts otherwise authorized to be appropriated
12 for the programs described in subsection (b), there are au-
13 thorized to be appropriated such sums as may be nec-
14 essary for carrying out such programs for fiscal years
15 2010 through 2020.

16 (b) ALLOCATION OF FUNDS.—Funds available under
17 this section shall be distributed as follows:

18 (1) RENEWABLE ELECTRICITY.— $\frac{1}{4}$ of such
19 funds shall be used to carry out—

20 (A) renewable energy programs under sec-
21 tion 931 of the Energy Policy Act of 2005 (42
22 U.S.C. 16231);

23 (B) solar thermal energy storage programs
24 under section 602 of the Energy Independence
25 and Security Act of 2007 (42 U.S.C. 17171);

1 (C) photovoltaic technology demonstration
2 programs under section 607 of the Energy
3 Independence and Security Act of 2007 (42
4 U.S.C. 17175);

5 (D) hydrothermal and geothermal energy
6 programs under sections 613 through 616 of
7 the Energy Independence and Security Act of
8 2007 (42 U.S.C. 17192–95); and

9 (E) marine and hydrokinetic renewable en-
10 ergy programs under sections 633 and 634 of
11 the Energy Independence and Security Act of
12 2007 (42 U.S.C. 17212 and 17213).

13 (2) ELECTRIC TRANSMISSION AND DISTRIBUTION
14 EFFICIENCY.— $\frac{1}{8}$ of such funds shall be used
15 to carry out—

16 (A) electric transmission and distribution
17 programs under section 925 of the Energy Pol-
18 icy Act of 2005 (42 U.S.C. 16215); and

19 (B) smart grid technology programs under
20 sections 1304 and 1306 of the Energy Inde-
21 pendence and Security Act of 2007 (42 U.S.C.
22 17384 and 17386).

23 (3) LOW-CARBON RENEWABLE FUELS AND BIO-
24 ENERGY.— $\frac{1}{8}$ of such funds shall be used to carry
25 out—

1 (A) biofuels and bioenergy programs under
2 section 932 of the Energy Policy Act of 2005
3 (42 U.S.C. 16232);

4 (B) biofuels distribution and advanced
5 biofuels infrastructure programs under section
6 248 of the Energy Independence and Security
7 Act of 2007 (42 U.S.C. 17054); and

8 (C) biomass programs under section 307 of
9 the Biomass Research and Development Act of
10 2000 (7 U.S.C. 8606).

11 (4) LOW-EMISSION VEHICLES.—³/₁₆ of such
12 funds shall be used to carry out—

13 (A) advanced vehicle efficiency technologies
14 programs under section 911(a)(2)(A) of the
15 Energy Policy Act of 2005 (42 U.S.C.
16 16191(a)(2)(A));

17 (B) efficient hybrid and advanced diesel
18 vehicles and components programs under sec-
19 tion 712 of the Energy Policy Act of 2005 (42
20 U.S.C. 16062); and

21 (C) lightweight vehicle materials programs
22 under section 651 of the Energy Independence
23 and Security Act of 2007 (42 U.S.C. 17241).

24 (5) BUILDING EFFICIENCY.—¹/₈ of such funds
25 shall be used to carry out—

1 (A) the Zero-Net-Energy Commercial
2 Buildings Initiative under section 422 of the
3 Energy Independence and Security Act of 2007
4 (42 U.S.C. 17082); and

5 (B) building efficiency technology pro-
6 grams under section 911(a)(2)(B) of the En-
7 ergy Policy Act of 2005 (42 U.S.C. 16191).

8 (6) INDUSTRIAL EFFICIENCY.— $\frac{1}{16}$ of such
9 funds shall be used to carry out—

10 (A) the energy-intensive industries effi-
11 ciency program under section 452 of the En-
12 ergy Independence and Security Act of 2007
13 (42 U.S.C. 17111); and

14 (B) the waste energy recovery incentive
15 grant program under section 373 of the Energy
16 Policy and Conservation Act (42 U.S.C. 6343).

17 (7) ENERGY STORAGE TECHNOLOGIES.— $\frac{1}{16}$ of
18 such funds shall be used to carry out the energy
19 storage technology programs under section 641 of
20 the Energy Independence and Security Act of 2007
21 (42 U.S.C. 17231).

22 (8) ADVANCED RESEARCH PROJECTS AGENCY-
23 ENERGY.— $\frac{1}{16}$ of such funds shall be used to fund
24 programs carried out by the Advanced Research
25 Projects Agency-Energy (ARPA-E) under section

1 5012 of the America COMPETES Act of 2007 (42
2 U.S.C. 16538), for research and development of en-
3 ergy technologies to achieve reductions in green-
4 house gas emissions.

5 **SEC. 314. RENEWABLE ENERGY DEPLOYMENT INCENTIVES.**

6 (a) RENEWABLE ELECTRICITY PRODUCTION PAY-
7 MENTS.—

8 (1) ALLOCATION.—In each of fiscal years 2010
9 through 2030, the Secretary of Energy shall use 40
10 percent of funds deposited in the Low-Carbon Tech-
11 nology Fund, in accordance with this subsection, to
12 encourage deployment of renewable electricity gen-
13 eration technologies.

14 (2) REGULATIONS.—Not later than 180 days
15 after the date of enactment of this Act, the Sec-
16 retary shall promulgate regulations establishing a
17 program to competitively distribute funds allocated
18 under paragraph (1) to producers of renewable elec-
19 tricity through reverse auctions, in accordance with
20 the requirements of this subsection.

21 (3) ELIGIBILITY CRITERIA.—The Secretary
22 shall provide incentives only for the domestic produc-
23 tion of electricity from—

24 (A) generation units placed into service
25 after the date of enactment of this Act that

1 generate electricity exclusively from solar, wind,
2 biomass, ocean (including tidal, wave, current,
3 and thermal), or geothermal resources; or

4 (B) additions of new capacity or increased
5 efficiency that leads to increased generation at
6 hydroelectric projects that commenced operation
7 prior to the date of enactment of this Act.

8 (4) REVERSE AUCTIONS.—The Secretary shall
9 distribute funds among producers of eligible renew-
10 able electricity, on a competitive basis, through re-
11 verse auctions, based on the bids from producers in
12 terms of dollars per megawatt-hour of electricity
13 generated. In deciding among bids, the Secretary
14 shall give preference to the lowest price bids, with
15 the following exceptions:

16 (A) The Secretary shall seek to ensure that
17 the categories of renewable electricity tech-
18 nologies receiving funding under this subsection
19 are diverse and that the distribution of funding
20 is reasonably balanced among different tech-
21 nologies.

22 (B) The Secretary shall require each bid-
23 der to notify the Secretary of any other finan-
24 cial assistance the bidder may reasonably be an-
25 ticipated to receive through other Federal,

1 State, or local government programs for the
2 same production, and shall seek to avoid pro-
3 viding payments under this subsection where
4 the Secretary determines that such payments
5 are likely, in light of other Federal, State, or
6 local financial assistance, to provide the bidder
7 with an unreasonably high rate of return.

8 (5) FORM OF ASSISTANCE.—Funds shall be dis-
9 tributed under this subsection pursuant to contracts
10 to provide production payments to producers of re-
11 newable electricity for each year during the first 10
12 years of commercial service of the generating unit.
13 The Secretary shall not award new contracts under
14 this subsection after December 31, 2020.

15 (6) AMOUNT OF PAYMENTS.—Production pay-
16 ments made pursuant to this subsection shall be dis-
17 tributed to each producer at the end of each year of
18 operation in an amount equal to the product ob-
19 tained by multiplying—

20 (A) the price bid by the producer per
21 megawatt-hour of electricity generated; by

22 (B) the lesser of—

23 (i) the number of megawatt-hours
24 generated and sold by the electricity gen-
25 eration unit during the preceding year; and

1 (ii) the number of megawatt-hours bid
2 for that year by the producer.

3 (b) DISTRIBUTED RENEWABLE ENERGY TECH-
4 NOLOGY REBATES.—

5 (1) DEFINITION OF DISTRIBUTED RENEWABLE
6 ENERGY TECHNOLOGY.—For purposes of this sub-
7 section, the term “distributed renewable energy tech-
8 nology” means a technology that is designed to gen-
9 erate electric or thermal energy from solar, wind, or
10 geothermal resources to serve energy consumers at
11 or near the site at which the technology is installed.

12 (2) ALLOCATION.—For each of fiscal years
13 2010 through 2030, the Secretary of Energy shall
14 use 5 percent of funds deposited in the Low-Carbon
15 Technology Fund, in accordance with this sub-
16 section, to encourage deployment of distributed re-
17 newable energy technologies.

18 (3) REGULATIONS.—Not later than 180 days
19 after the date of enactment of this Act, the Sec-
20 retary of Energy shall promulgate regulations estab-
21 lishing a program to distribute funds made available
22 under paragraph (2), in accordance with this sub-
23 section, through rebates to persons or entities that
24 purchase, install, and operate distributed renewable
25 energy technologies.

1 (4) DISTRIBUTION OF ASSISTANCE.—The Sec-
2 retary shall distribute rebates to persons or entities
3 that purchase, install, and operate distributed re-
4 newable energy technologies either—

5 (A) directly;

6 (B) through utilities or manufacturers of
7 distributed renewable energy technologies; or

8 (C) through such other entities as the Sec-
9 retary of Energy determines will provide a cost-
10 effective channel of distribution.

11 (5) ELIGIBILITY CRITERIA.—

12 (A) ELIGIBLE EQUIPMENT.—The Sec-
13 retary of Energy shall provide incentives only to
14 persons or entities that, after the date of enact-
15 ment of this Act, purchase, install, and operate
16 distributed renewable energy technology that
17 is—

18 (i) new equipment which uses solar
19 energy to generate electricity, to heat or
20 cool (or provide hot water for use in) a
21 structure, or to provide solar process heat,
22 except equipment that is used to generate
23 energy for the purposes of heating a swim-
24 ming pool;

1 (ii) new equipment which uses solar
2 energy to illuminate the inside of a struc-
3 ture using fiber-optic distributed sunlight;

4 (iii) new equipment used to produce,
5 distribute, or use energy derived from a
6 geothermal deposit; or

7 (iv) a new wind turbine which has a
8 nameplate capacity of not greater than 100
9 kilowatts.

10 (B) LIMITATION.—Persons or entities shall
11 not be eligible for rebates under this section for
12 the purchase, installation, and operation of
13 equipment for which they have received, or will
14 receive, other financial incentives provided by a
15 Federal, State, or local government.

16 (6) AMOUNT OF REBATES.—Rebates under this
17 section shall not exceed the lesser of—

18 (A) 30 percent of cost of purchase and in-
19 stallation of eligible equipment; or

20 (B) \$5,000 per site.

21 **SEC. 315. CARBON CAPTURE AND SEQUESTRATION DEM-**
22 **ONSTRATION AND DEPLOYMENT.**

23 (a) ALLOCATION.—In each of fiscal years 2010
24 through 2020, the Secretary of Energy shall use 20 per-
25 cent of funds deposited in the Low-Carbon Technology

1 Fund to encourage large-scale demonstration of carbon
2 capture and geological sequestration technologies and
3 early commercial deployment of such technologies at quali-
4 fying electric generating units.

5 (b) DEMONSTRATION OF CARBON CAPTURE AND SE-
6 QUESTRATION.—The Secretary of Energy shall use funds
7 allocated under subsection (a) to complete the carbon cap-
8 ture and sequestration programs established under section
9 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293)
10 and section 703 of the Energy Independence and Security
11 Act of 2007 (42 U.S.C. 17251). For each of fiscal years
12 2010 through 2013, the Secretary shall fund those pro-
13 grams at the full level of authorization provided by those
14 sections.

15 (c) EARLY DEPLOYMENT INCENTIVES FOR CARBON
16 CAPTURE AND SEQUESTRATION.—

17 (1) ALLOCATION.—In each of fiscal years 2010
18 through 2020, the Secretary shall use the remaining
19 funds available under subsection (a), after funding
20 the programs under subsection (b), to encourage
21 commercial deployment of carbon capture and se-
22 questration technologies at qualifying electric gener-
23 ating units.

24 (2) REGULATIONS.—Not later than 180 days
25 after the date of enactment of this Act, the Sec-

1 retary shall promulgate regulations establishing a
2 program to distribute funds allocated under para-
3 graph (1), in the form of cost-sharing grants, to
4 owners or operators of electric generating units in
5 accordance with the requirements of this subsection.

6 (3) ELIGIBILITY CRITERIA.—The Secretary
7 shall provide incentives under this section only to
8 projects—

9 (A) at electric generating units—

10 (i) with a rated capacity of 250
11 megawatts or more; and

12 (ii) that derive at least 50 percent of
13 their annual fuel input from coal, petro-
14 leum coke, or any combination of these
15 fuels;

16 (B) that will achieve the capture and geo-
17 logical sequestration of not less than 85 percent
18 of the total carbon dioxide emissions produced
19 by the electric generating unit on an annual av-
20 erage basis;

21 (C) the construction of which commences
22 no later than December 31, 2020; and

23 (D) that do not receive other Federal or
24 State financial incentives, including loans, loan
25 guarantees, grants, or tax credits.

1 (4) LEVEL OF FUNDING.—The level of assist-
2 ance provided to owners or operators of eligible elec-
3 tric generating units under this subsection shall be
4 no greater than is necessary to permit recovery of
5 reasonable incremental capital and operating costs of
6 the project that are specifically attributable to imple-
7 mentation of carbon capture and sequestration, tak-
8 ing into account the reduced cost of compliance with
9 section 712 of the Clean Air Act (as added by sec-
10 tion 101 of this Act). For purposes of this para-
11 graph, reasonable incremental capital and operating
12 costs shall be determined based on the most cost-ef-
13 fective reasonably available technology for capturing
14 and sequestering carbon dioxide emissions, taking
15 into account the location of the electric generating
16 unit and the type of fuel (including coal type) used
17 to power the unit.

18 (5) SELECTION CRITERIA.—As part of the reg-
19 ulations promulgated under this subsection, the Sec-
20 retary shall establish objective criteria for the selec-
21 tion of projects, in the event that there are more
22 grant applicants that meet the eligibility criteria in
23 paragraph (3) than can be funded. Such criteria
24 shall, at minimum—

1 (A) give preference to projects that most
2 cost-effectively capture and sequester carbon di-
3 oxide, so as to maximize the tonnage of carbon
4 dioxide sequestered per dollar of assistance pro-
5 vided; and

6 (B) seek to ensure funding for projects
7 representing a diverse range of coal types, cap-
8 ture technologies, and geographic regions.

9 **SEC. 316. FISCAL YEARS 2021 THROUGH 2050.**

10 (a) RECOMMENDATIONS TO THE PRESIDENT AND
11 CONGRESS.—The reports developed under section 703(d)
12 and (e) of this Act shall contain recommendations on the
13 allocation of funds from the Low Carbon Technology Fund
14 in future fiscal years, beginning with fiscal year 2021.

15 (b) EXCEPTION.—Subsection (a) shall not apply to
16 the first report delivered under section 703(d) or the first
17 report delivered under section 703(e) of this Act.

18 (c) PRESIDENTIAL AUTHORITY.—If, after the 1-year
19 period beginning on the date of submission of each report
20 to which subsection (a) applies, Congress has not enacted
21 a statute codifying the recommendations on the allocation
22 of funds from the Low Carbon Technology Fund in future
23 fiscal years or an alternative to such recommendations, the
24 President is authorized to allocate funds from that Fund

1 pursuant to the recommendations for the next 5 fiscal
2 years.

3 **Subtitle C—National Energy**
4 **Efficiency Fund**

5 **SEC. 321. PURPOSES.**

6 The purposes of this subtitle are—

7 (1) to encourage widespread adoption of energy
8 efficiency policies and measures, including programs
9 to—

10 (A) increase efficiency in electricity and
11 natural gas consumption;

12 (B) encourage the adoption and enforce-
13 ment of robust building efficiency codes;

14 (C) develop and implement policies and
15 projects that will reduce vehicle miles traveled;

16 (D) provide weatherization and home en-
17 ergy assistance to low-income persons; and

18 (E) encourage recycling of energy intensive
19 consumer goods; and

20 (2) by means of such programs to—

21 (A) achieve substantial negative- or low-
22 cost reductions in greenhouse gas emissions;

23 (B) greatly reduce the overall cost to
24 American consumers and businesses of achiev-

1 ing the climate protection objectives of this Act;
2 and

3 (C) spur innovation, job creation, and eco-
4 nomic growth in the United States through in-
5 vestment in energy efficiency technologies.

6 **SEC. 322. DEFINITIONS.**

7 For purposes of this subtitle:

8 (1) NATIONAL ENERGY EFFICIENCY FUND.—

9 The term “National Energy Efficiency Fund” means
10 the National Energy Efficiency Fund established
11 under section 722 of the Clean Air Act (as added by
12 section 101 of this Act).

13 (2) SECRETARY.—The term “Secretary” means
14 the Secretary of Energy.

15 (3) STATE.—The term “State” means—

16 (A) a State; and

17 (B) the District of Columbia.

18 **SEC. 323. FUNDING.**

19 Funds deposited in the National Energy Efficiency
20 Fund shall be available for expenditure, without further
21 appropriation or fiscal year limitation, in accordance with
22 the requirements of this subtitle.

23 **SEC. 324. ELECTRICITY CONSUMERS.**

24 (a) DEFINITION OF ELECTRICITY SAVINGS.—

1 (1) IN GENERAL.—The term “electricity sav-
2 ings” means a net reduction in statewide end-use
3 electricity consumption that is achieved through con-
4 sumer energy efficiency measures and programs over
5 a specified time period, relative to projected con-
6 sumption for the same time period, as determined by
7 the Secretary.

8 (2) INCLUSIONS.—The term “electricity sav-
9 ings” includes savings achieved as a result of—

10 (A) electricity-saving practices; and

11 (B) installation of energy-saving tech-
12 nologies and devices.

13 (3) EXCLUSION.—The term “electricity sav-
14 ings” does not include savings from measures that
15 would likely be adopted in the absence of consumer
16 energy efficiency measures and programs, as deter-
17 mined by the Secretary.

18 (b) ESTABLISHMENT OF PROGRAM.—In each of fiscal
19 years 2011 through 2050, the Secretary shall distribute
20 46 percent of the funds deposited in the National Energy
21 Efficiency Fund to States, in accordance with this section,
22 to encourage cost-effective investment in consumer energy
23 efficiency measures and programs.

24 (c) DISTRIBUTION OF FUNDS.—

1 (1) IN GENERAL.—The Secretary shall estab-
2 lish, by rule, a Start-Up Formula and a Perform-
3 ance-Based Formula, in accordance with paragraphs
4 (2) and (3) of this subsection, to govern distribution
5 of funds under this section.

6 (2) START-UP FORMULA.—The Start-up For-
7 mula referred to in paragraph (1) shall provide for
8 the distribution of funds based on the following 2
9 factors, each given equal weight:

10 (A) The proportion that—

11 (i) the quantity of electricity delivered
12 to consumers within the State during the
13 3 calendar years preceding the calendar
14 year in which the funds are distributed;
15 bears to

16 (ii) the total quantity of electricity de-
17 livered to consumers in the United States
18 during those 3 calendar years.

19 (B) The proportion that—

20 (i) the population of the State in the
21 most recent year for which data is avail-
22 able for all States, as determined by the
23 Secretary; bears to

24 (ii) the population of the United
25 States in that year.

1 (3) PERFORMANCE-BASED FORMULA.—The
2 Performance-Based Formula referred to in para-
3 graph (1) shall provide for the distribution of funds
4 among States in direct proportion to the quantity of
5 electricity savings actually achieved within each
6 State in the prior year as a result of consumer en-
7 ergy efficiency measures and programs implemented
8 in the State. Such formula shall—

9 (A) define an appropriate baseline for cal-
10 culating electricity savings;

11 (B) define a minimum level of annual
12 statewide electricity savings, which shall not be
13 less than 0.5 percent, necessary to qualify for
14 funding under the formula;

15 (C) take account of past performance in
16 achieving electricity savings so as not to penal-
17 ize States that have taken early action to im-
18 prove efficiency; and

19 (D) maximize, to the greatest extent pos-
20 sible, the incentive for States to achieve cost-ef-
21 fective electricity savings.

22 (4) ALLOCATION.—The Secretary shall dis-
23 tribute the funds available under subsection (b) in
24 accordance with the following table:

Fiscal Year	Percent of Funds Allocated According to Start-Up Formula	Percent of Funds Allocated According to Performance-Based Formula
2010	100	0
2011	100	0
2012	50	50
2013	50	50
2014 through 2050	0	100

1 (d) ELIGIBILITY.—

2 (1) IN GENERAL.—In fiscal years 2012 and
3 2013, a State shall be eligible to receive funding
4 pursuant to both the Start-Up Formula and the
5 Performance-Based Formula.

6 (2) ELIGIBILITY FOR FUNDS DISTRIBUTED
7 BASED ON START-UP FORMULA.—To be eligible to
8 receive funds distributed based on the Start-Up For-
9 mula, a State must adopt a binding statewide elec-
10 tricity savings target that requires such State to
11 achieve annual electricity savings of not less than
12 0.25 percent in 2011 and 2012, and not less than
13 0.5 percent in 2013 and 2014.

14 (e) USE OF FUNDS.—

15 (1) IN GENERAL.—A State's use of funds dis-
16 tributed pursuant to this section shall be limited to
17 measures and programs to—

18 (A) increase consumer energy efficiency;

1 (B) increase transmission and distribution
2 efficiency; and

3 (C) promote deployment of—

4 (i) renewable electricity generation;

5 (ii) advanced biofuels that meet the
6 baseline greenhouse gas lifecycle emissions
7 requirements as defined in section
8 211(o)(1)(B) of the Clean Air Act (42
9 U.S.C. 7545(o)(1)(B)); and

10 (iii) low-emission vehicles.

11 (2) CERTIFICATION AND VERIFICATION.—The
12 Secretary shall establish—

13 (A) guidelines specifying the types of ac-
14 tivities for which funds distributed pursuant to
15 this section may be used;

16 (B) procedures requiring States to certify
17 that funds distributed pursuant to this section
18 are used in accordance with this subsection;
19 and

20 (C) procedures for reviewing and verifying
21 States' compliance with this subsection.

22 (3) PENALTIES.—If the Secretary determines
23 that a State is not in compliance with this sub-
24 section, the Secretary may withhold a portion of the
25 funding, equal to twice the amount of funding re-

1 ceived by the State that was not spent in accordance
2 with the requirements in this subsection, for which
3 such State would otherwise be eligible under this
4 section in later years.

5 (f) MEASUREMENT, MONITORING, CERTIFICATION,
6 AND VERIFICATION OF ELECTRICITY SAVINGS.—

7 (1) METHODS AND STANDARDS.—The Sec-
8 retary shall establish national measurement, moni-
9 toring, certification, and verification methods and
10 standards to be used to evaluate the quantity of
11 electricity savings achieved by a State for purposes
12 of distributing funds based on the Performance-
13 Based Formula.

14 (2) STATE REQUIREMENTS.—As a condition of
15 receipt of funds based on the Performance-Based
16 Formula, States must, in accordance with paragraph
17 (1)—

18 (A) quantify and certify the quantity of
19 electricity savings achieved each year by the
20 State;

21 (B) provide data necessary to support and
22 verify such claim, as determined by the Sec-
23 retary; and

24 (C) provide third-party verification of re-
25 ported electricity savings.

1 (g) REGULATIONS.—Not later than January 1, 2010,
2 the Secretary shall promulgate regulations governing the
3 implementation of this section. The Secretary shall review
4 and, as appropriate, revise such regulations at least every
5 5 years.

6 **SEC. 325. NATURAL GAS CONSUMERS.**

7 (a) DEFINITION OF NATURAL GAS SAVINGS.—

8 (1) IN GENERAL.—The term “natural gas sav-
9 ings” means a net reduction in statewide natural gas
10 consumption by residential and commercial con-
11 sumers that is achieved through consumer energy ef-
12 ficiency measures and programs over a specified
13 time period, relative to projected consumption for
14 the same time period, as determined by the Sec-
15 retary.

16 (2) INCLUSIONS.—The term “natural gas sav-
17 ings” includes savings achieved as a result of—

18 (A) natural gas-saving practices; and

19 (B) installation of energy-saving tech-
20 nologies and devices.

21 (3) EXCLUSION.—The term “natural gas sav-
22 ings” does not include savings from measures that
23 would likely be adopted in the absence of consumer
24 energy efficiency measures and programs, as deter-
25 mined by the Secretary.

1 (b) ESTABLISHMENT OF PROGRAM.—In each of fiscal
2 years 2011 through 2050, the Secretary shall distribute
3 8 percent of the funds deposited in the National Energy
4 Efficiency Fund to States, in accordance with this section,
5 to encourage cost-effective investment in consumer energy
6 efficiency measures and programs.

7 (c) DISTRIBUTION OF FUNDS.—

8 (1) IN GENERAL.—The Secretary shall estab-
9 lish, by rule, a Start-Up Formula and a Perform-
10 ance-Based Formula, in accordance with paragraphs
11 (2) and (3) of this subsection, to govern distribution
12 of funds under this section.

13 (2) START-UP FORMULA.—The Start-up For-
14 mula referred to in paragraph (1) shall provide for
15 the distribution of funds based on the following 2
16 factors, each given equal weight:

17 (A) The proportion that—

18 (i) the quantity of natural gas deliv-
19 ered to residential and commercial con-
20 sumers within the State during the 3 cal-
21 endar years preceding the calendar year in
22 which the funds are distributed; bears to

23 (ii) the total quantity of natural gas
24 delivered to residential and commercial

1 consumers in the United States during
2 those 3 calendar years.

3 (B) The proportion that—

4 (i) the population of the State in the
5 most recent year for which data is avail-
6 able for all States, as determined by the
7 Secretary; bears to

8 (ii) the population of the United
9 States in that year.

10 (3) PERFORMANCE-BASED FORMULA.—The
11 Performance-Based Formula referred to in para-
12 graph (1) shall provide for the distribution of funds
13 among States in direct proportion to quantity of
14 natural gas savings actually achieved within each
15 State in the prior year as a result of consumer en-
16 ergy efficiency measures and programs implemented
17 in the State. Such formula shall—

18 (A) define an appropriate baseline for cal-
19 culating natural gas savings;

20 (B) define a minimum level of annual
21 statewide natural gas savings, which shall not
22 be less than 0.5 percent, necessary to qualify
23 for funding under the formula;

24 (C) take account of past performance in
25 achieving natural gas savings so as not to pe-

nalize States that have taken early action to improve efficiency; and

(D) maximize, to the greatest extent possible, the incentive for States to achieve cost-effective natural gas savings.

(4) ALLOCATION.—The Secretary shall distribute the funds available under subsection (b) in accordance with the following table:

Fiscal Year	Percent of Funds Allocated According to Start-Up Formula	Percent of Funds Allocated According to Performance-Based Formula
2010	100	0
2011	100	0
2012	50	50
2013	50	50
2014 through 2050	0	100

(d) ELIGIBILITY.—

(1) IN GENERAL.—In fiscal years 2012 and 2013, a State shall be eligible to receive funding pursuant to both the Start-Up Formula and the Performance-Based Formula.

(2) ELIGIBILITY FOR FUNDS DISTRIBUTED BASED ON START-UP FORMULA.—To be eligible to receive funds distributed based on the Start-Up Formula, a State must adopt a binding statewide natural gas savings target that requires such State to achieve annual natural gas savings of not less than

1 0.25 percent of the quantity of natural gas delivered
2 to residential and commercial consumers in the
3 State in 2011 and 2012, and not less than 0.5 per-
4 cent in 2013 and 2014.

5 (e) USE OF FUNDS.—

6 (1) IN GENERAL.—A State’s use of funds dis-
7 tributed pursuant to this section shall be limited to
8 measures and programs described in section
9 324(e)(1).

10 (2) CERTIFICATION AND VERIFICATION.—The
11 Secretary shall establish—

12 (A) guidelines specifying the types of ac-
13 tivities for which funds distributed pursuant to
14 this section may be used;

15 (B) procedures requiring States to certify
16 that funds distributed pursuant to this section
17 are used in accordance with this subsection;
18 and

19 (C) procedures for reviewing and verifying
20 States’ compliance with this subsection.

21 (3) PENALTIES.—If the Secretary determines
22 that a State is not in compliance with this sub-
23 section, the Secretary may withhold a portion of the
24 funding, equal to twice the amount of funding re-
25 ceived by the State that was not spent in accordance

1 with the requirements in this subsection, for which
2 such State would otherwise be eligible under this
3 section in later years.

4 (f) MEASUREMENT, MONITORING, CERTIFICATION,
5 AND VERIFICATION OF NATURAL GAS SAVINGS.—

6 (1) METHODS AND STANDARDS.—The Sec-
7 retary shall establish national measurement, moni-
8 toring, certification, and verification methods and
9 standards to be used to evaluate the quantity of nat-
10 ural gas savings achieved by a State for purposes of
11 distributing funds based on the Performance-Based
12 Formula.

13 (2) STATE REQUIREMENTS.—As a condition of
14 receipt of funds based on the Performance-Based
15 Formula, States must, in accordance with paragraph
16 (1)—

17 (A) quantify and certify the quantity of
18 natural gas savings achieved each year by the
19 State;

20 (B) provide data necessary to support and
21 verify such claim, as determined by the Sec-
22 retary; and

23 (C) provide third-party verification of re-
24 ported natural gas savings.

1 (g) REGULATIONS.—Not later than January 1, 2010,
2 the Secretary shall promulgate regulations governing the
3 implementation of this section. The Secretary shall review
4 and, as appropriate, revise such regulations at least every
5 5 years.

6 **SEC. 326. BUILDING EFFICIENCY.**

7 (a) IN GENERAL.—In each of fiscal years 2010
8 through 2050, the Secretary shall distribute 12 percent
9 of the funds deposited in the National Energy Efficiency
10 Fund to States to encourage adoption and enforcement
11 of statewide commercial and residential building efficiency
12 codes.

13 (b) DISTRIBUTION OF FUNDS.—Not later than Janu-
14 ary 1, 2010, the Secretary shall promulgate regulations
15 governing distribution of funds under this section. Such
16 regulations shall—

17 (1) provide that a State shall qualify for receipt
18 of funds under this section only if such State is in
19 compliance with section 304(c) of the Energy Con-
20 servation and Production Act (as amended by sec-
21 tion 601 of this Act);

22 (2) establish a performance-based formula for
23 distribution of funding under this section that will
24 reward States that adopt and effectively enforce
25 statewide building efficiency codes that achieve

1 greater energy savings than those required under
2 section 304(c) of the Energy Conservation and Pro-
3 duction Act (as amended by section 601 of this Act),
4 using multiple tiers of energy savings performance;
5 and

6 (3) establish a program for periodic review and
7 verification of State enforcement of building effi-
8 ciency codes to ensure the energy savings objectives
9 of the program are being met.

10 (c) PERIODIC UPDATING.—The Secretary shall re-
11 view and, as appropriate, revise the regulations adopted
12 under subsection (b) at least every 5 years. Any revised
13 regulations shall adhere to the requirements set forth in
14 paragraphs (1) through (3) of subsection (b).

15 **SEC. 327. SMART GROWTH AND MASS TRANSIT.**

16 (a) DEFINITIONS.—In this section:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency or, if the President des-
20 ignates an alternative agency under subsection (b),
21 the head of such agency.

22 (2) ELIGIBLE ENTITY.—The term “eligible enti-
23 ty” means a State or an eligible unit of local govern-
24 ment.

1 (3) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—

2 The term “eligible unit of local government”
3 means—

4 (A) a city with a population of at least
5 35,000; or

6 (B) a county with a population of at least
7 200,000.

8 (4) VMT REDUCTION PLAN.—The term “VMT
9 reduction plan” means a comprehensive plan to re-
10 duce vehicle miles traveled within a jurisdiction, de-
11 veloped pursuant to guidelines issued by the Admin-
12 istrator under subsection (d) of this section.

13 (b) ESTABLISHMENT OF PROGRAM.—In each of fiscal
14 years 2010 through 2050, the Administrator, or the head
15 of such other Executive agency (as defined in section 105
16 of title 5, United States Code) as the President may des-
17 ignate, shall distribute 20 percent of the funds deposited
18 in the National Energy Efficiency Fund to eligible entities
19 in the form of grants to support the development and im-
20 plementation of strategies to reduce vehicle miles traveled
21 within their respective jurisdictions.

22 (c) ALLOCATION OF FUNDS.—Of amounts made
23 available to provide grants under this section for each fis-
24 cal year, the Administrator shall allocate—

1 (1) 70 percent to eligible units of local govern-
2 ment; and

3 (2) 30 percent to States.

4 (d) GUIDELINES FOR VMT REDUCTION PLANS AND
5 GRANT PROPOSALS.—Not later than 18 months after the
6 date of enactment of this Act, the Administrator shall pro-
7 mulgate guidelines for the development, by eligible units
8 of local government and by States, of—

9 (1) VMT reduction plans for the relevant juris-
10 diction; and

11 (2) proposals to use funds provided under this
12 section for the implementation of one or more ele-
13 ments of such a plan.

14 (e) PLANNING GRANTS.—The Administrator is au-
15 thorized to make initial grants to eligible entities to sup-
16 port the development of VMT reduction plans and grant
17 proposals in accordance with the guidelines issued under
18 subsection (d), including through the retention of technical
19 consultants.

20 (f) IMPLEMENTATION GRANTS.—

21 (1) IN GENERAL.—The Administrator shall
22 award grants, on a competitive basis, to eligible enti-
23 ties to support the implementation of policies, meas-
24 ures, and projects that will substantially reduce vehi-
25 cle miles traveled within the relevant jurisdiction.

1 (2) REQUIREMENTS.—

2 (A) IN GENERAL.—The Administrator
3 shall not provide to an eligible entity any grant
4 under this section until the eligible entity has
5 submitted a VMT reduction plan and a grant
6 proposal that satisfy the requirements of the
7 guidelines established under subsection (d), and
8 the Administrator has approved such plan and
9 such proposal under this subsection.

10 (B) APPROVAL BY ADMINISTRATOR.—

11 (i) IN GENERAL.—The Administrator
12 shall approve or disapprove a VMT reduc-
13 tion plan or grant proposal submitted
14 under this subsection by not later than
15 180 days after the date of submission of
16 the VMT reduction plan and grant pro-
17 posal.

18 (ii) DISAPPROVAL.—If the Adminis-
19 trator disapproves a VMT reduction plan
20 or grant proposal, the Administrator shall
21 notify the eligible entity of the reasons for
22 the disapproval and the eligible entity may
23 revise and resubmit the plan or proposal
24 for approval.

1 (3) SELECTION CRITERIA.—In awarding grants
2 under this subsection, the Administrator shall seek
3 to maximize the reduction in vehicle miles traveled
4 achieved per dollar of assistance provided.

5 (4) USE OF FUNDS.—Implementation grants
6 provided under this section may be used to imple-
7 ment any program or project that the Administrator
8 determines is likely to result in substantial reduc-
9 tions in vehicle miles traveled in the relevant juris-
10 diction, including—

11 (A) efforts to increase mass transit service
12 and ridership, including by adding new mass
13 transit systems;

14 (B) promotion of transit-oriented and
15 mixed-infill development, including through the
16 updating of relevant zoning or other regula-
17 tions;

18 (C) construction of bicycle and pedestrian
19 infrastructure; and

20 (D) programs to promote telecommuting or
21 satellite work centers.

22 (g) LIMITATIONS.—The Administrator is authorized
23 to establish, by regulation, appropriate limitations on the
24 proportion of planning grants under subsection (e) or im-
25 plementation grants under subsection (f) that can be used

1 for administrative expenses, revolving loan funds, or sub-
2 grants to other governmental or nongovernmental entities.

3 (h) REVIEW AND EVALUATION.—

4 (1) IN GENERAL.—The Administrator may re-
5 view and evaluate the administration of use of any
6 grant awarded under this section, including by con-
7 ducting an audit, as the Administrator determines to
8 be appropriate.

9 (2) WITHHOLDING OF FUNDS.—The Adminis-
10 trator may withhold from an eligible entity any por-
11 tion of a grant to be provided to the eligible entity
12 under the program if the Administrator determines
13 that the eligible entity has failed to achieve compli-
14 ance with any applicable guideline of the Adminis-
15 trator relating to the program established by this
16 section, including the misuse of misappropriation of
17 funds provided under this section.

18 **SEC. 328. WEATHERIZATION ASSISTANCE PROGRAM AND**
19 **LOW-INCOME HOME ENERGY ASSISTANCE**
20 **PROGRAM.**

21 (a) WEATHERIZATION ASSISTANCE PROGRAM.—In
22 each of fiscal years 2010 through 2050, the Secretary
23 shall use 5 percent of the funds deposited in the National
24 Energy Efficiency Fund for the Weatherization Assistance
25 Program for Low-Income Persons established under part

1 A of title IV of the Energy Conservation and Production
2 Act (42 U.S.C. 6861 et seq.).

3 (b) LOW-INCOME HOME ENERGY ASSISTANCE PRO-
4 GRAM.—In each of fiscal years 2010 through 2050, the
5 Secretary of Health and Human Services shall use 5 per-
6 cent of the funds deposited in the National Energy Effi-
7 ciency Fund for the Low-Income Home Energy Assistance
8 Program established under the Low Income Home Energy
9 Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

10 **SEC. 329. RECYCLING.**

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

12 (1) BEVERAGE.—The term “beverage” means
13 water, mineral water, soda water, flavored water,
14 sports drinks, juice, iced tea, wine cooler, beer or
15 other malt beverage, or a carbonated nonalcoholic
16 beverage of any variety in liquid form intended for
17 human consumption, but does not include milk or
18 other dairy products or dairy-derived products.

19 (2) BEVERAGE CONTAINER.—The term “bev-
20 erage container” means a container constructed of
21 metal, glass, plastic, or some combination of these
22 materials and having a capacity of up to one gallon
23 of liquid and which is or has been sealed and used
24 to contain a beverage for sale in interstate com-
25 merce.

1 (b) ESTABLISHMENT OF PROGRAM.—In each of fiscal
2 years 2010 through 2050, the Secretary shall distribute
3 4 percent of the funds deposited in the National Energy
4 Efficiency Fund to States that adopt and enforce state-
5 wide programs for the recycling of beverage containers.

6 (c) DISTRIBUTION OF FUNDS.—Not later than Janu-
7 ary 1, 2010, the Secretary shall promulgate regulations
8 governing distribution of funds under this section. Such
9 regulations shall at a minimum—

10 (1) provide that a State shall qualify for receipt
11 of funds under this section only if such State's recy-
12 cling programs achieve a rate of recycling of at least
13 60 percent of the beverage containers sold within the
14 State each year;

15 (2) establish a performance-based formula for
16 distribution of funding under this section that will
17 reward States that adopt and effectively enforce
18 statewide recycling programs for beverage containers
19 that achieve greater rates of recycling than are re-
20 quired under paragraph (1); and

21 (3) establish a program for periodic review and
22 verification of State programs to ensure that claimed
23 recycling rates are being achieved in practice.

24 (d) PERIODIC UPDATING.—The Secretary shall re-
25 view and, as appropriate, revise the regulations adopted

1 under subsection (c) at least every 5 years. Any revised
2 regulations shall adhere to the requirements set forth in
3 paragraphs (1) through (3) of subsection (c).

4 **Subtitle D—Agriculture and** 5 **Forestry Carbon Fund**

6 **SEC. 331. PURPOSE.**

7 The purpose of this subtitle is to achieve real,
8 verifiable, additional, permanent, and enforceable in-
9 creases in carbon sequestration by, and reductions in
10 greenhouse emissions from, agriculture and forest man-
11 agement activities within the United States through—

12 (1) the establishment of a program to provide
13 financial incentives to undertake projects that
14 achieve these objectives; and

15 (2) the implementation of coordinated research,
16 education, and outreach initiatives in support of
17 such program.

18 **SEC. 332. DEFINITIONS.**

19 In this subtitle—

20 (1) **AGRICULTURE AND FORESTRY CARBON**
21 **FUND.**—The term “Agriculture and Forestry Carbon
22 Fund” means the Agriculture and Forestry Carbon
23 Fund established under section 722 of the Clean Air
24 Act (as added by section 101 of this Act).

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of Agriculture.

3 **SEC. 333. FUNDING.**

4 (a) IN GENERAL.—Funds deposited in the Agri-
5 culture and Forestry Carbon Fund shall be available for
6 expenditure, without further appropriation or fiscal year
7 limitation, to carry out this subtitle.

8 (b) LIMITATION.—The Secretary shall ensure that
9 not less than 99 percent of the expenditures under this
10 subtitle shall be dedicated to the incentive program under
11 section 335.

12 **SEC. 334. AGRICULTURAL AND FORESTRY GREENHOUSE**
13 **GAS MANAGEMENT RESEARCH.**

14 (a) REPORT.—Not later than 1 year after the date
15 of enactment of this Act, the Secretary, in consultation
16 with scientific and agricultural and forestry experts, shall
17 prepare and submit to the President and Congress a re-
18 port that describes the status of research on agricultural
19 and forestry greenhouse gas management, including a de-
20 scription of—

21 (1) research on soil carbon sequestration and
22 other agricultural and forestry greenhouse gas man-
23 agement that has been carried out;

24 (2) information on techniques to measure and
25 monitor increases in biological sequestration by, and

1 reductions in greenhouse emissions from, agriculture
2 and forest management activities;

3 (3) information on large-scale observation and
4 monitoring of greenhouse gas emissions from and bi-
5 ological sequestration by the agriculture and forestry
6 sectors;

7 (4) any further research that is necessary;

8 (5) the proposed priority for further research;
9 and

10 (6) the most appropriate approaches for con-
11 ducting the further research.

12 (b) RESEARCH.—After the date of submission of the
13 report required under subsection (a), the President and
14 the Secretary (in collaboration with the member institu-
15 tions of higher education of the Consortium for Agricul-
16 tural Soil Mitigation of Greenhouse Gases, other institu-
17 tions of higher education, and research entities) shall ini-
18 tiate a program to conduct any further research on agri-
19 cultural and forestry greenhouse gas management that is
20 necessary.

21 **SEC. 335. INCENTIVE PROGRAM.**

22 (a) AUTHORIZATION.—In each of fiscal years 2010
23 through 2050, the Secretary shall use the funds deposited
24 in the Agriculture and Forestry Carbon Fund to provide
25 incentive payments to entities that carry out projects in

1 the United States that meet the criteria described in this
2 section.

3 (b) ESTABLISHMENT OF PROGRAM.—

4 (1) REGULATIONS.—Not later than January 1,
5 2010, the Secretary shall, in consultation with the
6 Administrator, promulgate regulations establishing a
7 program to provide assistance to entities that carry
8 out projects, within eligible project types under sub-
9 sections (c) and (d), that achieve real, verifiable, ad-
10 ditional, permanent, and enforceable increases in bi-
11 ological sequestration by, and reductions in green-
12 house gas emissions from, agriculture and forest
13 management activities within the United States.

14 (2) REQUIREMENTS.—In designing the program
15 under paragraph (1), the Secretary shall—

16 (A) provide for the implementation of the
17 requirements of this section;

18 (B) take into account the findings of the
19 report prepared under section 334(a);

20 (C) integrate the program, as appropriate,
21 with existing Natural Resources Conservation
22 Service and Forest Service assistance programs,
23 provided that funds distributed under this sec-
24 tion shall not be substituted for, or otherwise
25 used as a basis for reducing, funding authorized

1 or appropriated to be provided under such ex-
2 isting programs;

3 (D) seek to maximize the reduction of
4 greenhouse gas emissions and increases in se-
5 questration per dollar of assistance provided;
6 and

7 (E) incorporate any environmental safe-
8 guards the Administrator determines necessary
9 to ensure that no significant environmental deg-
10 radation results from projects that receive as-
11 sistance under this section.

12 (c) ELIGIBLE PROJECT TYPES.—The types of
13 projects eligible for assistance under this section shall be
14 limited to—

15 (1) cropland and rangeland management prac-
16 tices that reduce greenhouse gas emissions (other
17 than emissions from the combustion of fossil fuels)
18 or increase biological sequestration, including—

19 (A) altered tillage practices;

20 (B) winter cover cropping, continuous
21 cropping, and other means to increase biomass
22 returned to soil in lieu of planting followed by
23 fallowing;

24 (C) conversion of cropland to rangeland or
25 grassland, on the condition that the land has

1 been in nonforest use for at least 10 years be-
2 fore the date of initiation of the project;

3 (D) reduction of nitrogen fertilizer use or
4 increase in nitrogen use efficiency;

5 (E) reduction in the frequency and dura-
6 tion of flooding of rice paddies; and

7 (F) reduction in carbon emissions from or-
8 ganic soils;

9 (2) forest management practices that result in
10 an increase in forest stand volume; and

11 (3) other activities that the Secretary deter-
12 mines, in consultation with the Administrator, will
13 result in net sequestration of carbon in wetlands or
14 other nonforest natural lands.

15 (d) EXCLUDED ACTIVITIES.—The Secretary, in con-
16 sultation with the Administrator, shall ensure that no as-
17 sistance shall be provided under this section for—

18 (1) any activity eligible to receive offset credits
19 under section 742 of the Clean Air Act (as added by
20 section 101 of this Act); or

21 (2) any activity that is required by or under-
22 taken to comply with any law, including any regula-
23 tion.

24 (e) MEASUREMENT, MONITORING, AND
25 VERIFICATION PROTOCOLS.—

1 (1) IN GENERAL.—The Secretary shall, in con-
2 sultation with the Administrator and taking into ac-
3 count the report developed under section 334(a), de-
4 velop measurement, monitoring, and verification pro-
5 tocols and tools for use by applicants and by the
6 Secretary in administering this program.

7 (2) REQUIREMENTS.—Such protocols and tools
8 shall be designed to ensure that increases in seques-
9 tration or reductions in emissions reported by enti-
10 ties are accurate, real, verifiable, additional, perma-
11 nent, and enforceable.

12 (3) ACQUISITION OF NEW DATA AND REVIEW
13 OF METHODS.—The Secretary shall establish a com-
14 prehensive field sampling program to improve the
15 scientific bases on which the standardized tools and
16 methods developed under this section are based.

17 (4) UPDATING.—The Secretary shall review,
18 and revise if necessary, such protocols every five
19 years, taking into account research performed under
20 this subsection, section 334(b), and the reports pre-
21 pared by the National Academy of Sciences pursuant
22 to title VII of this Act.

23 (f) ENVIRONMENTAL CONSIDERATIONS.—

24 (1) COORDINATION TO MINIMIZE NEGATIVE EF-
25 FECTS.—In designing and implementing the pro-

1 gram established under this section, the Secretary,
2 in consultation with the Administrator, shall act to
3 avoid or minimize, to the maximum extent prac-
4 ticable, adverse effects on human health or the envi-
5 ronment resulting from projects or activities receiv-
6 ing support under this section.

7 (2) USE OF NATIVE PLANT SPECIES.—Not later
8 than January 1, 2010, the Secretary shall promul-
9 gate regulations for the selection, use, and storage
10 of native and nonnative plant materials using assist-
11 ance provided under this section—

12 (A) to ensure native species are given pri-
13 mary consideration in projects receiving assist-
14 ance under this section, in accordance with ap-
15 plicable Department of Agriculture guidance for
16 the use of native plant materials;

17 (B) to prohibit the use of federally des-
18 ignated or State-designated noxious weeds; and

19 (C) to prohibit the use of a species listed
20 by a regional or State invasive plant council
21 within the applicable region or State.

1 **SEC. 336. OUTREACH INITIATIVE ON REVENUE ENHANCE-**
2 **MENT FOR AGRICULTURAL PRODUCERS AND**
3 **FORESTERS.**

4 (a) ESTABLISHMENT.—The Secretary, acting
5 through the Chief of the Natural Resources Conservation
6 Service, the Chief of the Forest Service, the Administrator
7 of the Cooperative State Research, Education, and Exten-
8 sion Service, and land-grant colleges and universities, in
9 consultation with the Administrator and the heads of
10 other appropriate departments and agencies, shall estab-
11 lish an outreach initiative to provide information to agri-
12 cultural producers, agricultural organizations, foresters,
13 and other landowners about opportunities under this Act
14 to earn new revenue.

15 (b) COMPONENTS.—The initiative under this sec-
16 tion—

17 (1) shall be designed to ensure that, to the
18 maximum extent practicable, agricultural organiza-
19 tions and individual agricultural producers, for-
20 esters, and other landowners receive detailed prac-
21 tical information about—

22 (A) opportunities to receive assistance
23 under this subtitle and related application, cer-
24 tification, measurement, monitoring, and
25 verification protocols, procedures, tools, and re-
26 quirements;

1 (B) opportunities to earn offset credits
2 under subtitle E of title VII of the Clean Air
3 Act (as added by section 101 of this Act) and
4 related initiation, measurement, and verification
5 protocols, procedures, tools, and requirements;
6 and

7 (C) local, regional, and national databases
8 and aggregation networks to facilitate achieve-
9 ment, measurement, registration, and sales of
10 offsets;

11 (2) shall provide—

12 (A) outreach materials, including the hand-
13 book published under subsection (c), to inter-
14 ested parties;

15 (B) workshops; and

16 (C) technical assistance; and

17 (3) may include the creation and development
18 of regional marketing centers or coordination with
19 existing centers (including centers within the Nat-
20 ural Resources Conservation Service or the Coopera-
21 tive State Research, Education, and Extension Serv-
22 ice or at land-grant colleges and universities).

23 (c) HANDBOOK.—

24 (1) IN GENERAL.—Not later than 2 years after
25 the date of enactment of this Act, the Secretary, in

1 consultation with the Administrator and after an op-
2 portunity for public comment, shall publish a hand-
3 book for use by agricultural producers, agricultural
4 cooperatives, foresters, other landowners, offset buy-
5 ers, and other stakeholders that provides easy-to-use
6 guidance on—

7 (A) earning assistance under this subtitle;

8 and

9 (B) securing issuance of and marketing
10 offset credits under subtitle E of title VII of the
11 Clean Air Act (as added by section 101 of this
12 Act).

13 (2) DISTRIBUTION.—The Secretary shall en-
14 sure, to the maximum extent practicable, that the
15 handbook—

16 (A) is made available through the Internet
17 and in other electronic media;

18 (B) includes, with respect to the electronic
19 form of the handbook described in subpara-
20 graph (A), electronic forms and calculation
21 tools to facilitate the offset credit approval
22 process under subtitle E of title VII of the
23 Clean Air Act (as added by section 101 of this
24 Act); and

1 (C) is distributed widely through land-
2 grant colleges and universities and other appro-
3 priate institutions.

4 **Subtitle E—Green Jobs Training**
5 **and Worker Transition Assistance**

6 **CHAPTER 1—GENERAL PROVISIONS**

7 **SEC. 341. PURPOSES.**

8 The purposes of this subtitle are—

9 (1) to support programs that provide worker
10 training for high-quality jobs in the growing renew-
11 able energy and energy efficiency industries; and

12 (2) to provide adjustment assistance, in the
13 form of income support, training, assistance in pur-
14 chasing health care insurance, and job placement
15 and relocation assistance, to any workers laid off as
16 a result of the United States transition to a low-car-
17 bon economy.

18 **SEC. 342. DEFINITIONS.**

19 In this subtitle:

20 (1) **ADVERSELY AFFECTED EMPLOYMENT.**—

21 The term “adversely affected employment” means
22 employment in a firm or appropriate subdivision of
23 a firm, if workers of such firm or subdivision are eli-
24 gible to apply for adjustment assistance under this
25 subtitle.

1 (2) ADVERSELY AFFECTED WORKER.—The
2 term “adversely affected worker” means an indi-
3 vidual who, because of lack of work in adversely af-
4 fected employment—

5 (A) has been totally separated or partially
6 separated from adversely affected employment,
7 or

8 (B) has been totally separated from em-
9 ployment with the firm in a subdivision of
10 which adversely affected employment exists.

11 (3) AVERAGE WEEKLY WAGE.—

12 (A) IN GENERAL.—The term “average
13 weekly wage” means one-thirteenth of the total
14 wages paid to an individual in the high calendar
15 quarter.

16 (B) OTHER DEFINITIONS.—In this para-
17 graph:

18 (i) HIGH CALENDAR QUARTER.—The
19 term “high calendar quarter” means the
20 calendar quarter in which the individual’s
21 total wages were highest among the first 4
22 of the last 5 completed calendar quarters
23 immediately before the calendar quarter in
24 which occurs the week with respect to
25 which the computation is made. Such week

1 shall be the week in which total separation
2 from adversely affected employment oc-
3 curred, or, in cases in which partial sepa-
4 ration from adversely affected employment
5 is claimed, an appropriate week, as defined
6 in regulations prescribed by the Secretary.

7 (ii) CALENDAR QUARTER.—The term
8 “calendar quarter” means any 3-month pe-
9 riod beginning on January 1, April 1, July
10 1, or October 1 of a calendar year.

11 (4) CLIMATE CHANGE WORKER TRANSITION
12 FUND.—The term “Climate Change Worker Transi-
13 tion Fund” means the Climate Change Worker
14 Transition Fund established under section 722 of
15 the Clean Air Act (as added by section 101 of this
16 Act).

17 (5) PARTIAL SEPARATION; PARTIALLY SEPA-
18 RATED.—

19 (A) IN GENERAL.—The term “partial sep-
20 aration” or “partially separated” means, with
21 respect to an individual who has not been to-
22 tally separated, that—

23 (i) the individual’s hours of work have
24 been reduced to 80 percent or less of the

1 individual's average weekly hours in ad-
2 versely affected employment, and

3 (ii) the individual's wages have been
4 reduced to 80 percent or less of the indi-
5 vidual's average weekly wage in adversely
6 affected employment.

7 (B) AVERAGE WEEKLY HOURS.—In this
8 paragraph, the term “average weekly hours”
9 means the average hours worked by the indi-
10 vidual (excluding overtime) in the employment
11 from which he has been or claims to have been
12 separated in the 52 weeks (excluding weeks
13 during which the individual was sick or on vaca-
14 tion) preceding the week specified in the last
15 sentence of paragraph (3)(B)(i) of this section.

16 (6) SECRETARY.—The term “Secretary” means
17 the Secretary of Labor.

18 (7) STATE; UNITED STATES.—The term
19 “State” means any of the several States, the Dis-
20 trict of Columbia, the Commonwealth of Puerto
21 Rico, American Samoa, the United States Virgin Is-
22 lands, Guam, or the Commonwealth of the Northern
23 Mariana Islands. The term “United States”, when
24 used in the geographical sense, includes each of the
25 territories identified in the preceding sentence.

1 (8) STATE AGENCY.—The term “State agency”
2 means the agency of the State which administers the
3 State law.

4 (9) STATE LAW.—The term “State law” means
5 the unemployment compensation law of the State,
6 approved by the Secretary of Labor under section
7 3304 of the Internal Revenue Code of 1986.

8 (10) TOTAL SEPARATION; TOTALLY SEPA-
9 RATED.—The term “total separation” or “totally
10 separated” means, with respect to an individual, the
11 layoff or severance of the individual from employ-
12 ment with a firm in which, or in a subdivision of
13 which, adversely affected employment exists.

14 (11) UNEMPLOYMENT COMPENSATION BENEFIT
15 PERIOD.—

16 (A) IN GENERAL.—The term “unemploy-
17 ment compensation benefit period” means, with
18 respect to an individual—

19 (i) the benefit year and any ensuing
20 period, as determined under applicable
21 State law, during which the individual is
22 eligible for regular compensation, addi-
23 tional compensation, or extended com-
24 pensation, or

1 (ii) the equivalent to such a benefit
2 year or ensuing period provided for under
3 the applicable Federal unemployment in-
4 surance law.

5 (B) OTHER DEFINITIONS.—In this para-
6 graph, the terms “regular compensation”, “ex-
7 tended compensation”, and “additional com-
8 pensation” have the meanings given such terms
9 in paragraphs (2), (3), and (4) of section 205
10 of the Federal-State Extended Unemployment
11 Compensation Act of 1970 (26 U.S.C. 3304
12 note.).

13 (12) UNEMPLOYMENT INSURANCE.—The term
14 “unemployment insurance” means the unemploy-
15 ment compensation payable to an individual under
16 any State law or Federal unemployment compensa-
17 tion law, including chapter 85 of title 5, United
18 States Code, and the Railroad Unemployment Insur-
19 ance Act.

20 (13) WEEK OF UNEMPLOYMENT.—

21 (A) IN GENERAL.—The term “week of un-
22 employment” means a week of total, part-total,
23 or partial unemployment, as determined under
24 the applicable State law or Federal unemploy-
25 ment insurance law.

1 (B) WEEK.—In this paragraph, the term
2 “week” means a week as defined in the applica-
3 ble State law.

4 **SEC. 343. FUNDING.**

5 (a) IN GENERAL.—Funds deposited in the Climate
6 Change Worker Transition Fund shall be available for ex-
7 penditure by the Secretary, in accordance with this sec-
8 tion, without further appropriation or fiscal year limita-
9 tion.

10 (b) ENERGY EFFICIENCY AND RENEWABLE ENERGY
11 WORKER TRAINING PROGRAM.—In each of fiscal years
12 2010 through 2050, the Secretary shall use 25 percent
13 of the funds deposited in the Climate Change Worker
14 Transition Fund to implement the energy efficiency and
15 renewable energy worker training program established
16 under section 171(e) of the Workforce Investment Act of
17 1998 (29 U.S.C. 2916(e)).

18 (c) ADJUSTMENT ASSISTANCE PROGRAM.—

19 (1) IN GENERAL.—In each of fiscal years 2010
20 through 2050, 75 percent of the funds deposited in
21 the Climate Change Worker Transition Fund shall
22 be available to the Secretary to carry out the worker
23 transition program established under this subtitle.

24 (2) REMAINING FUNDS.—If, at the end of any
25 fiscal year, after the requirements for worker transi-

1 tion assistance under chapter 2 of this subtitle have
2 been fully satisfied, any of the funds described in
3 paragraph (1) remain unexpended, such funds shall
4 be used to by the Secretary to implement the energy
5 efficiency and renewable energy worker training pro-
6 gram described in subsection (b) of this section.

7 **SEC. 344. ESTABLISHMENT OF WORKER TRANSITION AS-**
8 **SISTANCE PROGRAM.**

9 (a) IN GENERAL.—Not later than 1 year after the
10 date of the enactment of this Act, the Secretary shall es-
11 tablish a program to provide adjustment assistance under
12 this subtitle to workers separated from employment as a
13 result of the implementation of title VII of the Clean Air
14 Act (as added by section 101 of this Act).

15 (b) REGULATIONS.—The Secretary shall promulgate
16 regulations, consistent with the requirements of this sub-
17 title, to implement the program established under sub-
18 section (a).

19 **SEC. 345. PETITION AND CERTIFICATION OF ELIGIBILITY.**

20 (a) FILING OF PETITION.—A petition for certifi-
21 cation of eligibility to apply for adjustment assistance
22 under this subtitle may be filed with the Secretary by any
23 of the following:

24 (1) A group of workers.

1 (2) A certified or recognized union or other
2 duly authorized representative of such workers.

3 (3) Employers of such workers, one-stop opera-
4 tors or one-stop partners (as defined in section 101
5 of the Workforce Investment Act of 1998 (29 U.S.C.
6 2801)), including State employment security agen-
7 cies, or the State dislocated worker unit established
8 under title I of such Act, on behalf of such workers.

9 (b) DETERMINATION BY SECRETARY.—The Sec-
10 retary, within 30 days after receiving a petition under sub-
11 section (a), shall determine whether the petition meets the
12 eligibility requirements described in section 346. Upon a
13 determination that the petition meets such requirements,
14 the Secretary shall issue to workers covered by the petition
15 a certification of eligibility to apply for adjustment assist-
16 ance under this subtitle.

17 **SEC. 346. GROUP ELIGIBILITY REQUIREMENTS.**

18 (a) IN GENERAL.—A group of workers shall be eligi-
19 ble to apply for adjustment assistance under this subtitle
20 pursuant to a petition filed under section 345(a) if the
21 Secretary determines that—

22 (1) a significant number or proportion of the
23 workers in such workers' firm, or an appropriate
24 subdivision of the firm, have become totally sepa-
25 rated or partially separated, or are threatened to be-

1 come totally separated or partially separated, from
2 adversely affected employment;

3 (2) the sales or production, or both, of such
4 firm or subdivision have decreased absolutely; and

5 (3) compliance with the requirements of title
6 VII of the Clean Air Act (as added by section 101
7 of this Act) contributed importantly to such workers'
8 separation or threat of separation from employment.

9 (b) DEFINITION OF “CONTRIBUTED IMPOR-
10 TANTLY”.—In subsection (a)(3), the term “contributed
11 importantly” means a cause which is important but not
12 necessarily more important than any other cause.

13 **SEC. 347. BENEFIT INFORMATION FOR WORKERS.**

14 (a) IN GENERAL.—The Secretary shall provide full
15 information to workers about the adjustment assistance
16 under this subtitle and about the petition and application
17 procedures, and the appropriate filing dates, for such ad-
18 justment assistance. The Secretary shall provide whatever
19 assistance is necessary to enable groups of workers to pre-
20 pare petitions or applications for adjustment assistance
21 under this subtitle. In providing such information and as-
22 sistance to workers under this section, the Secretary shall,
23 to the extent possible, seek to cooperate with the certified
24 or recognized union or other duly authorized representa-
25 tive of such workers.

1 (b) NOTICE OF BENEFITS.—

2 (1) TO WORKERS.—The Secretary shall provide
3 written notice through the mail of the adjustment
4 assistance available under this subtitle to each work-
5 er whom the Secretary has reason to believe is cov-
6 ered by a certification made under this subtitle—

7 (A) at the time such certification is made,
8 if the worker was partially separated or totally
9 separated from adversely affected employment
10 before such certification; or

11 (B) at the time of total separation or par-
12 tial separation from adversely affected employ-
13 ment of the worker, if subparagraph (A) does
14 not apply.

15 (2) TO REPRESENTATIVES OF WORKERS.—The
16 Secretary shall provide notice of the adjustment as-
17 sistance available under this subtitle to the certified
18 or recognized union or other duly authorized rep-
19 resentative of workers described in paragraph (1).

20 (3) GENERAL PUBLICATION.—The Secretary
21 shall publish notice of the adjustment assistance
22 available under this subtitle to workers covered by
23 each certification made under this subtitle in news-
24 papers of general circulation in the areas in which
25 the workers reside and on the Internet.

1 **CHAPTER 2—PROGRAM BENEFITS**

2 **SEC. 351. INCOME SUPPORT ASSISTANCE.**

3 (a) IN GENERAL.—An adversely affected worker who
4 is covered by a certification issued by the Secretary under
5 section 345(b) and who applies for adjustment assistance
6 under this subtitle shall be provided income support assist-
7 ance in the form of a weekly adjustment allowance in ac-
8 cordance with the requirements of this section.

9 (b) ELIGIBILITY REQUIREMENTS.—An adversely af-
10 fected worker shall be eligible to receive a weekly adjust-
11 ment allowance under this section if the following condi-
12 tions are met:

13 (1) UNEMPLOYMENT.—The worker is unem-
14 ployed for the week for which the adjustment allow-
15 ance is paid.

16 (2) DATE OF SEPARATION.—The worker's total
17 separation or partial separation from adversely af-
18 fected employment occurred—

19 (A) on or after the date, as specified in the
20 certification under which the worker is covered,
21 on which total separation or partial separation
22 from adversely affected employment began or
23 threatened to begin; and

24 (B) before the expiration of the 2-year pe-
25 riod beginning on the date on which the Sec-

1 retary's determination under section 345(b) was
2 made.

3 (3) PRIOR EMPLOYMENT.—The worker had, in
4 the 52-week period ending with the week in which
5 total separation or partial separation from adversely
6 affected employment occurred—

7 (A) at least 26 weeks of employment in ad-
8 versely affected employment with a single firm
9 or subdivision of a firm; or

10 (B) if data with respect to weeks of em-
11 ployment with a firm are not available, equiva-
12 lent amounts of employment computed under
13 regulations prescribed by the Secretary.

14 (4) ENROLLMENT IN TRAINING PROGRAM.—
15 The worker—

16 (A) is enrolled in a training program ap-
17 proved by the Secretary under section
18 352(b)(2) and such enrollment began by the
19 later of—

20 (i) the last day of the 26th week of
21 the worker's initial unemployment com-
22 pensation benefit period;

23 (ii) the last day of the 26th week after
24 the week in which the Secretary issues a
25 certification covering the worker;

1 (iii) a date 45 days after the later of
2 the two dates described in clauses (i) and
3 (ii), if the Secretary extends the time for
4 enrollment based on extenuating cir-
5 cumstances relating to enrollment in a
6 training program;

7 (iv) the last day of such period that
8 the Secretary determines appropriate, if
9 the failure to enroll is due to the failure to
10 provide the worker with timely information
11 regarding the date specified in clause (i) or
12 (ii), as the case may be; or

13 (v) the last day of a period deter-
14 mined by the Secretary to be approved for
15 enrollment after the termination of a waiv-
16 er issued pursuant to subsection (c);

17 (B) has, after the date on which the work-
18 er became totally separated, or partially sepa-
19 rated, from adversely affected employment,
20 completed a training program approved by the
21 Secretary under section 352(b)(2); or

22 (C) has received a written statement
23 waiving training enrollment requirements under
24 subsection (c)(1) of this section.

1 (c) WAIVERS OF TRAINING ENROLLMENT REQUIRE-
2 MENTS.—

3 (1) IN GENERAL.—The Secretary may issue a
4 written statement to an adversely affected worker
5 waiving the requirement to be enrolled in training
6 described in subsection (b)(4)(A) if the Secretary de-
7 termines that it is not feasible or appropriate for the
8 worker, because of one or more of the following rea-
9 sons:

10 (A) MARKETABLE SKILLS.—The worker
11 possesses marketable skills for suitable employ-
12 ment (as determined pursuant to an assessment
13 of the worker, carried out in accordance with
14 guidelines issued by the Secretary) and there is
15 a reasonable expectation of employment at
16 equivalent wages in the foreseeable future.

17 (B) RETIREMENT.—The worker is within
18 2 years of meeting all requirements for entitle-
19 ment to either—

20 (i) old-age insurance benefits under
21 title II of the Social Security Act (42
22 U.S.C. 401 et seq.) (except for application
23 therefor); or

24 (ii) a private pension sponsored by an
25 employer or labor organization.

1 (C) HEALTH.—The worker is unable to
2 participate in training due to the health of the
3 worker, except that a waiver under this sub-
4 paragraph shall not be construed to exempt a
5 worker from requirements relating to the avail-
6 ability for work, active search for work, or re-
7 fusals to accept work under State or Federal un-
8 employment compensation laws.

9 (2) DURATION OF WAIVERS.—

10 (A) IN GENERAL.—A waiver issued under
11 paragraph (1) shall be effective for not more
12 than 6 months after the date on which the
13 waiver is issued, unless the Secretary deter-
14 mines otherwise, except for waivers issued by
15 reason of proximity of retirement age under
16 subparagraph (1)(B), in which case the waiver
17 shall be effective for the duration of the work-
18 er's enrollment in the program.

19 (B) REVOCATION.—The Secretary shall re-
20 voke a waiver issued under paragraph (1) if the
21 Secretary determines that the basis of a waiver
22 is no longer applicable to the worker and shall
23 notify the worker in writing of the revocation.

24 (d) AMOUNT OF WEEKLY ADJUSTMENT ALLOW-

25 ANCE.—

1 (1) FORMULA.—The weekly adjustment allow-
2 ance payable to an adversely affected worker for a
3 week of total unemployment shall be an amount
4 equal to 70 percent of the adversely affected work-
5 er's average weekly wage prior to separation from
6 adversely affected employment, reduced (but not
7 below zero) by—

8 (A) any unemployment insurance which
9 the worker receives, or would receive if the
10 worker applied for such insurance, which re-
11 spect to such week, except that such reduction
12 will not apply if the appropriate State agency or
13 Federal agency finally determines that the
14 worker was not entitled to unemployment insur-
15 ance for that week; and

16 (B) income that is deductible from unem-
17 ployment insurance under the disqualifying in-
18 come provisions of the applicable State law or
19 Federal unemployment insurance law.

20 (2) ADVERSELY AFFECTED WORKERS WHO ARE
21 UNDERGOING TRAINING.—A weekly adjustment al-
22 lowance payable to an adversely affected worker
23 under this section shall be paid in lieu of any train-
24 ing allowance to which a worker would otherwise be

1 entitled under any other Federal law for the training
2 of workers.

3 (e) LIMITATION ON WEEKLY ADJUSTMENT ALLOW-
4 ANCE.—

5 (1) MAXIMUM AMOUNT.—Except as provided in
6 paragraph (2), the maximum amount of weekly ad-
7 justment allowances payable to an adversely affected
8 worker with respect to the period covered by a cer-
9 tification issued by the Secretary under section
10 345(b) shall be the amount which is the product of
11 52 multiplied by the amount of the adjustment al-
12 lowance payable to the worker for a week of total
13 unemployment as determined under subsection (d).

14 (2) FURTHER AMOUNTS.—

15 (A) IN GENERAL.—Notwithstanding para-
16 graph (1), in order to assist an adversely af-
17 fected worker to complete training approved for
18 the worker under section 352, and in accord-
19 ance with regulations prescribed by the Sec-
20 retary, payments may be made as weekly ad-
21 justment allowances for up to 52 additional
22 weeks in the 52-week period that—

23 (i) follows the last week of entitlement
24 to weekly adjustment allowances otherwise
25 payable under this subtitle; or

1 (ii) begins with the first week of such
2 training, if such training begins after the
3 last week described in clause (i).

4 (B) LIMITATION.—Payments for such ad-
5 ditional weeks may be made only for weeks in
6 such 52-week period during which the indi-
7 vidual is participating in such training.

8 (3) DURATION.—An adjustment allowance shall
9 not be paid for any week occurring after the close
10 of the 130-week period that begins with the first
11 week following the week in which the adversely af-
12 fected worker was most recently totally separated
13 from adversely affected employment with respect to
14 which the worker meets the eligibility requirements
15 of subsection (b).

16 **SEC. 352. TRAINING AND OTHER ADJUSTMENT ASSIST-**
17 **ANCE.**

18 (a) IN GENERAL.—An adversely affected worker who
19 is covered by a certification issued by the Secretary under
20 section 345(b) and who applies for adjustment assistance
21 under this subtitle shall be provided, in the same manner
22 and to the same extent as a worker covered by a certifi-
23 cation under section 223 of the Trade Act of 1974 (19
24 U.S.C. 2273), the training and other adjustment assist-
25 ance described in subsection (b).

1 (b) TRAINING AND OTHER ADJUSTMENT ASSIST-
2 ANCE DESCRIBED.—The training and other adjustment
3 assistance referred to in subsection (a) are the following:

4 (1) Employment counseling, testing, and place-
5 ment services, and supportive and other services, as
6 described in section 235 of the Trade Act of 1974
7 (22 U.S.C. 2295).

8 (2) Training described in section 236 of the
9 Trade Act of 1974 (19 U.S.C. 2296), except that
10 the limitation on total payments described in sub-
11 section (a)(2)(A) of such section shall not apply with
12 respect to such training provided under the author-
13 ity of this paragraph.

14 (3) Job search allowances described in section
15 237 of the Trade Act of 1974 (19 U.S.C. 2297).

16 (4) Relocation allowances described in section
17 238 of the Trade Act of 1974 (19 U.S.C. 2298).

18 (c) ENERGY EFFICIENCY AND RENEWABLE ENERGY
19 WORKER TRAINING PROGRAM.—To the maximum extent
20 practicable, an adversely affected worker who is eligible
21 to receive training and other adjustment assistance under
22 this section shall be eligible to receive assistance under the
23 energy efficiency and renewable energy worker training
24 program established under section 171(e) of the Work-
25 force Investment Act of 1998 (29 U.S.C. 2916(e)).

1 **SEC. 353. REEMPLOYMENT ADJUSTMENT ASSISTANCE PRO-**
2 **GRAM.**

3 (a) ESTABLISHMENT.—Not later than 1 year after
4 the date of the enactment of this Act, the Secretary shall
5 establish a reemployment trade adjustment assistance pro-
6 gram for older workers that provides the benefits de-
7 scribed in subsection (b).

8 (b) BENEFITS.—The Secretary shall, for the eligi-
9 bility period described in subsection (c)(3), provide a
10 worker described in subsection (c)(2) with a weekly adjust-
11 ment allowance equal to 50 percent of the difference be-
12 tween—

13 (1) the wages received by the worker from re-
14 employment; and

15 (2) the wages received by the worker at the
16 time of separation.

17 (c) ELIGIBILITY.—

18 (1) IN GENERAL.—A group of workers certified
19 as eligible for adjustment assistance under this sub-
20 title is eligible for benefits described in subsection
21 (b) under the program established under subsection
22 (a).

23 (2) INDIVIDUAL ELIGIBILITY.—A worker in a
24 group of workers described in paragraph (1) may
25 elect to receive benefits described in subsection (b)

1 under the program established under subsection (a)
2 if the worker—

3 (A) is at least 50 years of age;

4 (B) earns not more than \$60,000 each
5 year in wages from reemployment;

6 (C)(i) is employed on a full-time basis as
7 defined by State law in the State in which the
8 worker is employed; or

9 (ii) is employed at least 20 hours per week
10 and is enrolled in training approved under sec-
11 tion 352(b)(2); and

12 (D) is not employed at the firm from
13 which the worker was separated.

14 In the case of a worker described in subparagraph
15 (C)(ii), the percentage referred to in subsection (b)
16 shall be deemed to be a percentage equal to $\frac{1}{2}$ of
17 the ratio of weekly hours of employment referred to
18 in subparagraph (C)(ii) to weekly hours of employ-
19 ment of that worker at the time of separation (but
20 not more than 50 percent).

21 (3) ELIGIBILITY PERIOD FOR PAYMENTS.—A
22 worker in a group of workers described in paragraph
23 (1) may receive payments described in subsection (b)
24 under the program established under subsection (a)
25 for a period not to exceed 2 years from the date on

1 which the worker exhausts all rights to unemploy-
2 ment insurance based on the separation of the work-
3 er from adversely affected employment or the date
4 on which the worker obtains reemployment, which-
5 ever is earlier.

6 (4) TRAINING AND OTHER SERVICES.—A work-
7 er described in paragraph (2) shall be eligible to re-
8 ceive training approved under section 352(b)(2) and
9 services under section 352(b)(1).

10 (d) TOTAL AMOUNT OF PAYMENTS.—The payments
11 described in subsection (b) made to a worker may not ex-
12 ceed \$12,000 per worker during the eligibility period
13 under subsection (c)(3).

14 (e) LIMITATION ON OTHER BENEFITS.—A worker
15 described in subsection (c) may not receive a weekly ad-
16 justment allowance under section 351 during any week for
17 which the worker receives a payment described in sub-
18 section (b).

19 **SEC. 354. HEALTH COVERAGE TAX CREDITS.**

20 (a) ELIGIBILITY FOR CREDIT.—Paragraph (1) of
21 section 35(c) of the Internal Revenue Code of 1986 (defin-
22 ing eligible individual) is amended by striking “and” at
23 the end of subparagraph (B), by striking the period at
24 the end of subparagraph (C) and inserting “, and”, and

1 by inserting after subparagraph (C) the following new sub-
2 paragraph:

3 “(D) an eligible adjustment assistance re-
4 cipient.”.

5 (b) ELIGIBLE ADJUSTMENT ASSISTANCE RECIPIENT
6 DEFINED.—Subsection (c) of section 35 of such Code (de-
7 fining eligible individual) is amended by adding at the end
8 the following new paragraph:

9 “(5) ELIGIBLE ADJUSTMENT ASSISTANCE RE-
10 CIPIENT.—The term ‘eligible adjustment assistance
11 recipient’ means, with respect to any month, any in-
12 dividual who is receiving for any day of such month
13 a weekly adjustment allowance under section 351 or
14 353 of the Investing in Climate Action and Protec-
15 tion Act. An individual shall continue to be treated
16 as an eligible adjustment assistance recipient during
17 the first month that such individual would otherwise
18 cease to be an eligible adjustment assistance recipi-
19 ent by reason of the preceding sentence.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2009.

23 **SEC. 355. ADMINISTRATION.**

24 (a) AGREEMENTS WITH STATES.—

1 (1) IN GENERAL.—The Secretary is authorized
2 on behalf of the United States to enter into an
3 agreement with any State, or with any State agency.
4 Under such an agreement, the State agency—

5 (A) as agent of the United States, shall re-
6 ceive applications for, and shall provide, pay-
7 ments on the basis provided in this subtitle;

8 (B) where appropriate, but in accordance
9 with paragraph (6), shall afford adversely af-
10 fected workers testing, counseling, referral to
11 training and job search programs, and place-
12 ment services;

13 (C) shall make any certifications required
14 under section 351(c); and

15 (D) shall otherwise cooperate with the Sec-
16 retary and with other State and Federal agen-
17 cies in providing payments and services under
18 this subtitle.

19 (2) TERMS AND CONDITIONS.—Each agreement
20 under this subsection shall provide the terms and
21 conditions upon which the agreement may be amend-
22 ed, suspended, or terminated.

23 (3) UNEMPLOYMENT INSURANCE.—Each agree-
24 ment under this subsection shall provide that unem-
25 ployment insurance otherwise payable to any ad-

1 versely affected worker shall not be denied or re-
2 duced for any week by reason of any right to pay-
3 ments under this subtitle.

4 (4) ENTITLEMENT TO PROGRAM BENEFITS.—A
5 determination by a State agency with respect to en-
6 titlement to program benefits under an agreement is
7 subject to review in the same manner and to the
8 same extent as determinations under the applicable
9 State law and only in that manner and to that ex-
10 tent.

11 (5) COORDINATION OF TRAINING AND ASSIST-
12 ANCE.—Any agreement entered into under this sub-
13 section shall provide for the coordination of the ad-
14 ministration of the provisions for employment serv-
15 ices, training, and supplemental assistance under
16 section 352 and under title I of the Workforce In-
17 vestment Act of 1998 (29 U.S.C. 2801 et seq.) upon
18 such terms and conditions as are established by the
19 Secretary in consultation with the States and set
20 forth in such agreement. Any agency of the State
21 jointly administering such provisions under such
22 agreement shall be considered to be a State agency
23 for purposes of this subtitle.

24 (6) TECHNICAL ASSISTANCE.—Each State
25 agency shall, in carrying out paragraph (1)(B)—

1 (A) advise each worker who applies for un-
2 employment insurance of the benefits under this
3 subtitle and the procedures and deadlines for
4 applying for such benefits;

5 (B) facilitate the early filing of petitions
6 under section 345 for any workers that the
7 agency considers are likely to be eligible for
8 benefits under this subtitle;

9 (C) advise each adversely affected worker
10 to apply for training under section 352 before,
11 or at the same time, the worker applies for
12 weekly adjustment allowances under section
13 351; and

14 (D) as soon as practicable, interview the
15 adversely affected worker regarding suitable
16 training opportunities available to the worker
17 under section 352 and review such opportuni-
18 ties with the worker.

19 (7) COORDINATION OF WORKFORCE INVEST-
20 MENT ACTIVITIES.—In order to promote the coordi-
21 nation of workforce investment activities in each
22 State with activities carried out under this subtitle,
23 any agreement entered into under this subsection
24 shall provide that the State shall submit to the Sec-
25 retary, in such form as the Secretary may require,

1 the description and information described in para-
2 graphs (8) and (14) of section 112(b) of the Work-
3 force Investment Act of 1998 (29 U.S.C. 2822(b)(8)
4 and (14)).

5 (b) ADMINISTRATION ABSENT STATE AGREE-
6 MENT.—

7 (1) IN GENERAL.—In any State where there is
8 no agreement in force between a State or its agency
9 under subsection (a), the Secretary shall arrange
10 under regulations prescribed by the Secretary for
11 performance of all necessary functions under sec-
12 tions 351 through 353, including provision for a fair
13 hearing for any worker whose application for pay-
14 ments is denied.

15 (2) REVIEW OF FINAL DETERMINATIONS.—A
16 final determination under paragraph (1) with re-
17 spect to entitlement to program benefits under this
18 chapter is subject to review by the courts in the
19 same manner and to the same extent as is provided
20 by section 205(g) of the Social Security Act (42
21 U.S.C. 405(g)).

22 **Subtitle F—National Climate** 23 **Change Adaptation Program**

24 **SEC. 361. FINDINGS AND PURPOSE.**

25 (a) FINDINGS.—Congress finds the following:

1 (1) According to the Intergovernmental Panel
2 on Climate Change’s Fourth Assessment Report, the
3 United States is already experiencing a range of ad-
4 verse impacts of climate change and is predicted to
5 experience more intense impacts over the course of
6 this century. These predicted future impacts in-
7 clude—

8 (A) significant reductions in snowpack in
9 western mountains by the middle of this cen-
10 tury, increasing stress on over-allocated water
11 systems in the western United States;

12 (B) decreased water levels in the Great
13 Lakes, leading to a range of adverse ecological
14 and economic effects;

15 (C) decreased recharge of heavily utilized
16 groundwater systems in the southwestern
17 United States, resulting in increased water
18 stress;

19 (D) increased surface water temperatures
20 making achievement of water quality standards
21 more difficult;

22 (E) more frequent and more intense
23 wildfires in the western United States;

24 (F) acceleration of sea-level rise and
25 changes in storm surge patterns, leading to

1 more frequent and more severe coastal flooding,
2 increased coastal erosion, increased rates of
3 coastal wetland loss, and increased vulnerability
4 of coastal infrastructure;

5 (G) potentially more intense storms, lead-
6 ing to greater coastal instability;

7 (H) increased magnitude and duration of
8 severe heatwaves and increased concentration of
9 surface ozone pollution, leading to adverse im-
10 pacts on public health;

11 (I) potential negative impacts on public
12 health due to changes in infectious disease
13 transmission patterns; and

14 (J) increased coastal erosion and perma-
15 frost thaw in Alaska, jeopardizing public and
16 private infrastructure and imposing substantial
17 costs.

18 (2) Although prompt and aggressive efforts to
19 mitigate global greenhouse gas emissions can reduce
20 the magnitude and likelihood of adverse impacts of
21 climate change on the United States, such impacts
22 are likely to intensify for the foreseeable future even
23 under a best-case scenario for emissions reductions.

24 (3) Absent effective action to manage risks and
25 reduce vulnerability to adverse climate change im-

1 pacts, such impacts are likely to impose significant
2 social and economic costs on the United States.

3 (4) State, local, and tribal governments are
4 likely to bear much of the burden of responding to
5 the impacts of climate change. Although both im-
6 pacts and appropriate adaptive responses will vary
7 by region, State, and locality, the Federal Govern-
8 ment can bolster State, local, and tribal adaptive ca-
9 pacity by providing policy-relevant information and
10 technical and financial assistance.

11 (5) An effective national climate change adapta-
12 tion program will require improvements in coordina-
13 tion among Federal agencies, and among the Fed-
14 eral Government, State, local, and tribal govern-
15 ments, and nongovernmental stakeholders.

16 (6) To improve the United States capacity to
17 adapt to adverse climate change impacts, Federal
18 agencies must incorporate potential short-term, me-
19 dium-term, and long-term impacts of climate change
20 into the implementation of their respective man-
21 dates.

22 (b) PURPOSE.—The purpose of this subtitle is to es-
23 tablish an integrated Federal program to enhance the ca-
24 pacity of Federal, State, local, and tribal governments to

1 reduce vulnerability to the adverse impacts of climate
2 change on the United States and its territories.

3 **SEC. 362. DEFINITIONS.**

4 As used in this subtitle—

5 (1) COUNCIL.—The term “Council” means the
6 National Climate Change Adaptation Council estab-
7 lished under section 364.

8 (2) NATIONAL ASSESSMENT.—The term “Na-
9 tional Assessment” refers to a National Climate
10 Change Vulnerability Assessment prepared pursuant
11 to section 366.

12 (3) NATIONAL CLIMATE CHANGE ADAPTATION
13 FUND.—The term “National Climate Change Adap-
14 tation Fund” means the National Climate Change
15 Adaptation Fund established under section 722 of
16 the Clean Air Act (as added by section 101 of this
17 Act).

18 (4) NOAA.—The term “NOAA” means the Na-
19 tional Oceanic and Atmospheric Administration.

20 (5) PROGRAM.—The term “Program” means
21 the National Climate Change Adaptation Program
22 established under section 365.

23 (6) STATE.—The term “State” means any of
24 the several States, the District of Columbia, the
25 Commonwealth of Puerto Rico, American Samoa,

1 the United States Virgin Islands, Guam, or the
2 Commonwealth of the Northern Mariana Islands.

3 (7) TRIBAL GOVERNMENT.—The term “tribal
4 government” means the official government of a fed-
5 erally recognized Indian tribe.

6 **SEC. 363. FUNDING.**

7 (a) IN GENERAL.—Funds deposited in the National
8 Climate Change Adaptation Fund shall be available for
9 expenditure, without further need of appropriation or fis-
10 cal year limitation, to carry out this subtitle in accordance
11 with the requirements of this section.

12 (b) ALLOCATION.—

13 (1) NATIONAL CLIMATE CHANGE ADAPTATION
14 PROGRAM.—For each of fiscal years 2010 through
15 2050, the Secretary of Commerce shall utilize not
16 more than 15 percent of the funds deposited in the
17 National Climate Change Adaptation Fund to carry
18 out the National Climate Change Adaptation Pro-
19 gram established under section 365.

20 (2) FEDERAL FUNDING FOR STATE, LOCAL,
21 AND TRIBAL ADAPTATION PROJECTS.—The Federal
22 agency or agencies charged with implementing the
23 program established under section 369 shall utilize
24 the remaining funds deposited in the National Cli-
25 mate Change Adaptation Program to provide finan-

1 cial assistance to State, local, and tribal govern-
2 ments pursuant to such program, provided that Con-
3 gress has not enacted a statute codifying the pro-
4 gram or an alternative to the program.

5 **SEC. 364. NATIONAL CLIMATE CHANGE ADAPTATION COUN-**
6 **CIL.**

7 (a) ESTABLISHMENT.—Not later than 90 days after
8 the date of enactment of this Act, the President shall es-
9 tablish a National Climate Change Adaptation Council,
10 consisting of representatives, appointed by the head of the
11 respective Federal agency, of—

- 12 (1) NOAA;
- 13 (2) the Environmental Protection Agency;
- 14 (3) the Department of Agriculture;
- 15 (4) the Department of Commerce;
- 16 (5) the Department of Defense;
- 17 (6) the Department of Energy;
- 18 (7) the Department of Health and Human
19 Services;
- 20 (8) the Department of Homeland Security;
- 21 (9) the Department of Housing and Urban De-
22 velopment;
- 23 (10) the Department of the Interior;
- 24 (11) the Department of Transportation;
- 25 (12) the Army Corps of Engineers;

1 (13) the Centers for Disease Control;

2 (14) the Federal Emergency Management
3 Agency;

4 (15) the National Aeronautics and Space Ad-
5 ministration;

6 (16) the United States Geological Survey; and

7 (17) such other Federal agencies or depart-
8 ments as the President considers appropriate.

9 (b) CHAIRPERSON.—The representative described in
10 subsection (a)(1) shall be the chairperson of the Council.

11 (c) FUNCTIONS.—The Council shall serve as a forum
12 for interagency consultation on, and coordination of, Fed-
13 eral policies relating to assessment of, and adaptation to,
14 the impacts of climate change on the United States and
15 its Territories.

16 **SEC. 365. NATIONAL CLIMATE CHANGE ADAPTATION PRO-**
17 **GRAM.**

18 The Secretary of Commerce, acting through the Ad-
19 ministrator of NOAA, shall establish within NOAA a Na-
20 tional Climate Change Adaptation Program for the pur-
21 pose of increasing the overall effectiveness of Federal cli-
22 mate change adaptation efforts. Under the Program, the
23 Administrator of NOAA shall, in consultation as appro-
24 priate with the Council—

1 (1) develop and publish periodic National As-
2 ssessments under section 366;

3 (2) provide to Federal agencies, local, State,
4 and tribal governments, and nongovernmental stake-
5 holders policy-relevant scientific information, re-
6 search products, decision tools, and technical sup-
7 port related to climate change impacts and adapta-
8 tion to such impacts, as provided in section 367; and

9 (3) advise Federal agencies on issues related to
10 climate change impacts and adaptation to such im-
11 pacts, including through the provision of technical
12 support to Federal agencies in the development of
13 agency climate change adaptation plans as required
14 under section 368.

15 **SEC. 366. NATIONAL CLIMATE CHANGE VULNERABILITY AS-**
16 **SESSMENTS.**

17 (a) IN GENERAL.—Not later than January 1, 2012,
18 and every 4 years thereafter, the Administrator of NOAA
19 shall publish and deliver to the President a National Cli-
20 mate Change Vulnerability Assessment evaluating regional
21 and national vulnerability to impacts of climate change,
22 strategies to adapt to such impacts, and priorities for fur-
23 ther research related to climate change impacts and adapt-
24 ive capacity.

25 (b) CONTENTS.—

1 (1) REGIONAL ASSESSMENTS.—Each National
2 Assessment shall include regional assessments for a
3 sufficient number of geographic regions within the
4 United States and its Territories to effectively ad-
5 dress specific climate change impacts at the regional
6 and State or territorial levels. Each regional assess-
7 ment shall—

8 (A) assess, at an appropriate geographic
9 scale, the nature and probability of predicted
10 short-term, medium-term, and long-term im-
11 pacts of climate change on human health and a
12 broad range of natural systems, resources, in-
13 frastructure, and social and economic sectors;

14 (B) provide a regionally prioritized list of
15 vulnerable systems and areas and an estimate
16 of the range of anticipated costs of climate
17 change impacts within the region;

18 (C) describe current efforts within the re-
19 gion to adapt to climate change impacts, in
20 areas such as public health, emergency re-
21 sponse, infrastructure and development, water
22 resource management, agriculture, forest man-
23 agement, and coastal management;

24 (D) identify gaps in current adaptation ef-
25 forts within the region, strategies to address

1 such gaps, and estimates of the costs of imple-
2 menting such strategies;

3 (E) describe current research, observation,
4 and monitoring activities focused on under-
5 standing regional climate change impacts and
6 adaptation to such impacts, as well as research
7 and data needs and priorities in these areas;

8 (F) assess the adequacy of existing mecha-
9 nisms for communication and coordination
10 within the region between Federal agencies and
11 regional, State, local, and tribal stakeholders
12 and recommend measures to enhance such com-
13 munication and coordination; and

14 (G) include any other information relevant
15 to understanding regional climate change im-
16 pacts and adaptation.

17 (2) NATIONAL SYNTHESIS.—Each National As-
18 sessment shall include a synthesis of the regional as-
19 sessments, including—

20 (A) a description of relevant research on
21 national-scale, international-scale, or global-
22 scale climate change impacts, vulnerabilities,
23 and adaptive strategies not addressed in the re-
24 gional assessments;

1 (B) based on the regional assessments, a
2 nationally prioritized list of vulnerable systems
3 and regions in the United States and a national
4 estimate of the range of costs of short-term,
5 medium-term, and long-term costs of predicted
6 climate change impacts;

7 (C) a nationally prioritized list of strate-
8 gies and actions to address climate change im-
9 pacts, including estimates of the costs of imple-
10 menting such strategies and actions and the ap-
11 propriate roles of relevant Federal Government
12 agencies;

13 (D) a description of priorities for devel-
14 oping Federal research, observation, and moni-
15 toring, and policy tools to meet the needs of
16 State and local decisionmakers identified in the
17 regional assessments;

18 (E) an assessment of the adequacy of ex-
19 isting mechanisms for communication and co-
20 ordination between Federal agencies and re-
21 gional, State, local, and tribal stakeholders and
22 recommendations for measures to enhance such
23 communication and coordination;

24 (F) a description of the progress made to-
25 wards achieving the objectives identified in the

1 prior National Assessment, except that such re-
2 quirement shall not apply to the first National
3 Assessment; and

4 (G) any other relevant results from the re-
5 gional assessments that have implications for
6 Federal climate change research, mitigation, or
7 adaptation efforts.

8 (c) METHODOLOGICAL AND PROCEDURAL REQUIRE-
9 MENTS.—

10 (1) CONSULTATION WITH COUNCIL.—In devel-
11 oping the National Assessments, the Administrator
12 of NOAA shall consult with the Council and shall
13 seek input and assistance from the Federal agencies
14 represented on the Council within their respective
15 areas of expertise.

16 (2) CONSULTATION WITH LOCAL, STATE, AND
17 REGIONAL STAKEHOLDERS.—In developing the Na-
18 tional Assessments, the Administrator of NOAA and
19 participating Federal agencies shall consult with
20 State, local, and tribal governments and nongovern-
21 mental stakeholders at the local, State, and regional
22 levels, to facilitate coordination of efforts and to
23 maximize the utility to local, State, regional, and
24 tribal decision makers of the information provided
25 by the National Assessment.

1 (3) BEST AVAILABLE SCIENCE.—The National
2 Assessments shall be based on the best scientific and
3 commercial data available.

4 (4) TREATMENT OF UNCERTAINTY.—To ensure
5 that scientific uncertainties are addressed through a
6 consistent methodology, all components of the Na-
7 tional Assessments shall follow either—

8 (A) the guidance on treatment of uncer-
9 tainty set forth in the Intergovernmental Panel
10 on Climate Change’s Guidance Notes for Lead
11 Authors of the IPCC Fourth Assessment Re-
12 port on Addressing Uncertainty; or

13 (B) such similar uniform guidelines on the
14 treatment of uncertainty as the Administrator
15 of NOAA may establish.

16 (5) UTILIZATION OF PRIOR RESEARCH AND AS-
17 SESSMENTS.—In developing the National Assess-
18 ments, the Administrator of NOAA shall, to the ex-
19 tent practicable, take into consideration research
20 and information contained in—

21 (A) the reports of the Intergovernmental
22 Panel on Climate Change;

23 (B) reports or research published by the
24 Global Change Research Program and the Cli-
25 mate Change Science Program; and

1 (C) any existing climate change adaptation
2 strategy, report, or assessment prepared by or
3 for a Federal, State, local, or tribal government
4 entity.

5 **SEC. 367. CLIMATE CHANGE ADAPTATION SERVICES.**

6 (a) NATIONAL CLIMATE SERVICE.—The Secretary of
7 Commerce, acting through the Administrator of NOAA,
8 shall establish within NOAA a National Climate Service
9 to serve as a clearinghouse to provide State, local, and
10 tribal government decisionmakers with access to regionally
11 and nationally relevant information, data, forecasts, and
12 services relating to climate change impacts and adaptation
13 to such impacts. The National Climate Service shall—

14 (1) develop and provide access to policy-relevant
15 climate information products, databases, decision
16 tools, and services for Federal, State, local, and trib-
17 al government decisionmakers and policymakers;

18 (2) provide technical assistance to Federal,
19 State, local, and tribal government efforts to assess
20 vulnerability to climate change impacts and develop
21 appropriate strategies and plans to reduce such vul-
22 nerability;

23 (3) facilitate communication and coordination
24 among Federal, State, local, and tribal stakeholders

1 with regard to climate change information and adap-
2 tation strategies; and

3 (4) undertake education and outreach initiatives
4 related to climate change impacts, vulnerabilities,
5 and the application of climate information in deci-
6 sionmaking.

7 (b) REGIONAL AND NATIONAL WORKSHOPS.—To fa-
8 cilitate information exchange, outreach, and coordination
9 of efforts on assessment of and adaptation to climate
10 change impacts, the Administrator of NOAA shall, during
11 each 4-year cycle during which a National Assessment is
12 being prepared (or, in the case of the first National As-
13 sessment, the period between the date of enactment of this
14 Act and January 1, 2012), convene—

15 (1) at least one stakeholder workshop in each
16 region identified by the National Assessment, to
17 which appropriate governmental and nongovern-
18 mental stakeholders from the region are invited; and

19 (2) at a date after all of the regional workshops
20 described in paragraph (1) have been completed, at
21 least one national-level workshop to which appro-
22 priate governmental and nongovernmental stake-
23 holders from all of the regions identified by the Na-
24 tional Assessments are invited.

1 (c) OBSERVATION AND MONITORING.—The Adminis-
2 trator of NOAA is authorized to deploy such observation
3 and monitoring systems, including remote sensing sys-
4 tems, as may be necessary to support the National Climate
5 Change Adaptation Program established under this sub-
6 title.

7 **SEC. 368. FEDERAL AGENCY CLIMATE CHANGE ADAPTA-**
8 **TION PLANS.**

9 (a) PUBLICATION AND REVIEW.—

10 (1) PRESIDENTIAL REVIEW.—Within 1 year
11 after the date of publication of each National As-
12 sessment, each Federal agency with representation
13 on the Council shall—

14 (A) complete an agency climate change ad-
15 aptation plan detailing the agency's current and
16 projected efforts to address the potential im-
17 pacts of climate change on matters within the
18 agency's jurisdiction; and

19 (B) submit such agency climate change ad-
20 aptation plan to the President for review.

21 (2) SUBMISSION TO CONGRESS.—Within 18
22 months after the date of publication of each Na-
23 tional Assessment, each Federal agency with rep-
24 resentation on the Council shall submit the agency
25 climate change adaptation plan described in para-

1 graph (1), as finalized following Presidential review,
2 to the House Committee on Energy and Commerce,
3 the Senate Committee on Environment and Public
4 Works, and the committees in the House of Rep-
5 resentatives and the Senate with principal jurisdic-
6 tion over the relevant agency.

7 (b) REQUIREMENTS.—Each agency climate change
8 adaptation plan shall include—

9 (1) a review of the current impacts of climate
10 change on matters within the agency’s jurisdiction;

11 (2) a review of anticipated future (short-term,
12 medium-term, and long-term) impacts of climate
13 change on matters within the agency’s jurisdiction,
14 including an assessment of the probability of such
15 impacts that follows the guidelines on treatment of
16 uncertainty established for the National Assess-
17 ments;

18 (3) a description of priorities, within the scope
19 of the agency’s jurisdiction, for building the adaptive
20 capacity of the United States and its territories;

21 (4) a review of the agency’s current efforts to
22 address climate change impacts on matters within
23 its jurisdiction, including a description of how cur-
24 rent and future impacts are being integrated into
25 agency decisionmaking and a description of budg-

1 etary and human resources dedicated to adaptation
2 to climate change;

3 (5) a description of initiatives that will be un-
4 dertaken to address climate change impacts on mat-
5 ters within the jurisdiction of the agency, includ-
6 ing—

7 (A) the strategic objectives of such initia-
8 tives;

9 (B) the resources that will be dedicated to
10 such initiatives;

11 (C) timelines for implementation; and

12 (D) benchmarks and methods for assessing
13 effectiveness;

14 (6) a description of current and proposed mech-
15 anisms to enhance cooperation on climate change ad-
16 aptation efforts with other Federal agencies and
17 with State, local, and tribal governments and non-
18 governmental stakeholders;

19 (7) an assessment of the agency's success in
20 meeting the objectives outlined in its most recent
21 agency climate change adaptation plan, except that
22 this paragraph shall not apply to the first agency cli-
23 mate change adaptation plan; and

1 (8) an estimate of the budgetary and human re-
2 sources needed to address climate change impacts on
3 matters within the jurisdiction of the agency.

4 **SEC. 369. FEDERAL FUNDING FOR STATE, LOCAL, AND**
5 **TRIBAL ADAPTATION PROJECTS.**

6 (a) ESTABLISHMENT OF PROGRAM.—Not later than
7 January 1, 2013, the President shall—

8 (1) directly, or through such Federal agency or
9 agencies as the President may designate, promulgate
10 regulations establishing an integrated program to
11 use funds in the National Climate Change Adapta-
12 tion Fund to provide financial assistance to State,
13 local, and tribal governments, individually or jointly,
14 for implementation of projects to reduce vulner-
15 ability to climate change impacts; and

16 (2) submit such regulations to the House Com-
17 mittee on Energy and Commerce, the Senate Com-
18 mittee on Environment and Public Works, and other
19 committees of relevant jurisdiction in the House of
20 Representatives and the Senate.

21 (b) CONSULTATION.—In promulgating the regula-
22 tions under subsection (a), the President, or such Federal
23 agency or agencies as the President may designate, shall—

24 (1) consult with the Administrator of NOAA
25 and the Council; and

1 (2) take into consideration the findings and rec-
2 ommendations of the most recent National Assess-
3 ment and any relevant agency climate change adap-
4 tation plans developed pursuant to section 368.

5 (c) REQUIREMENTS.—The regulations promulgated
6 under subsection (a) shall—

7 (1) identify the Federal agency or agencies to
8 be charged with administering each element of the
9 program, and any relevant information relating to
10 organization, governance, and respective responsibil-
11 ities under the program;

12 (2) identify priorities and objectives for building
13 State, local, and tribal governments' capacity to
14 adapt to climate change impacts through financial
15 support for State, local, and tribal projects;

16 (3) identify mechanisms, including grants or
17 loans, through which funds within the National Cli-
18 mate Change Adaptation Fund will be used to pro-
19 vide financial support for projects implemented by
20 State, local, or tribal governments;

21 (4) identify categories of projects eligible for
22 funding under the program, consistent with the re-
23 gional and national adaptation priorities identified in
24 the National Assessment;

1 (5) describe procedures for submission, evalua-
2 tion, and approval of project proposals;

3 (6) establish selection criteria for evaluating cli-
4 mate change adaptation project proposals submitted,
5 individually or jointly, by State, local, and tribal gov-
6 ernments, including consideration of environmental
7 impacts and cost-effectiveness in reducing vulner-
8 ability to climate change impacts;

9 (7) establish criteria for allocating funding
10 among different regions, States, localities, and In-
11 dian tribes, and among different project categories;

12 (8) establish criteria and mechanisms for re-
13 viewing project performance and for enforcing any
14 restrictions imposed as a condition of supporting an
15 approved project; and

16 (9) provide such other information regarding
17 implementation of the proposed program as the
18 President or the promulgating agency or agencies
19 consider appropriate.

20 (d) PROGRAM IMPLEMENTATION.—If, after the 1-
21 year period beginning on the date of submission of the
22 regulations under subsection (a), Congress has not en-
23 acted a statute codifying the program established by the
24 regulations or an alternative to such program, the agency

1 or agencies identified in the regulations pursuant to sub-
2 section (c)(1) shall implement the regulations.

3 (e) PERIODIC REVISIONS.—

4 (1) SUBMISSION OF REVISED REGULATIONS.—

5 If a program has been implemented pursuant to sub-
6 section (d), the President shall, not later than Janu-
7 ary 1 of the calendar year following the publication
8 of each subsequent National Assessment, promulgate
9 and submit to Congress revised regulations that—

10 (A) meet the requirements of subsection
11 (c); and

12 (B) reflect any relevant information or rec-
13 ommendations included in the most recent Na-
14 tional Assessment and relevant agency climate
15 change adaptation plans.

16 (2) IMPLEMENTATION OF REVISED REGULA-
17 TIONS.—If, after the 1-year period beginning on the
18 date of submission of any revised regulations under
19 paragraph (1), Congress has not enacted a statute
20 codifying the program established by revised regula-
21 tions or an alternative to such program, the agency
22 or agencies identified in the revised regulations
23 under subsection (c)(1) shall implement the revised
24 regulations.

Subtitle G—Natural Resource Conservation Fund

SEC. 371. PURPOSES.

The purposes of this subtitle are—

(1) to provide financial support for programs to protect natural resources, wildlife, and fisheries in the United States from the adverse impacts of climate change; and

(2) to invest in policies and measures that will reduce the economic, social, and environmental costs of climate change to the United States economy as a result of loss of ecosystem services.

SEC. 372. DEFINITIONS.

In this subtitle:

(1) **ADAPTATION ACTIVITIES.**—The term “adaptation activities” means activities (including research and education activities) that assist fish and wildlife, fish and wildlife habitat, plants, and associated ecological processes in adapting to and surviving the impacts of climate change and ocean acidification.

(2) **ECOLOGICAL PROCESS.**—

(A) **IN GENERAL.**—The term “ecological process” means a biological, chemical, or phys-

1 ical interaction between the biotic and abiotic
2 components of an ecosystem.

3 (B) INCLUSIONS.—The term “ecological
4 process” includes—

5 (i) nutrient cycling;

6 (ii) pollination;

7 (iii) predator-prey relationships;

8 (iv) soil formation;

9 (v) gene flow;

10 (vi) larval dispersal and settlement;

11 (vii) hydrological cycling;

12 (viii) decomposition; and

13 (ix) disturbance regimes, such as fire

14 and flooding.

15 (3) FISH AND WILDLIFE.—The term “fish and
16 wildlife” means—

17 (A) any species of wild fauna, including
18 fish and other aquatic species; and

19 (B) any fauna in a captive breeding pro-
20 gram the object of which is to reintroduce indi-
21 viduals of a species that is indigenous to the
22 United States and the populations of which are
23 depleted, into previously occupied range in the
24 United States.

1 (4) HABITAT.—The term “habitat” means the
2 physical, chemical, and biological properties (includ-
3 ing aquatic and terrestrial plant communities) that
4 are used by wildlife for growth, reproduction, and
5 survival, food, water, cover, and space in an area or
6 region.

7 (5) IMPERILED SPECIES.—The term “imperiled
8 species” means—

9 (A) a species listed as an endangered spe-
10 cies or threatened species under the Endan-
11 gered Species Act of 1973 (16 U.S.C. 1531 et
12 seq.);

13 (B) a species proposed for listing under
14 that Act;

15 (C) a candidate species under that Act;

16 (D) a species listed as an endangered spe-
17 cies under any State law; and

18 (E) a species, the population of which is
19 declining at a significant rate.

20 (6) INDIAN TRIBE.—The term “Indian tribe”
21 has the meaning given the term in section 4 of the
22 Indian Self-Determination and Education Assistance
23 Act (25 U.S.C. 450b).

24 (7) PLANT.—The term “plant” means any spe-
25 cies of wild flora.

1 (8) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (9) STATE.—The term “State” means—
4 (A) a State;
5 (B) the District of Columbia;
6 (C) the Commonwealth of Puerto Rico;
7 and
8 (D) any other territory or possession of the
9 United States.

10 **SEC. 373. USE OF AMOUNTS IN NATURAL RESOURCE CON-**
11 **SERVATION FUND.**

12 (a) AVAILABILITY OF AMOUNTS.—All amounts de-
13 posited in the Natural Resource Conservation Fund estab-
14 lished by section 722 of the Clean Air Act (as added by
15 section 101 of this Act) shall be available upon such de-
16 posit, without further appropriation or fiscal year limita-
17 tion, to carry out adaptation activities in accordance with
18 this section.

19 (b) DEPARTMENT OF THE INTERIOR.—Of the
20 amounts made available each fiscal year to carry out this
21 section—

22 (1) 35 percent shall be deposited in the Wildlife
23 Conservation and Restoration Account established
24 under section 3(a)(2) of the Pittman-Robertson
25 Wildlife Restoration Act (16 U.S.C. 669b(a)(2)), for

1 grants to States to carry out adaptation activities in
2 accordance with comprehensive State adaptation
3 strategies approved under subsection (j);

4 (2) 19 percent shall be allocated to the Sec-
5 retary for use in funding adaptation activities car-
6 ried out—

7 (A) under endangered species, migratory
8 bird, and other fish and wildlife programs ad-
9 ministered by the United States Fish and Wild-
10 life Service;

11 (B) on wildlife refuges and other public
12 land under the jurisdiction of the United States
13 Fish and Wildlife Service, the Bureau of Land
14 Management, or the National Park Service; or

15 (C) within Federal water managed by the
16 Bureau of Reclamation; and

17 (3) 5 percent shall be allocated to the Secretary
18 for adaptation activities carried out under coopera-
19 tive grant programs, including—

20 (A) the cooperative endangered species
21 conservation fund authorized under section 6(i)
22 of the Endangered Species Act of 1973 (16
23 U.S.C. 1535(i));

1 (B) programs under the North American
2 Wetlands Conservation Act (16 U.S.C. 4401 et
3 seq.);

4 (C) the multinational species conservation
5 fund established under the heading “MULTI-
6 NATIONAL SPECIES CONSERVATION
7 FUND” of title I of the Department of the In-
8 terior and Related Agencies Appropriations Act,
9 1999 (16 U.S.C. 4246);

10 (D) the Neotropical Migratory Bird Con-
11 servation Fund established by section 9(a) of
12 the Neotropical Migratory Bird Conservation
13 Act (16 U.S.C. 6108(a));

14 (E) the Coastal Program of the United
15 States Fish and Wildlife Service;

16 (F) the National Fish Habitat Action
17 Plan;

18 (G) the Partners for Fish and Wildlife
19 Program;

20 (H) the Landowner Incentive Program;

21 (I) the Wildlife Without Borders Program
22 of the United States Fish and Wildlife Service;
23 and

24 (J) the Park Flight Migratory Bird Pro-
25 gram of the National Park Service; and

1 (4) 1 percent shall be allocated to the Secretary
2 to provide financial assistance to Indian tribes to
3 carry out adaptation activities through the Tribal
4 Wildlife Grants Program of the United States Fish
5 and Wildlife Service.

6 (c) LAND AND WATER CONSERVATION FUND.—

7 (1) DEPOSITS.—

8 (A) IN GENERAL.—Of the amounts made
9 available for each fiscal year to carry out this
10 section, 10 percent shall be deposited into the
11 Land and Water Conservation Fund established
12 under section 2 of the Land and Water Con-
13 servation Fund Act of 1965 (16 U.S.C. 460l–
14 5).

15 (B) USE OF DEPOSITS.—Deposits into the
16 Land and Water Conservation Fund under this
17 subsection shall—

18 (i) be supplemental to authorizations
19 provided under section 3 of the Land and
20 Water Conservation Fund Act of 1965 (16
21 U.S.C. 460l–6) which shall remain avail-
22 able for nonadaptation needs; and

23 (ii) be available for expenditure to
24 carry out this section without further ap-
25 propriation or fiscal year limitation.

1 (2) ALLOCATIONS.—Of the amounts deposited
2 under this subsection into the Land and Water Con-
3 servation Fund—

4 (A) $\frac{1}{6}$ shall be allocated to the Secretary
5 and made available on a competitive basis to
6 carry out adaptation activities through the ac-
7 quisition of land and interests in land under
8 section 6 of the Land and Water Conservation
9 Fund Act of 1965 (16 U.S.C. 460l–8)—

10 (i) to States in accordance with com-
11 prehensive wildlife conservation strategies,
12 and to Indian tribes;

13 (ii) notwithstanding section 5 of that
14 Act (16 U.S.C. 460l–7); and

15 (iii) in addition to any funds provided
16 pursuant to—

17 (I) annual appropriations Acts;

18 (II) the Energy Policy Act of
19 2005 (42 U.S.C. 15801 et seq.); or

20 (III) any other authorization for
21 nonadaptation needs;

22 (B) $\frac{1}{3}$ shall be allocated to the Secretary
23 to carry out adaptation activities through the
24 acquisition of lands and interests in land under

1 section 7 of the Land and Water Conservation
2 Fund Act of 1965 (16 U.S.C. 460l–9);

3 (C) $\frac{1}{6}$ shall be allocated to the Secretary
4 of Agriculture and made available to the States
5 to carry out adaptation activities through the
6 acquisition of land and interests in land under
7 section 7 of the Forest Legacy Program under
8 the Cooperative Forestry Assistance Act of
9 1978 (16 U.S.C. 2103c); and

10 (D) $\frac{1}{3}$ shall be allocated to the Secretary
11 of Agriculture to carry out adaptation activities
12 through the acquisition of land and interests in
13 land under section 7 of the Land and Water
14 Conservation Fund Act of 1965 (16 U.S.C.
15 460l–9).

16 (3) EXPENDITURE OF FUNDS.—In allocating
17 funds under paragraph (2), the Secretary and the
18 Secretary of Agriculture shall take into consideration
19 factors including—

20 (A) the availability of non-Federal con-
21 tributions from State, local, or private sources;

22 (B) opportunities to protect wildlife cor-
23 ridors or otherwise to link or consolidate frag-
24 mented habitats;

1 (C) opportunities to reduce the risk of cat-
2 astrophic wildfires, extreme flooding, or other
3 climate-related events that are harmful to fish
4 and wildlife and people;

5 (D) the potential for conservation of spe-
6 cies or habitat types at serious risk due to cli-
7 mate change, ocean acidification, and other
8 stressors; and

9 (E) the potential to provide enhanced ac-
10 cess to land and water for fishing, hunting, and
11 other public recreational uses.

12 (d) FOREST SERVICE.—Of the amounts made avail-
13 able each fiscal year to carry out this section, 5 percent
14 shall be allocated to the Secretary of Agriculture for use
15 in funding adaptation activities carried out on national
16 forests and national grasslands under the jurisdiction of
17 the Forest Service, or pursuant to the cooperative Wings
18 Across the Americas Program.

19 (e) ENVIRONMENTAL PROTECTION AGENCY.—Of the
20 amounts made available each fiscal year to carry out this
21 section, 5 percent shall be allocated to the Administrator
22 for use in adaptation activities restoring and protecting—

23 (1) large-scale freshwater aquatic ecosystems,
24 such as the Everglades, the Great Lakes, Flathead
25 Lake, the Missouri River, the Mississippi River, the

1 Colorado River, the Sacramento-San Joaquin Rivers,
2 the Ohio River, the Columbia-Snake River System,
3 the Apalachicola, Chattahoochee, and Flint River
4 System, the Connecticut River, and the Yellowstone
5 River;

6 (2) large-scale estuarine ecosystems, such as
7 Chesapeake Bay, Long Island Sound, Puget Sound,
8 the Mississippi River Delta, the San Francisco Bay
9 Delta, Narragansett Bay, and Albemarle-Pamlico
10 Sound; and

11 (3) freshwater and estuarine ecosystems, water-
12 sheds, and basins identified as priorities by the Ad-
13 ministrator, working in cooperation with other Fed-
14 eral agencies, States, local governments, scientists,
15 and other conservation partners.

16 (f) CORPS OF ENGINEERS.—Of the amounts made
17 available annually to carry out this section, 10 percent
18 shall be available to the Secretary of the Army for use
19 by the Corps of Engineers to carry out adaptation activi-
20 ties restoring—

21 (1) large-scale freshwater aquatic ecosystems,
22 such as the ecosystems described in subsection
23 (e)(1);

24 (2) large-scale estuarine ecosystems, such as
25 the ecosystems described in subsection (e)(2);

1 (3) freshwater and estuarine ecosystems, water-
2 sheds, and basins identified as priorities by the
3 Corps of Engineers, working in cooperation with
4 other Federal agencies, States, local governments,
5 scientists, and other conservation partners; and

6 (4) habitats and ecosystems through the imple-
7 mentation of estuary habitat restoration projects au-
8 thorized by the Estuary Restoration Act of 2000 (33
9 U.S.C. 2901 et seq.), project modifications for im-
10 provement of the environment, aquatic restoration
11 and protection projects authorized by section 206 of
12 the Water Resources Development Act of 1996 (33
13 U.S.C. 2330), and other appropriate programs and
14 activities.

15 (g) DEPARTMENT OF COMMERCE.—Of the amounts
16 made available each fiscal year to carry out this section,
17 10 percent shall be allocated to the Secretary of Commerce
18 for use in funding adaptation activities to protect, main-
19 tain, and restore coastal, estuarine, and marine resources,
20 habitats, and ecosystems, including such activities carried
21 out under—

22 (1) the coastal and estuarine land conservation
23 program;

24 (2) the community-based restoration program;

1 (3) the Coastal Zone Management Act of 1972
2 (16 U.S.C. 1451 et seq.), that State coastal agencies
3 shall incorporate in accordance with coastal zone
4 management plan elements that are—

5 (A) developed by a coastal state and ap-
6 proved by the Secretary of Commerce in accord-
7 ance with section 306 of the Coastal Zone Man-
8 agement Act of 1972 (16 U.S.C. 1455);

9 (B) consistent with the national adaptation
10 strategy established by the President under
11 subsection (i); and

12 (C) specifically designed to strengthen the
13 ability of coastal, estuarine, and marine re-
14 sources, habitats, and ecosystems to adapt to
15 and withstand the impacts of—

16 (i) global warming; and

17 (ii) where practicable, ocean acidifica-
18 tion;

19 (4) the Open Rivers Initiative;

20 (5) the Magnuson-Stevens Fishery Conservation
21 and Management Act (16 U.S.C. 1801 et seq.);

22 (6) the Marine Mammal Protection Act of 1972
23 (16 U.S.C. 1361 et seq.);

24 (7) the Endangered Species Act of 1973 (16
25 U.S.C. 1531 et seq.);

1 (8) the Marine Protection, Research, and Sanc-
2 tuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

3 (9) the Coral Reef Conservation Act of 2000
4 (16 U.S.C. 6401 et seq.).

5 (h) COST SHARING.—Notwithstanding any other pro-
6 vision of law, a State or Indian tribe that receives a grant
7 under paragraph (1) or (4) of subsection (b) shall use
8 funds from non-Federal sources to pay 10 percent of the
9 costs of each activity carried out using amounts under the
10 grant.

11 (i) NATIONAL ADAPTATION STRATEGY.—

12 (1) IN GENERAL.—Funds made available under
13 paragraphs (2), (3), and (4) of subsection (b) and
14 subsections (c) through (g) shall be used only for ad-
15 aptation activities that are consistent with the na-
16 tional adaptation strategy developed by the Presi-
17 dent under this subsection.

18 (2) NATIONAL ADAPTATION STRATEGY.—

19 (A) IN GENERAL.—Not later than 3 years
20 after the date of enactment of this Act, the
21 President shall develop and implement a na-
22 tional adaptation strategy for assisting fish and
23 wildlife, fish and wildlife habitat, plants, and
24 associated ecological processes in becoming

1 more resilient and adapting to the impacts of
2 climate change and ocean acidification.

3 (B) ADMINISTRATION.—In establishing
4 and revising the national adaptation strategy,
5 the President shall—

6 (i) base the strategy on the best avail-
7 able science, as identified by the Science
8 Advisory Board established under subpara-
9 graph (D);

10 (ii) develop the strategy in coordina-
11 tion with the National Climate Change Ad-
12 aptation Program established under sub-
13 title F of this title;

14 (iii) develop the strategy in coopera-
15 tion with State fish and wildlife agencies,
16 State coastal agencies, United States terri-
17 tories, and Indian tribes;

18 (iv) coordinate with the Secretary of
19 the Interior, the Secretary of Commerce,
20 the Secretary of Agriculture, the Secretary
21 of Defense, the Administrator of the Envi-
22 ronmental Protection Agency, and other
23 agencies as appropriate;

1 (v) consult with local governments,
2 conservation organizations, scientists, and
3 other interested stakeholders; and

4 (vi) provide public notice and oppor-
5 tunity for comment.

6 (C) CONTENTS.—The President shall in-
7 clude in the national adaptation strategy, at a
8 minimum, prioritized goals and measures and a
9 schedule for implementation—

10 (i) to identify and monitor fish and
11 wildlife, fish and wildlife habitat, plants,
12 and associated ecological processes that are
13 particularly likely to be adversely affected
14 by climate change and ocean acidification
15 and have the greatest need for conserva-
16 tion;

17 (ii) to identify and monitor coastal,
18 estuarine, marine, terrestrial, and fresh-
19 water habitats that are at the greatest risk
20 of being damaged by climate change and
21 ocean acidification;

22 (iii) to assist species in adapting to
23 the impacts of climate change and ocean
24 acidification;

1 (iv) to protect, acquire, maintain, and
2 restore fish and wildlife habitat to build re-
3 silience to climate change and ocean acidi-
4 fication;

5 (v) to provide habitat linkages and
6 corridors to facilitate fish, wildlife, and
7 plant movement in response to climate
8 change and ocean acidification;

9 (vi) to restore and protect ecological
10 processes that sustain fish, wildlife, and
11 plant populations that are vulnerable to cli-
12 mate change and ocean acidification;

13 (vii) to protect, maintain, and restore
14 coastal, marine, and aquatic ecosystems so
15 that the ecosystems are more resilient and
16 better able to withstand the further
17 stresses associated with climate change, in-
18 cluding relative sea level rise and ocean
19 acidification;

20 (viii) to protect ocean and coastal spe-
21 cies from the impact of climate change and
22 ocean acidification;

23 (ix) to incorporate adaptation strate-
24 gies and activities to address relative sea
25 level rise in coastal zone planning;

1 (x) to protect, maintain, and restore
2 ocean and coastal habitats to build healthy
3 and resilient ecosystems, including the pur-
4 chase of coastal and island land; and

5 (xi) to incorporate consideration of cli-
6 mate change and ocean acidification, and
7 to integrate adaptation strategies and ac-
8 tivities for fish and wildlife, fish and wild-
9 life habitat, plants, and associated ecologi-
10 cal processes, in the planning and manage-
11 ment of Federal land and water adminis-
12 tered by the Federal agencies that receive
13 funding under this section.

14 (D) SCIENCE ADVISORY BOARD.—

15 (i) ESTABLISHMENT.—Not later than
16 180 days after the date of enactment of
17 this Act, the Secretary shall establish and
18 appoint the members of a Science Advisory
19 Board, to be comprised of not fewer than
20 10 and not more than 20 members—

21 (I) at least $\frac{3}{4}$ of whom are rec-
22 ommended by the President of the
23 National Academy of Sciences;

24 (II) who have expertise in fish,
25 wildlife, plant, aquatic, and coastal

1 and marine biology, ecology, climate
2 change, ocean acidification, and other
3 relevant scientific disciplines; and

4 (III) who represent a balanced
5 membership among Federal, State,
6 and local representatives, universities,
7 and conservation organizations.

8 (ii) DUTIES.—The Science Advisory
9 Board shall—

10 (I) advise the President and rel-
11 evant Federal agencies and depart-
12 ments on—

13 (aa) the best available
14 science regarding the impacts of
15 climate change and ocean acidifi-
16 cation on fish and wildlife, habi-
17 tat, plants, and associated eco-
18 logical processes; and

19 (bb) scientific strategies and
20 mechanisms for adaptation; and

21 (II) identify and recommend pri-
22 orities for ongoing research needs on
23 those issues.

24 (iii) COLLABORATION.—The Science
25 Advisory Board shall collaborate with other

1 climate change and ecosystem research en-
2 tities in other Federal agencies and depart-
3 ments.

4 (iv) AVAILABILITY TO PUBLIC.—The
5 advice and recommendations of the Science
6 Advisory Board shall be made available to
7 the public.

8 (v) NONAPPLICABILITY OF FACA.—
9 The Federal Advisory Committee Act (5
10 U.S.C. App.) shall not apply to the Science
11 Advisory Board.

12 (E) COORDINATION WITH OTHER PLANS.—
13 In developing and revising the national adapta-
14 tion strategy, the President shall, to the max-
15 imum extent practicable—

16 (i) take into consideration research
17 and information contained in—

18 (I) National Climate Change Vul-
19 nerability Assessments developed
20 under section 366 of this Act;

21 (II) State comprehensive wildlife
22 conservation plans;

23 (III) the North American water-
24 fowl management plan;

1 (IV) the national fish habitat ac-
2 tion plan;

3 (V) coastal zone management
4 plans;

5 (VI) the reports of the Pew
6 Oceans Commission and the United
7 States Commission on Ocean Policy;
8 and

9 (VII) other relevant plans; and

10 (ii) coordinate and integrate the goals
11 and measures identified in the national
12 strategy with the goals and measures iden-
13 tified in those plans.

14 (F) REVISIONS.—Not later than 4 years
15 after the date on which the national adaptation
16 strategy is developed, and not less frequently
17 than every 4 years thereafter, the President
18 shall review and update the strategy using the
19 procedures described in this paragraph.

20 (j) STATE COMPREHENSIVE ADAPTATION STRATE-
21 GIES.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), funds made available to States under this
24 subtitle shall be used only for activities that are con-

1 sistent with a State strategy that has been approved
2 by—

3 (A) the Secretary of the Interior; and

4 (B) for any State with a coastal zone (as
5 that term is used in the Coastal Zone Manage-
6 ment Act of 1972 (16 U.S.C. 1451 et seq.)),
7 the Secretary of Commerce, with respect to por-
8 tions of the strategy relating to activities affect-
9 ing the coastal zone.

10 (2) INITIAL PERIOD.—

11 (A) IN GENERAL.—Until the earlier of the
12 date that is 3 years after the date of enactment
13 of this Act or the date on which a State re-
14 ceives approval for a State strategy from the
15 Secretary of the Interior and the Secretary of
16 Commerce in accordance with paragraph (1), a
17 State shall be eligible to receive funding under
18 subsection (b)(1) for adaptation activities that
19 are—

20 (i) consistent with the Comprehensive
21 Wildlife Conservation Strategy of the State
22 as approved by the Director of the United
23 States Fish and Wildlife Service and,
24 where appropriate, other fish, wildlife and
25 conservation strategies; and

1 (ii) in accordance with a workplan de-
2 veloped by the State in coordination with—

3 (I) the Secretary of the Interior;
4 and

5 (II) for any State with a coastal
6 zone (as that term is used in the
7 Coastal Zone Management Act of
8 1972 (16 U.S.C. 1451 et seq.)), the
9 Secretary of Commerce with respect
10 to portions of the strategy relating to
11 activities affecting the coastal zone.

12 (B) PENDING APPROVAL.—During the pe-
13 riod for which approval by the applicable Sec-
14 retary of a State strategy described in para-
15 graph (3) is pending, the State may continue
16 receiving funds under subsection (b)(1) pursu-
17 ant to the workplan described subparagraph
18 (A)(ii).

19 (3) REQUIREMENTS.—To be eligible for ap-
20 proval by the Secretary of the Interior and the Sec-
21 retary of Commerce under this section, a State
22 strategy must—

23 (A) describe the impacts of climate change
24 and ocean acidification on the diversity and
25 health of the fish, wildlife and plant popu-

1 lations, habitats, and associated ecological proc-
2 esses;

3 (B) describe and prioritize proposed con-
4 servation actions to assist fish, wildlife, and
5 plant populations in adapting to those impacts;

6 (C) establish programs for monitoring the
7 impacts of climate change on fish, wildlife, and
8 plant populations, habitats, and associated eco-
9 logical processes;

10 (D) include strategies, specific conservation
11 actions, and a timeframe for implementing con-
12 servation actions for fish, wildlife, and plant
13 populations, habitats, and associated ecological
14 processes;

15 (E) establish methods for assessing the ef-
16 fectiveness of conservation actions taken to as-
17 sist fish, wildlife, and plant populations, habi-
18 tats, and associated ecological processes in
19 adapting to those impacts and for updating
20 those actions to respond appropriately to new
21 information or changing conditions;

22 (F) be developed—

23 (i) with the participation of the State
24 fish and wildlife agency, the State agency
25 responsible for administration of Land and

1 Water Conservation Fund grants, the
2 State Forest Legacy program coordinator,
3 and the State coastal agency; and

4 (ii) in coordination with the Secretary
5 of the Interior and, where applicable, the
6 Secretary of Commerce;

7 (G) provide for solicitation and consider-
8 ation of public and independent scientific input;

9 (H) take into consideration research and
10 information contained in, and coordinate with
11 and integrate the goals and measures identified
12 in, as appropriate, other fish, wildlife, and habi-
13 tat conservation strategies, including—

14 (i) the national fish habitat action
15 plan;

16 (ii) plans under the North American
17 Wetlands Conservation Act (16 U.S.C.
18 4401 et seq.);

19 (iii) the Federal, State, and local part-
20 nership known as “Partners in Flight”;

21 (iv) federally approved coastal zone
22 management plans under the Coastal Zone
23 Management Act of 1972 (16 U.S.C. 1451
24 et seq.);

1 (v) regional fishery management plans
2 and habitat conservation activities under
3 the Magnuson-Stevens Fishery Conserva-
4 tion and Management Act (16 U.S.C. 1801
5 et seq.);

6 (vi) the National Action Plan to Con-
7 serve Coral Reefs developed by the United
8 States Coral Reef Task Force;

9 (vii) recovery plans for threatened
10 species and endangered species under sec-
11 tion 4(f) of the Endangered Species Act of
12 1973 (16 U.S.C. 1533(f));

13 (viii) habitat conservation plans under
14 section 10 of that Act (16 U.S.C. 1539);

15 (ix) other Federal and State plans for
16 imperiled species;

17 (x) the United States shorebird con-
18 servation plan;

19 (xi) the North American waterbird
20 conservation plan; and

21 (xii) other State-based strategies that
22 comprehensively implement adaptation ac-
23 tivities to remediate the effects of climate
24 change and ocean acidification on fish,
25 wildlife, and habitats; and

1 (I) be incorporated into a revision of the
2 Comprehensive Wildlife Conservation Strategy
3 of a State—

4 (i) that has been submitted to the
5 United States Fish and Wildlife Service;
6 and

7 (ii)(I) that has been approved by the
8 Service; or

9 (II) on which a decision on approval is
10 pending.

11 (4) UPDATING.—Each State strategy approved
12 by the Secretary of the Interior and the Secretary
13 of Commerce must be updated at least every 5
14 years.

15 **Subtitle H—Climate Change Edu-**
16 **cation and Centers for Excel-**
17 **lence**

18 **SEC. 381. PURPOSES.**

19 The purposes of this subtitle are—

20 (1) to promote citizen awareness of climate
21 change, including the causes and impacts of climate
22 change and greenhouse gas reduction strategies, by
23 supporting the development and implementation of
24 informal and formal public education initiatives in
25 this area; and

1 (2) to establish national centers for excellence
2 to encourage collaborative research, information-
3 sharing, and public education and outreach in a va-
4 riety of issue areas relating to climate change.

5 **SEC. 382. FUNDING.**

6 For purposes of this subtitle, the term “Climate
7 Change Education and Outreach Fund” means the Cli-
8 mate Change Education and Outreach Fund established
9 under section 722 of the Clean Air Act (as added by sec-
10 tion 101 of this Act). Funds deposited in the Climate
11 Change Education and Outreach Fund shall be available,
12 without further appropriation or fiscal year limitation, to
13 carry out this subtitle.

14 **SEC. 383. NATIONAL SCIENCE FOUNDATION CLIMATE**
15 **CHANGE EDUCATION PROGRAMS.**

16 (a) **ALLOCATION.**—In each of fiscal years 2010
17 through 2050, the Director of the National Science Foun-
18 dation shall use 30 percent of the funds deposited in the
19 Climate Change Education and Outreach Fund to carry
20 out this section. Funding provided under this section shall
21 be in addition to any funding that is otherwise authorized
22 or appropriated.

23 (b) **PROGRAM.**—

1 (1) ESTABLISHMENT.—The Director of the Na-
2 tional Science Foundation shall establish a Climate
3 Change Education Program to—

4 (A) broaden public understanding of cli-
5 mate change, possible long-term and short-term
6 consequences, and potential solutions;

7 (B) apply the latest scientific and techno-
8 logical discoveries to provide formal and infor-
9 mal learning opportunities to people of all ages,
10 including those of diverse cultural and linguistic
11 backgrounds; and

12 (C) emphasize actionable information to
13 help people understand and to promote imple-
14 mentation of new technologies, programs, and
15 incentives related to energy conservation, re-
16 newable energy, and greenhouse gas reduction.

17 (2) PROGRAM ELEMENTS.—The Climate
18 Change Education Program shall include—

19 (A) a national information campaign to
20 disseminate information on and promote imple-
21 mentation of the new technologies, programs,
22 and incentives described in paragraph (1)(C);
23 and

24 (B) a competitive grant program to provide
25 grants to State and local governments, edu-

1 cational institutions, and other organizations
2 to—

3 (i) create informal education mate-
4 rials, exhibits, and multimedia presen-
5 tations relevant to climate change and cli-
6 mate science;

7 (ii) develop climate science kinder-
8 garten through grade 12 curriculum and
9 supplementary educational materials; or

10 (iii) publish climate change and cli-
11 mate science information in print, elec-
12 tronic, and audio-visual forms.

13 **SEC. 384. ENVIRONMENTAL PROTECTION AGENCY CLIMATE**
14 **CHANGE EDUCATION PROGRAM.**

15 In each of fiscal years 2010 through 2050, the Ad-
16 ministrator shall use 10 percent of the funds deposited
17 in the Climate Change Education and Outreach Fund to
18 develop educational materials related to climate change,
19 climate science, and greenhouse gas reduction strategies
20 for use by educators, kindergarten through grade 12 stu-
21 dents, businesses, communities, and the general public.

22 **SEC. 385. CLIMATE CHANGE CENTERS FOR EXCELLENCE.**

23 (a) IN GENERAL.—In each of fiscal years 2010
24 through 2050, the President, through such Federal agency
25 or agencies as the President may designate, shall use 60

1 percent of the funds deposited during the fiscal year in
2 the Climate Change Education and Outreach Fund to pro-
3 vide cost-sharing grants to support the establishment and
4 maintenance of centers for excellence in accordance with
5 this section.

6 (b) TYPES OF CENTERS.—Grants shall be provided
7 to eligible entities to establish and maintain one or more
8 centers for excellence focusing on each of the following
9 areas:

10 (1) Climate change science, including scientific
11 assessment of the effectiveness of public policies re-
12 lated to climate change.

13 (2) Renewable energy technologies and policies.

14 (3) Energy efficiency technologies and policies.

15 (4) Policies to reduce vehicle miles traveled.

16 (5) Greenhouse gas management in the agri-
17 culture and forestry sectors.

18 (6) Adaptation to adverse impacts of climate
19 change, including impacts on public health, public
20 infrastructure, agriculture, and conservation of nat-
21 ural resources.

22 (c) FUNCTIONS.—Each center for excellence receiving
23 assistance under this section shall, with respect to such
24 center's designated focus—

1 (1) serve as a national clearinghouse for infor-
2 mation and best-practices;

3 (2) develop and implement public education and
4 outreach initiatives, including training and technical
5 assistance where appropriate; and

6 (3) provide a forum for communication and col-
7 laboration among governmental and nongovern-
8 mental stakeholders and researchers.

9 (d) ELIGIBLE ENTITIES.—Entities eligible to receive
10 grants to establish centers for excellence under this section
11 shall be limited to—

12 (1) colleges and universities located in the
13 United States; and

14 (2) not-for-profit nongovernmental organiza-
15 tions headquartered in the United States.

16 (e) REGULATIONS; SELECTION CRITERIA.—The
17 agency or agencies to which the President delegates au-
18 thority to provide grants under this section shall, not later
19 than January 1, 2010, promulgate regulations providing
20 for the implementation of this section. Such regulations
21 shall include objective criteria for the competitive selection
22 of grant recipients under this section.

**TITLE IV—ENCOURAGING
GLOBAL ACTION
Subtitle A—International Forest
Protection Fund**

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) land-use change and forest sector emissions account for approximately 20 percent of global greenhouse gas emissions;

(2) land conversion and deforestation are 2 of the largest sources of greenhouse gas emissions in the developing world, amounting to roughly 40 percent of the total greenhouse gas emissions of the developing world;

(3) with sufficient data, deforestation rates and forest carbon stocks can be measured with an acceptable level of uncertainty; and

(4) land conversion and deforestation in the developing world have significant adverse environmental and social impacts not related to climate, including loss of ecosystem services, biodiversity, and forest-related livelihoods.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide financial incentives to developing countries to encourage—

1 (A) reductions in deforestation and forest
2 degradation; and

3 (B) increases in sequestration of carbon
4 through afforestation, restoration of forests and
5 degraded land that had not been forested prior
6 to restoration, and improved forest manage-
7 ment; and

8 (2) to provide such incentives in a manner that
9 will—

10 (A) achieve substantial and cost-effective
11 reductions in global greenhouse gas emissions;

12 (B) encourage participation by developing
13 countries in greenhouse gas limitation regimes;
14 and

15 (C) secure nonclimate environmental and
16 social benefits, including conservation of forest
17 ecosystems and biodiversity and protection of
18 the livelihoods and cultural resources of indige-
19 nous and other forest-dependent people in de-
20 veloping countries.

21 **SEC. 402. DEFINITIONS.**

22 In this subtitle:

23 (1) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means—

1 (A) the Committees on Energy and Com-
2 merce and Foreign Affairs of the House of Rep-
3 resentatives; and

4 (B) the Committees on Environment and
5 Public Works, Energy and Natural Resources,
6 and Foreign Relations of the Senate.

7 (2) FOREST CARBON ACTIVITIES.—The term
8 “forest carbon activities” means activities in devel-
9 oping countries that are directed at—

10 (A) reducing greenhouse gas emissions
11 from deforestation and forest degradation; and

12 (B) increasing sequestration of carbon
13 through afforestation, restoration of forests and
14 degraded land that had not been forested prior
15 to restoration, and improved forest manage-
16 ment.

17 **SEC. 403. FUNDING.**

18 (a) IN GENERAL.—The Administrator, in consulta-
19 tion with the Secretary of State, is authorized to provide
20 assistance from the International Forest Protection Fund,
21 established under section 722 of the Clean Air Act (as
22 added by section 101 of this Act), in accordance with this
23 subtitle. Amounts deposited in the International Forest
24 Protection Fund shall be available for expenditure, with-

1 out further appropriation or fiscal year limitation, to carry
2 out this subtitle.

3 (b) DISTRIBUTION OF ASSISTANCE.—

4 (1) IN GENERAL.—The Administrator shall dis-
5 tribute assistance from the International Forest Pro-
6 tection Fund—

7 (A) directly;

8 (B) through agreements with the Inter-
9 national Bank for Reconstruction and Develop-
10 ment (commonly known as the World Bank) or
11 another international development institution;

12 (C) through an international fund created
13 pursuant to the United Nations Framework
14 Convention on Climate Change, done at New
15 York on May 9, 1992, or an agreement nego-
16 tiated under such convention; or

17 (D) through some combination of the
18 mechanisms identified in subparagraphs (A)
19 through (C).

20 (2) DISTRIBUTION THROUGH INTERNATIONAL
21 INSTITUTION OR FUND.—If assistance is distributed
22 through an international institution or fund, as au-
23 thorized in paragraph (1), the Administrator shall
24 ensure the establishment and implementation of ade-
25 quate mechanisms to apply and enforce the eligi-

1 bility requirements in section 404 and other require-
2 ments of this subtitle.

3 **SEC. 404. ELIGIBILITY REQUIREMENTS AND STANDARDS**
4 **FOR FOREST CARBON ACTIVITIES.**

5 Not later than January 1, 2010, the Administrator,
6 in consultation with the Secretary of State and the Sec-
7 retary of Agriculture, shall promulgate eligibility require-
8 ments and accounting, measurement, monitoring, and
9 verification standards for forest carbon activities, includ-
10 ing requirements—

11 (1) for the establishment and periodic updating
12 of national-level greenhouse gas emissions and bio-
13 logical sequestration reference scenarios for the for-
14 est sector;

15 (2) ensuring that forest carbon activities
16 achieve reductions in greenhouse gas emissions or
17 increases in sequestration of carbon that are real,
18 permanent, additional, verifiable, and enforceable;

19 (3) ensuring reliable measurement, monitoring,
20 and verification of emission reductions or increases
21 in biological sequestration;

22 (4) ensuring appropriate accounting for any
23 significant increases in greenhouse gas emissions or
24 decreases in biological sequestration directly or indi-
25 rectly caused by forest carbon activities;

1 (5) providing for discounting of emission reduc-
2 tions or increases in biological sequestration based
3 on uncertainty;

4 (6) that forest carbon activities be carried out
5 and managed—

6 (A) in accordance with widely accepted en-
7 vironmentally sustainable forestry practices;
8 and

9 (B) with appropriate regard for the rights
10 and interests of indigenous peoples and commu-
11 nities that reside in, or depend on, forests; and

12 (7) that forest carbon activities be designed—

13 (A) to promote native species and restora-
14 tion of native forests, where practicable; and

15 (B) to avoid the introduction of invasive
16 nonnative species.

17 **SEC. 405. ASSISTANCE FOR FOREST CARBON ACTIVITIES.**

18 (a) **ELIGIBLE COUNTRIES.**—The Administrator, in
19 consultation with the Secretary of State, shall identify and
20 periodically update a list of developing countries that
21 have—

22 (1) demonstrated capacity to participate in for-
23 est carbon activities, including—

24 (A) sufficient historical data on changes in
25 national forest carbon stocks;

1 (B) technical capacity to monitor and
2 measure forest carbon fluxes with an acceptable
3 level of uncertainty; and

4 (C) institutional capacity to reduce emis-
5 sions from deforestation and degradation;

6 (2) established a national greenhouse gas emis-
7 sion reference scenario based on historical data; and

8 (3) commenced a greenhouse gas emission re-
9 duction program for the forest sector.

10 (b) REQUIREMENTS FOR ASSISTANCE.—Countries on
11 the list established under subsection (a) shall be eligible
12 for assistance under this section for the achievement,
13 through forest carbon activities implemented in accord-
14 ance with the requirements established under section 404,
15 of—

16 (1) national-level net reductions in greenhouse
17 gas emissions from reduced deforestation and forest
18 degradation, as demonstrated using remote sensing
19 technology that meets international standards; and

20 (2) national-level net increases in sequestration
21 of carbon through afforestation, restoration of for-
22 ests and degraded land that had not been forested
23 prior to restoration, and improved forest manage-
24 ment.

1 (c) VERIFICATION OF ACHIEVEMENTS.—The Admin-
2 istrator, in consultation with the Secretary of State, shall
3 periodically review relevant data and make determinations
4 regarding achievements under subsection (b).

5 (d) LEVEL OF ASSISTANCE.—The Administrator
6 shall establish a formula governing the distribution of as-
7 sistance under this section, which shall be designed to—

8 (1) maximize the reductions in greenhouse gas
9 emissions or increases in biological sequestration per
10 dollar of assistance provided; and

11 (2) take into account past actions in each eligi-
12 ble country to reduce greenhouse gas emissions or
13 increase biological sequestration, so as not to penal-
14 ize countries that have taken early action.

15 **SEC. 406. CAPACITY-BUILDING GRANTS.**

16 (a) IN GENERAL.—For fiscal years 2010 through
17 2020, the Administrator may use up to 40 percent of
18 funds deposited in the International Forest Protection
19 Fund to provide cost-sharing grants to build the capacity
20 of developing countries not included in the list established
21 under section 405(a) to carry out forest carbon activities
22 otherwise eligible for assistance under section 405.

23 (b) NATURE OF ASSISTANCE.—Cost-sharing grants
24 provided under this section may be used to assist recipient
25 countries to—

1 (1) develop and demonstrate capacity to carry
2 out eligible forest carbon activities, including
3 through—

4 (A) development of sufficient historical
5 data on changes in national forest carbon
6 stocks;

7 (B) development of technical capacity to
8 measure and monitor forest carbon fluxes with
9 an acceptable level of uncertainty; and

10 (C) development of institutional capacity to
11 reduce emissions from deforestation and forest
12 degradation;

13 (2) establish a national greenhouse gas emission
14 reference scenario based on historical data; and

15 (3) commence an emission reduction program
16 for the forest sector.

17 **SEC. 407. ANNUAL REPORTS.**

18 Not later than March 1, 2012, and annually there-
19 after, the President shall submit to the appropriate con-
20 gressional committees a report on the assistance provided
21 under this subtitle during the prior fiscal year. The report
22 shall include—

23 (1) a description of the amount of obligations
24 and expenditures for assistance provided to each eli-
25 gible country during the prior fiscal year;

1 (2) a description of the forest carbon activities
2 and capacity-building activities funded through as-
3 sistance provided under this subtitle, including the
4 amount of obligations and expenditures for assist-
5 ance provided to such activities, during the prior fis-
6 cal year; and

7 (3) an estimate of the greenhouse gas emission
8 reductions or biological sequestration achieved by as-
9 sistance provided under this subtitle during the prior
10 fiscal year.

11 **Subtitle B—International Clean** 12 **Technology Fund**

13 **SEC. 411. PURPOSES.**

14 The purposes of this subtitle are—

15 (1) to provide United States assistance to en-
16 courage widespread deployment, in developing coun-
17 tries, of technologies that reduce greenhouse gas
18 emissions; and

19 (2) to provide such assistance in a manner that
20 encourages such countries to adopt policies and
21 measures that substantially reduce emissions of
22 greenhouse gases.

23 **SEC. 412. DEFINITIONS.**

24 In this subtitle:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committees on Energy and Com-
5 merce and Foreign Affairs of the House of Rep-
6 resentatives; and

7 (B) the Committees on Environment and
8 Public Works, Energy and Natural Resources,
9 and Foreign Relations of the Senate.

10 (2) COMPARABLE ACTION.—The term “com-
11 parable action” has the meaning given such term in
12 section 761(1) of the Clean Air Act (as added by
13 section 101 of this Act).

14 (3) ELIGIBLE COUNTRY.—The term “eligible
15 country” means a foreign country that is determined
16 by the President, under section 414, to be eligible to
17 receive assistance from the International Clean
18 Technology Fund.

19 (4) INTERAGENCY GROUP.—The term “inter-
20 agency group” means the group established by the
21 President under section 413(a) to administer the
22 International Clean Technology Fund.

23 (5) INTERNATIONAL CLEAN TECHNOLOGY
24 FUND.—The term “International Clean Technology
25 Fund” means the International Clean Technology

1 Fund established under section 722 of the Clean Air
2 Act (as added by section 101 of this Act).

3 **SEC. 413. INTERAGENCY GROUP.**

4 (a) INTERAGENCY GROUP.—The President shall es-
5 tablish an interagency group to administer the Inter-
6 national Clean Technology Fund. The interagency group
7 shall include—

8 (1) the Secretary of State;

9 (2) the Administrator;

10 (3) the Secretary of Energy;

11 (4) the Secretary of the Treasury; and

12 (5) any other head of a Federal department or
13 agency the President determines to be appropriate.

14 (b) CHAIRPERSON.—The Secretary of State shall
15 serve as the chairperson of the interagency group.

16 **SEC. 414. DETERMINATION OF ELIGIBLE COUNTRIES.**

17 (a) PUBLICATION AND REVISION OF LIST.—Not later
18 than January 1, 2011, and annually thereafter through
19 2050, the President shall determine and publish in the
20 Federal Register a list of countries eligible for assistance
21 under this subtitle.

22 (b) CRITERIA FOR ELIGIBILITY.—The criteria for
23 designation as an eligible country shall include the fol-
24 lowing:

25 (1) The country is a developing country.

1 (2) The country is responsible for at least 1
2 percent of annual global greenhouse gas emissions,
3 excluding emissions from land-use, land-use change,
4 and forestry.

5 (3) The President has determined, pursuant to
6 section 764(b) of the Clean Air Act (as added by
7 section 101 of this Act), that the country has taken
8 comparable action.

9 (4) Such other criteria as the President deter-
10 mines will serve the purposes of this Act or other
11 United States foreign policy and national security
12 objectives.

13 **SEC. 415. FUNDING.**

14 (a) IN GENERAL.—The Secretary of State is author-
15 ized to provide assistance from the International Clean
16 Technology Fund for projects (which may include sector-
17 based policies and measures) in eligible countries that are
18 approved by the interagency group under this section.
19 Amounts in the International Clean Technology Fund
20 shall be available for expenditure, without further appro-
21 priation or fiscal year limitation to carry out this subtitle.

22 (b) FORMS OF ASSISTANCE.—Assistance under this
23 subtitle may be provided in the form of grants, loans, or
24 a combination thereof.

25 (c) DISTRIBUTION OF ASSISTANCE.—

1 (1) IN GENERAL.—The Secretary of State, in
2 coordination with the interagency group, shall dis-
3 tribute assistance from the International Clean
4 Technology Fund—

5 (A) directly;

6 (B) through agreements with the Inter-
7 national Bank for Reconstruction and Develop-
8 ment (commonly known as the World Bank) or
9 another international development institution;

10 (C) through an international fund created
11 pursuant to the United Nations Framework
12 Convention on Climate Change, done at New
13 York on May 9, 1992, or an agreement nego-
14 tiated under such convention; or

15 (D) through some combination of the
16 mechanisms identified in subparagraphs (A)
17 through (C).

18 (2) DISTRIBUTION THROUGH INTERNATIONAL
19 INSTITUTION OR FUND.—If assistance is distributed
20 through an international institution or fund, as au-
21 thorized in paragraph (1), the Secretary of State
22 and the interagency group shall ensure the establish-
23 ment and implementation of adequate mechanisms
24 to apply and enforce the project selection criteria
25 and other requirements of this subtitle.

1 (d) PROCEDURES FOR REVIEW OF PROPOSALS.—The
2 Secretary of State, in conjunction with the interagency
3 group, shall develop procedures for requesting, reviewing,
4 and approving project proposals from eligible countries.

5 (e) ELIGIBLE PROJECT CATEGORIES.—Assistance
6 under this subtitle shall be limited to projects in the fol-
7 lowing categories:

8 (1) Capture and geological sequestration of car-
9 bon dioxide emissions from electric generating units
10 or large industrial sources.

11 (2) Renewable electricity generation from wind,
12 solar, biomass, geothermal, marine, or hydrokinetic
13 sources.

14 (3) Production of renewable fuels that have
15 lifecycle greenhouse gas emissions that are substan-
16 tially lower than those attributable to fossil fuel-
17 based alternatives.

18 (4) Increased efficiency in transmission, dis-
19 tribution, or consumption of electricity.

20 (f) CRITERIA FOR PROJECT SELECTION.—Not later
21 than January 1, 2011, the interagency group shall develop
22 a set of criteria to be used in determining whether to pro-
23 vide assistance to proposals for projects in eligible coun-
24 tries. These criteria shall provide that—

1 (1) the project falls within an eligible project
2 category identified in subsection (e);

3 (2) the project will result in measurable and
4 substantial reductions in greenhouse gas emissions
5 relative to business-as-usual emissions;

6 (3) the project will not result in significant in-
7 creases in greenhouse gas emissions outside the
8 boundaries of the project relative to business-as-
9 usual emissions;

10 (4) the project will not have significant adverse
11 effects on human health, safety, or welfare, the envi-
12 ronment, or natural resources within or outside the
13 boundaries of the project;

14 (5) the project owner or operator must dem-
15 onstrate capacity to implement and maintain any
16 technologies purchased or installed with assistance
17 from the Fund;

18 (6) the project is not likely to cause a signifi-
19 cant loss of United States jobs or a significant dis-
20 placement of United States production; and

21 (7) the project meets such other requirements
22 as the interagency group determines appropriate to
23 further the purposes of this subtitle.

24 (g) SELECTION OF ELIGIBLE PROJECTS.—In deter-
25 mining which eligible projects will receive assistance under

1 this subtitle, the interagency group shall apply the criteria
2 established under this section and shall seek to maximize
3 greenhouse gas emission reductions achieved per dollar of
4 assistance provided. Preference shall be given to projects
5 that are co-financed by international development banks,
6 private-sector institutions, or host-country governments.

7 (h) MONITORING, EVALUATION, AND ENFORCE-
8 MENT.—The Secretary of State, in coordination with the
9 interagency group, shall establish and implement a system
10 to monitor and evaluate the performance of projects re-
11 ceiving assistance under this subtitle. The Secretary of
12 State shall have the authority to suspend or terminate as-
13 sistance in whole or in part for a project if it is determined
14 that the project is not operating in compliance with the
15 approved proposal.

16 **SEC. 416. ANNUAL REPORTS.**

17 Not later than March 1, 2012, and annually there-
18 after, the President shall submit to the appropriate con-
19 gressional committees a report on the assistance provided
20 under this subtitle during the prior fiscal year. The report
21 shall include—

22 (1) a description of the amount of obligations
23 and expenditures for assistance provided to each eli-
24 gible country during the prior fiscal year;

1 (2) a description of each project that received
2 assistance, including the amount of obligations and
3 expenditures for assistance provided to such project,
4 during the prior fiscal year; and

5 (3) an estimate of the greenhouse gas emission
6 reductions achieved by assistance provided under
7 this subtitle during the prior fiscal year.

8 **Subtitle C—International Climate**
9 **Change Adaptation Program**

10 **SEC. 421. FINDINGS AND PURPOSES.**

11 (a) FINDINGS.—Congress finds that—

12 (1) global climate change is a potentially sig-
13 nificant threat multiplier for instability around the
14 world and is likely to exacerbate competition and
15 conflict over agricultural, vegetative, marine, and
16 water resources and displace people, thus increasing
17 hunger and poverty and causing increased pressure
18 on developing countries;

19 (2) the strategic, social, political, economic, cul-
20 tural, and environmental consequences of global cli-
21 mate change are likely to have disproportionate im-
22 pacts on developing countries, which have less eco-
23 nomic and financial capacity to respond;

24 (3) the countries most vulnerable to climate
25 change, due both to exposure to harmful impacts

1 and to their lower capacity to adapt, are developing
2 countries with very low industrial emissions that
3 have contributed less to climate change than more
4 affluent countries;

5 (4) developing countries rely to a much greater
6 degree on the natural and environmental systems
7 likely to be affected by climate change for suste-
8 nance and livelihoods, as well as economic growth
9 and stability;

10 (5) the consequences of global climate change,
11 including increases in poverty and destabilization of
12 economies and societies, are likely to pose a long-
13 term threat to the national security, foreign policy,
14 and economic interests of the United States; and

15 (6) it is in the national security, foreign policy,
16 and economic interests of the United States to rec-
17 ognize, plan for, and mitigate the international stra-
18 tegic, social, political, cultural, environmental and
19 economic effects of a changing climate and to assist
20 developing countries to increase their resilience to
21 those effects.

22 (b) PURPOSES.—The purposes of this subtitle are—

23 (1) to provide United States assistance to the
24 most vulnerable developing countries in order to sup-
25 port the development and implementation of climate

1 change adaptation programs and projects that re-
2 duce the vulnerability and increase the resilience of
3 communities to climate change impacts; and

4 (2) to provide such assistance in a manner that
5 promotes and protects the national security, foreign
6 policy, and economic interests of the United States
7 where such interests can be advanced by minimizing,
8 averting, or increasing resilience to climate change
9 impacts.

10 **SEC. 422. DEFINITIONS.**

11 In this subtitle:

12 (1) APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES.—The term “appropriate congressional com-
14 mittees” means—

15 (A) the Committee on Energy and Com-
16 merce, the Committee on Foreign Affairs, and
17 any other relevant committees on national secu-
18 rity, the environment, and foreign policy of the
19 House of Representatives; and

20 (B) the Committees on Environment and
21 Public Works, Foreign Relations, and any other
22 relevant committees on national security, the
23 environment, and foreign policy of the Senate.

24 (2) MOST VULNERABLE DEVELOPING COUN-
25 TRIES.—The term “most vulnerable developing

1 countries” means, as determined by the Adminis-
2 trator of USAID, developing countries that are most
3 vulnerable to climate change impacts, including
4 countries identified by the United Nations as least
5 developed countries and low-lying and other small is-
6 land developing countries, and other developing
7 countries that are at risk of substantial adverse im-
8 pacts of climate change and have limited capacity to
9 respond to such impacts.

10 (3) PROGRAM.—The term “Program” means
11 the International Climate Change Adaptation Pro-
12 gram established under section 423.

13 (4) USAID.—The term “USAID” means the
14 United States Agency for International Develop-
15 ment.

16 **SEC. 423. ESTABLISHMENT.**

17 The Secretary of State, working with the Adminis-
18 trator of USAID and the Administrator, shall establish
19 an International Climate Change Adaptation Program
20 within USAID.

21 **SEC. 424. FUNCTIONS OF PROGRAM.**

22 (a) ACTIVITIES AND FOREIGN AID.—

23 (1) IN GENERAL.—In order to achieve the pur-
24 poses set forth in section 421, the Program may
25 carry out activities and projects and make grants to

1 any private or public group (including public inter-
2 national organizations), association, or other entity
3 engaged in peaceful activities, to—

4 (A) provide assistance to the most vulner-
5 able developing countries for the development of
6 national or regional climate change adaptation
7 plans, associated national policies, and in the
8 planning, financing, and execution of adapta-
9 tion projects;

10 (B) support investments, capacity-building
11 activities and other assistance, to reduce vulner-
12 ability and promote community-level resilience
13 related to climate change and its impacts in the
14 most vulnerable developing countries, including
15 impacts on water availability, agricultural pro-
16 ductivity, flood risk, coastal resources, timing of
17 seasons, biodiversity, economic livelihoods,
18 human migration, or other social, economic, po-
19 litical, cultural, or environmental matters;

20 (C) support climate change adaptation re-
21 search in or for the most vulnerable developing
22 countries;

23 (D) encourage the protection and rehabili-
24 tation of natural systems, the enhancement and
25 diversification of agricultural, fishery, and other

1 livelihoods, and the reduction of disaster risk, in
2 order to reduce vulnerability and provide in-
3 creased resilience to climate change for local
4 communities and livelihoods in the most vulner-
5 able developing countries;

6 (E) support the deployment of technologies
7 that would help the most vulnerable developing
8 countries respond to destabilizing impacts of
9 climate change and encourage the identification
10 and adoption of appropriate renewable and effi-
11 cient energy technologies that are beneficial in
12 increasing community-level resilience to the im-
13 pacts of global climate change in those coun-
14 tries; and

15 (F) encourage the engagement of local
16 communities through full disclosure of informa-
17 tion, consultation, and with communities' in-
18 formed participation relating to the develop-
19 ment of plans, programs and projects to in-
20 crease community-level resilience to climate
21 change impacts.

22 (2) LIMITATION.—Not more than 10 percent of
23 amounts made available to carry out this subtitle
24 shall be spent in any single country in any year.

1 (3) PRIORITIZING ASSISTANCE.—In providing
2 assistance under this subtitle, the Administrator of
3 USAID shall give priority to countries that are most
4 vulnerable to the adverse impacts of climate change,
5 determined as a function of the likelihood and sever-
6 ity of such impacts and the country's capacity to
7 adapt to such impacts.

8 (b) COMMUNITY ENGAGEMENT.—(1) The Adminis-
9 trator of USAID shall ensure that local communities in
10 areas where any projects or activities are planned under
11 the Program are engaged through full disclosure of infor-
12 mation and public participation, and that any projects or
13 activities are undertaken with the communities' informed
14 consent.

15 (2) For each country receiving assistance under the
16 Program, the Administrator of USAID shall establish a
17 process for consultation with and disclosure of information
18 to local, national and international stakeholders regarding
19 any projects and activities planned under the Program.

20 (3) The Administrator of USAID shall, to the extent
21 practicable, ensure that projects or activities under the
22 Program are aligned with broader development, poverty
23 alleviation, or natural resource management objectives and
24 initiatives in the recipient country.

25 (c) REPORTING.—

1 (1) INITIAL REPORT.—Not later than 180 days
2 after the date of enactment of this Act, the Program
3 shall submit to the President and appropriate con-
4 gressional committees an initial report that—

5 (A) based on the most recent information
6 available from reliable public sources, identifies
7 the developing countries that are most vulner-
8 able to climate change impacts and in which as-
9 sistance can have the greatest and most sus-
10 tainable benefit to reducing vulnerability to cli-
11 mate change; and

12 (B) describes the process and methodology
13 for selecting the recipients of assistance or
14 grants under subsection (a)(1).

15 (2) ANNUAL REPORTS.—Not later than 12
16 months after the date on which the initial report is
17 submitted, and annually thereafter, the Program
18 shall submit reports to the President and appro-
19 priate congressional committees that—

20 (A) describe the extent to which global cli-
21 mate change, through its potential negative im-
22 pacts on sensitive populations and natural re-
23 sources in the most vulnerable developed coun-
24 tries, may threaten, cause, or exacerbate polit-
25 ical, economic, environmental, cultural or social

1 instability or international conflict in those re-
2 gions;

3 (B) describe the ramifications of any po-
4 tentially destabilizing impacts climate change
5 may have on the national security, foreign pol-
6 icy, and economic interests of the United
7 States, including—

8 (i) the creation of refugees and inter-
9 nally displaced peoples;

10 (ii) international or internal armed
11 conflicts over water, food, land, or other
12 resources;

13 (iii) loss of agricultural and other live-
14 lihoods, cultural stability, and other causes
15 of increased poverty and economic desta-
16 bilization;

17 (iv) decline in availability of resources
18 needed for survival, including water;

19 (v) increased impact of natural disas-
20 ters, including severe weather events,
21 droughts and flooding;

22 (vi) increased prevalence or virulence
23 of climate-related diseases; and

24 (vii) intensified urban migration;

1 (C) describe how funds made available
2 under section 425 were spent to enhance the
3 national security, foreign policy, and economic
4 interests of the United States and assist in
5 avoiding the economically, politically, environ-
6 mentally, culturally, and socially destabilizing
7 impacts of climate change in most vulnerable
8 developing countries;

9 (D) identify and recommend the developing
10 countries that are most vulnerable to climate
11 change impacts and in which assistance can
12 have the greatest and most sustainable benefit
13 to reducing vulnerability to climate change, in-
14 cluding in the form of deploying technologies,
15 investments, capacity-building activities, and
16 other types of assistance for adaptation to cli-
17 mate change impacts and approaches to reduce
18 greenhouse gases in ways that can also provide
19 community-level resilience to climate change im-
20 pacts; and

21 (E) describe cooperation undertaken with
22 other nations and international organizations to
23 carry out this subtitle.

1 **SEC. 425. FUNDING.**

2 (a) CARRYING OUT RECOMMENDATIONS.—All funds
3 deposited into the International Climate Change Adapta-
4 tion Fund established under section 722 of the Clean Air
5 Act (as added by section 101 of this Act) shall be made
6 available, without further appropriation or fiscal year limi-
7 tation, to carry out the Program established under this
8 subtitle.

9 (b) DISTRIBUTION OF FUNDS.—The Administrator
10 of USAID shall distribute to the Program the funds for
11 the purposes of this subtitle.

12 (c) OVERSIGHT.—The Administrator of USAID shall
13 oversee the expenditures by the Program.

14 (d) CONDITIONAL DISTRIBUTION TO INTERNATIONAL
15 ADAPTATION FUNDS.—The Administrator of USAID is
16 authorized to distribute up to 50 percent of the funds
17 available to the Program to an international fund that
18 meets the requirements of subsection (e), and shall annu-
19 ally certify in a report to Congress that any such inter-
20 national fund meets the requirements of subsection (e).
21 The Administrator of USAID shall notify the appropriate
22 congressional committees not less than 15 days prior to
23 an allocation or transfer of funds pursuant to this sub-
24 section.

25 (e) INTERNATIONAL FUND ELIGIBILITY.—An inter-
26 national fund is eligible for funding under the Program

1 provided that it is created pursuant to the United Nations
2 Framework Convention on Climate Change, done at New
3 York on May 9, 1992, or an agreement negotiated under
4 the Convention and that the agreement—

5 (1) specifies the terms and conditions under
6 which the United States is to provide monies to the
7 fund, and under which the international fund is to
8 disburse monies to recipient countries;

9 (2) ensures that United States assistance to the
10 fund and the principal and income of the fund are
11 disbursed only for purposes that are consistent with
12 those described in section 421;

13 (3) requires a regular meeting of a governing
14 body of the international fund that includes rep-
15 resentation from most vulnerable developing coun-
16 tries and provides full public access;

17 (4) requires that not more than 10 percent of
18 the amounts available to the fund be spent in any
19 single country in any year; and

20 (5) requires the international fund to prepare
21 and make public an annual report that—

22 (A) identifies and recommends the devel-
23 oping countries that are most vulnerable to cli-
24 mate change impacts and in which assistance

1 can have the greatest and most sustainable ben-
2 efit to reducing vulnerability to climate change;

3 (B) describes the process and methodology
4 for selecting the recipients of assistance or
5 grants from the fund;

6 (C) describes specific programs and
7 projects funded by the international fund and
8 the extent to which the assistance is addressing
9 the adaptation needs of the most vulnerable de-
10 veloping countries;

11 (D) describes the performance goals for as-
12 sistance authorized under the fund and ex-
13 presses such goals in an objective and quantifi-
14 able form, to the extent practicable;

15 (E) describes the performance indicators to
16 be used in measuring or assessing the achieve-
17 ment of the performance goals described in sub-
18 paragraph (D);

19 (F) provides a basis for recommendations
20 for adjustments to assistance authorized under
21 this subtitle to enhance the impact of such as-
22 sistance; and

23 (G) describes the participation of other na-
24 tions and international organizations in funding
25 and governing the international fund.

1 **SEC. 426. MONITORING AND EVALUATION OF PROGRAM.**

2 (a) IN GENERAL.—The Administrator of USAID
3 shall establish and implement a system to monitor and
4 evaluate the effectiveness and efficiency of assistance pro-
5 vided under this subtitle in order to maximize the long-
6 term sustainable development impact of such assistance,
7 including the extent to which the assistance is meeting the
8 purposes of this subtitle and addressing the adaptation
9 needs of developing countries.

10 (b) GOALS.—In carrying out subsection (a), the Ad-
11 ministrator of USAID shall—

12 (1) in consultation with national governments
13 in recipient countries, establish performance goals
14 for assistance authorized under this subtitle and ex-
15 presses such goals in an objective and quantifiable
16 form, to the extent practicable;

17 (2) establish performance indicators to be used
18 in measuring or assessing the achievement of the
19 performance goals described in paragraph (1), in-
20 cluding an evaluation of the extent to which the Pro-
21 gram provides for full disclosure of information and
22 consultation and informed participation by local
23 communities and an evaluation of the extent to
24 which local communities participated in the projects
25 and programs implemented under this subtitle and

1 the impacts of local community participation on the
 2 goals and objectives of the projects and programs;

3 (3) provide a basis for recommendations for ad-
 4 justments to assistance authorized under this sub-
 5 title to enhance the impact of such assistance; and

6 (4) include in the report to Congress and other
 7 relevant agencies required under section 424(c), the
 8 monitoring and evaluation of programs subject to
 9 this section in its findings.

10 **TITLE V—LEGAL FRAMEWORK**
 11 **FOR GEOLOGICAL SEQUES-**
 12 **TRATION OF CARBON DIOX-**
 13 **IDE**

14 **SEC. 501. NATIONAL REGULATIONS.**

15 (a) IN GENERAL.—Section 1421 of the Safe Drink-
 16 ing Water Act (42 U.S.C. 300h) is amended—

17 (1) in subsection (b)(1), by striking “subsection
 18 (d)(2)” and inserting “subsection (e)(2)”;

19 (2) by redesignating subsection (d) as sub-
 20 section (e); and

21 (3) by inserting after subsection (c) the fol-
 22 lowing:

23 “(d) GEOLOGICAL SEQUESTRATION OF CARBON DI-
 24 OXIDE.—

1 “(1) REGULATIONS.—Not later than 1 year
2 after the date of enactment of the Investing in Cli-
3 mate Action and Protection Act, the Administrator
4 shall promulgate regulations for State underground
5 injection control programs establishing standards for
6 permitting commercial-scale underground injection
7 of carbon dioxide for purposes of geological seques-
8 tration to address climate change.

9 “(2) ENVIRONMENTAL REQUIREMENTS.—
10 Standards established under paragraph (1) shall—

11 “(A) satisfy the requirements set forth in
12 subsection (b); and

13 “(B) include requirements for monitoring
14 and controlling the long-term storage of carbon
15 dioxide and avoiding, to the maximum extent
16 that is technically feasible, any release of car-
17 bon dioxide into the atmosphere, and for ensur-
18 ing protection of underground sources of drink-
19 ing water, human health, and the environment.

20 “(3) FINANCIAL RESPONSIBILITY.—

21 “(A) IN GENERAL.—Standards established
22 under paragraph (1) shall also include require-
23 ments for maintaining evidence of pre-closure
24 financial responsibility for—

25 “(i) taking corrective action;

1 “(ii) acquiring and submitting to the
2 Administrator for retirement emission al-
3 lowances established under section 711 of
4 the Clean Air Act equal to any release of
5 carbon dioxide into the atmosphere from a
6 geological sequestration site; and

7 “(iii) compensating third parties for
8 bodily injury, property damage, or environ-
9 mental damages.

10 “(B) REQUIREMENTS.—The requirements
11 referenced in subparagraph (A) shall include
12 the following:

13 “(i) Financial responsibility may be
14 established in accordance with regulations
15 promulgated by the Administrator by any
16 one, or any combination, of the following:
17 insurance, guarantee, surety bond, letter of
18 credit, qualification as a self-insurer or any
19 other method satisfactory to the Adminis-
20 trator. The Administrator is authorized to
21 specify policy or other contractual terms,
22 conditions, or defenses which are necessary
23 or are unacceptable in establishing such
24 evidence of financial responsibility in order

1 to effectuate the purposes of this sub-
2 section.

3 “(ii) In any case where the owner or
4 operator of the geological sequestration site
5 is in bankruptcy, reorganization, or ar-
6 rangement pursuant to the Federal Bank-
7 ruptcy Code or where with reasonable dili-
8 gence jurisdiction in any State court of the
9 Federal Courts cannot be obtained over an
10 owner or operator likely to be solvent at
11 the time of judgment, any claim arising
12 from conduct for which evidence of finan-
13 cial responsibility must be provided under
14 this subsection may be asserted directly
15 against the guarantor providing such evi-
16 dence of financial responsibility. In the
17 case of any action pursuant to this para-
18 graph such guarantor shall be entitled to
19 invoke all rights and defenses which would
20 have been available to the owner or oper-
21 ator if any action had been brought
22 against the owner or operator by the
23 claimant and which would have been avail-
24 able to the guarantor if an action had been

1 brought against the guarantor by the
2 owner or operator.

3 “(iii) The total liability of any guar-
4 antor shall be limited to the aggregate
5 amount which the guarantor has provided
6 as evidence of financial responsibility to
7 the owner or operator under this section.
8 Nothing in this subsection shall be con-
9 strued to limit any other State or Federal
10 statutory, contractual, or common law li-
11 ability of a guarantor to its owner or oper-
12 ator including the liability of such guar-
13 antor for bad faith either in negotiating or
14 in failing to negotiate the settlement of any
15 claim. Nothing in this subsection shall be
16 construed to diminish the liability of any
17 person under any other applicable law.

18 “(iv) The requirements shall ensure
19 that adequate resources are available to
20 close the geological sequestration site in
21 the event the owner or operator files for
22 bankruptcy or ceases operations.

23 “(4) SUBSEQUENT REPORTS.—Not later than 5
24 years after the date on which regulations are pro-
25 mulgated pursuant to paragraph (1), and not less

1 frequently than once every 5 years thereafter, the
2 Administrator shall submit to Congress a report that
3 contains an evaluation of the effectiveness of the
4 regulations, based on current knowledge and experi-
5 ence, with particular emphasis on any new informa-
6 tion on potential impacts of commercial-scale geo-
7 logical sequestration on drinking water, human
8 health, and the environment.

9 “(5) REVISION.—If the Administrator deter-
10 mines, based on a report under paragraph (4), that
11 regulations promulgated pursuant to paragraph (1)
12 require revision, the Administrator shall promulgate
13 revised regulations not later than 1 year after the
14 date on which the applicable report is submitted to
15 Congress under paragraph (4).”.

16 (b) CONFORMING AMENDMENT.—Section 1447(a)(4)
17 of the Safe Drinking Water Act (42 U.S.C. 300j–6(a)(4))
18 is amended by striking “section 1421(d)(2)” and inserting
19 “section 1421(e)(2)”.

20 **SEC. 502. LIABILITIES FOR CLOSED GEOLOGICAL SEQUES-**
21 **TRATION SITES.**

22 (a) ESTABLISHMENT OF TASK FORCE.—As soon as
23 practicable, but not later than 6 months after the date
24 of enactment of this Act, the Administrator shall establish
25 a task force, to be composed of an equal number of subject

1 matter experts, nongovernmental organizations with ex-
2 pertise in environmental policy, and members of the pri-
3 vate sector, to conduct a study of the statutory framework,
4 environmental and safety considerations, and financial im-
5 plications of potential models for Federal, State, or private
6 sector assumption of liabilities and financial responsibil-
7 ities with respect to closed geological sequestration sites.

8 (b) CONSIDERATIONS.—The task force shall consider
9 financial responsibility for any environmental damages, in-
10 cluding the submission of emission allowances to account
11 for any releases of carbon dioxide into the atmosphere
12 from closed geological sequestration sites.

13 (c) REPORT.—Not later than 18 months after the
14 date of enactment of this Act, the task force established
15 under subsection (a) shall submit to Congress a report de-
16 scribing the results of the study conducted under sub-
17 section (a), including recommendations of the task force
18 with respect to the framework described in that sub-
19 section.

20 **TITLE VI—BUILDING**

21 **EFFICIENCY STANDARDS**

22 **SEC. 601. UPDATING STATE BUILDING ENERGY EFFICIENCY**

23 **CODES.**

24 Section 304 of the Energy Conservation and Produc-
25 tion Act (42 U.S.C. 6833) is amended to read as follows:

1 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-**
2 **CIENCY CODES.**

3 “(a) UPDATES.—

4 “(1) IN GENERAL.—The Secretary shall sup-
5 port updating the national model building energy
6 codes and standards not later than 3 years after the
7 date of enactment of the Investing in Climate Action
8 and Protection Act, and not less frequently than
9 every 3 years thereafter, to achieve overall energy
10 savings, as compared to the IECC (2006) for resi-
11 dential buildings and ASHRAE Standard 90.1
12 (2004) for commercial buildings, of at least—

13 “(A) 30 percent, with respect to each edi-
14 tion of a model code or standard published dur-
15 ing the period beginning on January 1, 2010,
16 and ending on December 31, 2019;

17 “(B) 50 percent, with respect to each edi-
18 tion of a model code or standard published on
19 or after January 1, 2020; and

20 “(C) targets for intermediate and subse-
21 quent years, to be established by the Secretary
22 not less than 3 years before the beginning on
23 each target year, in coordination with IECC
24 and ASHRAE Standard 90.1 cycles, at the
25 maximum level of energy efficiency that is tech-
26 nologically feasible and lifecycle cost-effective.

1 “(2) REVISIONS TO IECC AND ASHRAE.—

2 “(A) IN GENERAL.—If the IECC or
3 ASHRAE Standard 90.1 regarding building en-
4 ergy use is revised, not later than 1 year after
5 the date of the revision, the Secretary shall de-
6 termine whether the revision will—

7 “(i) improve energy efficiency in
8 buildings; and

9 “(ii) meet the energy savings goals de-
10 scribed in paragraph (1).

11 “(B) MODIFICATIONS.—

12 “(i) IN GENERAL.—If the Secretary
13 makes a determination under subpara-
14 graph (A)(ii) that a code or standard does
15 not meet the energy savings goals estab-
16 lished under paragraph (1) or if a national
17 model code or standard is not updated for
18 more than 3 years, not later than 1 year
19 after the determination or the expiration of
20 the 3-year period, the Secretary shall es-
21 tablish a modified code or standard that
22 meets the energy savings goals.

23 “(ii) REQUIREMENTS.—

1 “(I) ENERGY SAVINGS.—A modi-
2 fication to a code or standard under
3 clause (i) shall—

4 “(aa) achieve the maximum
5 level of energy savings that is
6 technically feasible and lifecycle
7 cost-effective;

8 “(bb) be achieved through
9 an amendment or supplement to
10 the most recent revision of the
11 IECC or ASHRAE Standard
12 90.1 and taking into consider-
13 ation other appropriate model
14 codes and standards; and

15 “(cc) incorporate available
16 appliances, technologies, and con-
17 struction practices.

18 “(II) TREATMENT AS BASE-
19 LINE.—A modification to a code or
20 standard under clause (i) shall serve
21 as the baseline for the next applicable
22 determination of the Secretary under
23 subparagraph (A)(i).

24 “(C) PUBLIC PARTICIPATION.—The Sec-
25 retary shall—

1 “(i) publish in the Federal Register a
2 notice relating to each goal, determination,
3 and modification under this paragraph;
4 and

5 “(ii) provide an opportunity for public
6 comment regarding the goals, determina-
7 tions, and modifications.

8 “(b) STATE CERTIFICATION OF BUILDING ENERGY
9 CODE UPDATES.—

10 “(1) GENERAL CERTIFICATION.—

11 “(A) IN GENERAL.—Not later than 2 years
12 after the date of enactment of the Investing in
13 Climate Action and Protection Act, each State
14 shall certify to the Secretary that the State has
15 reviewed and updated the provisions of the resi-
16 dential and commercial building codes of the
17 State regarding energy efficiency.

18 “(B) ENERGY SAVINGS.—A certification
19 under subparagraph (A) shall include a dem-
20 onstration that the applicable provisions of the
21 State code meet or exceed, as applicable—

22 “(i)(I) the IECC (2006) for residen-
23 tial buildings; or

24 “(II) the ASHRAE Standard 90.1
25 (2004) for commercial buildings; or

1 “(ii) the quantity of energy savings
2 represented by the provisions referred to in
3 clause (i).

4 “(2) REVISION OF CODES AND STANDARDS.—

5 “(A) IN GENERAL.—If the Secretary
6 makes an affirmative determination under sub-
7 section (a)(2)(A)(i) or establishes a modified
8 code or standard under subsection (a)(2)(B),
9 not later than 2 years after the determination
10 or proposal, each State shall certify that the
11 State has reviewed and updated the provisions
12 of the residential and commercial building codes
13 of the State regarding energy efficiency.

14 “(B) ENERGY SAVINGS.—A certification
15 under subparagraph (A) shall include a dem-
16 onstration that the applicable provisions of the
17 State code meet or exceed—

18 “(i) the modified code or standard; or

19 “(ii) the quantity of energy savings
20 represented by the modified code or stand-
21 ard.

22 “(C) FAILURE TO DETERMINE.—If the
23 Secretary fails to make a determination under
24 subsection (a)(2)(A)(i) by the date specified in
25 subsection (a)(2), or if the Secretary makes a

1 negative determination, not later than 2 years
2 after the specified date or the date of the deter-
3 mination, each State shall certify that the State
4 has—

5 “(i) reviewed the revised code or
6 standard; and

7 “(ii) updated the provisions of the res-
8 idential and commercial building codes of
9 the State as necessary to meet or exceed,
10 as applicable—

11 “(I) any provisions of a national
12 code or standard determined to im-
13 prove energy efficiency in buildings; or

14 “(II) energy savings achieved by
15 those provisions through other means.

16 “(c) ACHIEVEMENT OF COMPLIANCE BY STATES.—

17 “(1) IN GENERAL.—Not later than 3 years
18 after the date on which a State makes a certification
19 under subsection (b), the State shall certify to the
20 Secretary that the State has achieved compliance
21 with the building energy code that is the subject of
22 the certification.

23 “(2) RATE OF COMPLIANCE.—The certification
24 shall include documentation of the rate of compli-
25 ance based on independent inspections of a random

1 sample of the new and renovated buildings covered
2 by the State code during the preceding calendar
3 year.

4 “(3) COMPLIANCE.—A State shall be considered
5 to achieve compliance for purposes of paragraph (1)
6 if—

7 “(A) at least 90 percent of new and ren-
8 ovated buildings covered by the State code dur-
9 ing the preceding calendar year substantially
10 meet all the requirements of the code; or

11 “(B) the estimated excess energy use of
12 new and renovated buildings that did not meet
13 the requirements of the State code during the
14 preceding calendar year, as compared to a base-
15 line of comparable buildings that meet the re-
16 quirements of the code, is not more than 10
17 percent of the estimated energy use of all new
18 and renovated buildings covered by the State
19 code during the preceding calendar year.

20 “(d) FAILURE TO CERTIFY.—

21 “(1) EXTENSION OF DEADLINES.—The Sec-
22 retary shall extend a deadline for certification by a
23 State under subsection (b) or (c) for not more than
24 1 additional year, if the State demonstrates to the

1 satisfaction of the Secretary that the State has
2 made—

3 “(A) a good faith effort to comply with the
4 certification requirement; and

5 “(B) significant progress with respect to
6 the compliance.

7 “(2) NONCOMPLIANCE BY STATE.—

8 “(A) IN GENERAL.—A State that fails to
9 submit a certification required under subsection
10 (b) or (c), and to which an extension is not pro-
11 vided under paragraph (1), shall be considered
12 to be out of compliance with this section.

13 “(B) EFFECT ON LOCAL GOVERNMENTS.—
14 A local government of a State that is out of
15 compliance with this section may be considered
16 to be in compliance with this section if the local
17 government meets each applicable certification
18 requirement of this section.

19 “(e) TECHNICAL ASSISTANCE.—

20 “(1) IN GENERAL.—The Secretary shall provide
21 technical assistance (including building energy anal-
22 ysis and design tools, building demonstrations, and
23 design assistance and training) to ensure that na-
24 tional model building energy codes and standards
25 meet the goals described in subsection (a)(1).

1 “(2) ASSISTANCE TO STATES.—The Secretary
2 shall provide technical assistance to States—

3 “(A) to implement this section, including
4 procedures for States to demonstrate that the
5 codes of the States achieve equivalent or great-
6 er energy savings than the national model codes
7 and standards;

8 “(B) to improve and implement State resi-
9 dential and commercial building energy effi-
10 ciency codes; and

11 “(C) to otherwise promote the design and
12 construction of energy-efficient buildings.

13 “(f) INCENTIVE FUNDING.—

14 “(1) IN GENERAL.—The Secretary shall provide
15 incentive funding to States—

16 “(A) to implement this section; and

17 “(B) to improve and implement State resi-
18 dential and commercial building energy effi-
19 ciency codes, including increasing and verifying
20 compliance with the codes.

21 “(2) AMOUNT.—In determining whether, and in
22 what amount, to provide incentive funding under
23 this subsection, the Secretary shall take into consid-
24 eration actions proposed by the State—

25 “(A) to implement this section;

1 “(B) to implement and improve residential
2 and commercial building energy efficiency
3 codes; and

4 “(C) to promote building energy efficiency
5 through use of the codes.

6 “(3) ADDITIONAL FUNDING.—The Secretary
7 shall provide additional funding under this sub-
8 section for implementation of a plan to demonstrate
9 a rate of compliance with applicable residential and
10 commercial building energy efficiency codes at a rate
11 of not less than 90 percent, based on energy per-
12 formance—

13 “(A) to a State that has adopted and is
14 implementing, on a statewide basis—

15 “(i) a residential building energy effi-
16 ciency code that meets or exceeds the re-
17 quirements of the IECC (2006) (or a suc-
18 cessor code that is the subject of an af-
19 firmative determination by the Secretary
20 under subsection (a)(2)(A)(i)); and

21 “(ii) a commercial building energy ef-
22 ficiency code that meets or exceeds the re-
23 quirements of the ASHRAE Standard 90.1
24 (2004) (or a successor standard that is the
25 subject of an affirmative determination by

1 the Secretary under subsection
2 (a)(2)(A)(i)); or

3 “(B) in the case of a State in which no
4 statewide energy code exists for residential
5 buildings or commercial buildings, or in which
6 the State code fails to comply with subpara-
7 graph (A), to a local government that has
8 adopted and is implementing residential and
9 commercial building energy efficiency codes, as
10 described in subparagraph (A).

11 “(4) TRAINING.—Of the amounts made avail-
12 able to carry out this subsection, the Secretary may
13 use not more than \$500,000 for each State to train
14 State and local officials to implement State or local
15 energy codes in accordance with a plan described in
16 paragraph (3).”.

17 **SEC. 602. CONFORMING AMENDMENT.**

18 Section 303 of the Energy Conservation and Produc-
19 tion Act (42 U.S.C. 6832) is amended by adding at the
20 end the following new paragraph:

21 “(17) IECC.—The term ‘IECC’ means the
22 International Energy Conservation Code.”.

TITLE VII—REVIEWS AND RECOMMENDATIONS

SEC. 701. NATIONAL ACADEMY OF SCIENCES REVIEW AND RECOMMENDATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall offer to enter into a contract with the National Academy of Sciences under which the Academy shall, not later than January 1, 2012, and every 5 years thereafter, submit to Congress and the Administrator a report that includes—

(1) an analysis of the latest scientific information and data relevant to global climate change;

(2) an analysis of the performance of this Act and other public policies in reducing greenhouse gas emissions;

(3) an analysis of the performance of this Act and other public policies in reducing vulnerability to the impacts of climate change; and

(4) recommendations regarding potential changes to this Act and other public policies in reducing greenhouse gas emissions, preventing dangerous atmospheric concentrations of greenhouse gases or a dangerous increase in global average temperature, and reducing vulnerability to the impacts of climate change.

1 (b) EXCEPTION.—Subsection (a)(2), (3), and (4)
2 shall not apply to the first report delivered under sub-
3 section (a).

4 (c) LATEST SCIENTIFIC INFORMATION.—The anal-
5 ysis required under subsection (a)(1) shall—

6 (1) address existing reports, including the most
7 recent assessment report of the Intergovernmental
8 Panel on Climate Change; and

9 (2) include a description of trends in and pro-
10 jections for—

11 (A) total United States greenhouse gas
12 emissions;

13 (B) total worldwide greenhouse gas emis-
14 sions;

15 (C) greenhouse gas emissions in each coun-
16 try that is a major trading partner of the
17 United States;

18 (D) atmospheric concentrations of green-
19 house gases;

20 (E) global average temperature, including
21 an analysis of whether an increase of global av-
22 erage temperature in excess of 3.6 degrees
23 Fahrenheit (2 degrees Celsius) above the
24 preindustrial average has occurred or is more
25 likely than not to occur in the foreseeable fu-

1 ture as a result of anthropogenic climate
2 change;

3 (F) adverse impacts of global climate
4 change on human populations, wildlife, and nat-
5 ural resources; and

6 (G) the health of the oceans and ocean
7 ecosystems, including predicted changes in
8 ocean acidity, temperatures, the extent of coral
9 reefs, and other indicators of ocean ecosystem
10 health, resulting from anthropogenic carbon di-
11 oxide and climate change.

12 (d) PERFORMANCE OF THIS ACT AND OTHER POLI-
13 CIES.—The analysis required under subsection (a)(2) shall
14 include a description of—

15 (1) the extent to which this Act, in concert with
16 other public policies, will prevent dangerous atmos-
17 pheric concentrations of greenhouse gases;

18 (2) the extent to which this Act, in concert with
19 other public policies, will prevent a dangerous in-
20 crease in global average temperature;

21 (3) the current and future projected deployment
22 of technologies and practices in the United States
23 that reduce or limit greenhouse gas emissions, in-
24 cluding—

1 (A) technologies for capture and disposal
2 of greenhouse gases;

3 (B) efficiency improvement technologies;

4 (C) zero-greenhouse gas emitting energy
5 technologies, including wind, solar, geothermal,
6 hydrokinetic, and nuclear technologies;

7 (D) low-carbon renewable fuels and bio-
8 energy; and

9 (E) above-ground and below-ground bio-
10 logical sequestration technologies.

11 (4) the extent to which this Act and other pub-
12 lic policies are accelerating the development and
13 commercial deployment of technologies and practices
14 that reduce and limit greenhouse gas emissions;

15 (5) the extent to which this Act and other pub-
16 lic policies are reducing greenhouse gas emissions
17 and increasing biological sequestration from agri-
18 culture and forestry in the United States and inter-
19 nationally;

20 (6) the extent to which offset credits available
21 on international markets represent real, verifiable,
22 additional, permanent, and enforceable reductions in
23 greenhouse gas emissions or increases in sequestra-
24 tion;

1 (7) the extent to which this Act and other pub-
2 lic policies are addressing climate change adaptation
3 needs in the United States and the most vulnerable
4 developing countries (as defined in section 422(2) of
5 this Act);

6 (8) the extent to which the distributions of auc-
7 tion proceeds under title VII of the Clean Air Act,
8 as added by section 101 of this Act, are advancing
9 the purposes of this Act; and

10 (9) the cost-effectiveness of programs estab-
11 lished under titles III and IV of this Act in achiev-
12 ing their stated purposes, and the comparative envi-
13 ronmental and economic benefits of such programs.

14 (e) RECOMMENDATIONS REGARDING THIS ACT AND
15 OTHER POLICIES.—The recommendations required under
16 subsection (a)(3) shall include—

17 (1) recommendations regarding distribution of
18 funds from the Low-Carbon Technology Fund,
19 under subtitle B of title III of this Act, in order to
20 accelerate reductions in greenhouse gas emissions
21 and lower the cost of achieving such reductions
22 through research, development, demonstration, and
23 deployment of technologies;

24 (2) recommendations regarding improvements
25 to programs implemented pursuant to this Act re-

1 lated to the agriculture and forestry sectors in order
2 to accelerate reductions in greenhouse gas emissions
3 from agriculture and increases in biological seques-
4 tration from agriculture and forestry;

5 (3) recommendations as to how to amend title
6 VII of the Clean Air Act, this Act, or other Federal
7 policies in order to avoid dangerous atmospheric
8 concentrations of greenhouse gases or a dangerous
9 increase in global average temperature, including
10 consideration of the feasibility and effectiveness of—

11 (A) expanding the definition of the term
12 covered entity under title VII of the Clean Air
13 Act;

14 (B) expanding the scope of the compliance
15 obligation established under section 712 of the
16 Clean Air Act;

17 (C) reducing the number of emission allow-
18 ances comprising the Emission Allowance Ac-
19 count for 1 or more calendar years under sec-
20 tion 711 of the Clean Air Act;

21 (D) establishing policies for reducing
22 greenhouse gas emissions over and above the
23 policies established by title VII of the Clean Air
24 Act; and

1 (E) other approaches, as determined by
2 the National Academy of Sciences;

3 (4) recommendations regarding improvements
4 to climate change adaptation programs implemented
5 pursuant to this Act or alternative approaches to re-
6 ducing vulnerability to climate change impacts; and

7 (5) recommendations regarding distribution of
8 auction proceeds among programs, taking into ac-
9 count trends in the relative environmental and eco-
10 nomic benefits delivered by, and cost-effectiveness of,
11 each program.

12 **SEC. 702. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**
13 **AND RECOMMENDATIONS.**

14 (a) IN GENERAL.—Not later than January 1, 2013,
15 and every 3 years thereafter, the Comptroller General of
16 the United States shall carry out a review of the programs
17 described in title III and title IV of this Act. Each such
18 report shall include—

19 (1) a comprehensive evaluation of the effective-
20 ness of each program, including—

21 (A) the efficiency, transparency, and
22 soundness of the administration of each pro-
23 gram;

1 (B) the performance of projects or activi-
2 ties receiving assistance under each program;
3 and

4 (C) trends in the cost-effectiveness of each
5 program in achieving the stated purposes of the
6 program;

7 (2) recommendations, if any, for regulatory or
8 administrative changes to each program to improve
9 its effectiveness; and

10 (3) identification of programs from which funds
11 should be redirected because of diminishing cost-ef-
12 fectiveness in achieving the stated purpose of the
13 program.

14 **SEC. 703. PRESIDENTIAL RECOMMENDATIONS.**

15 (a) ESTABLISHMENT OF THE INTERAGENCY CLI-
16 MATE CHANGE TASK FORCE.—Not later than January 1,
17 2012, the President shall establish an Interagency Climate
18 Change Task Force (in this section referred to as the
19 “Task Force”).

20 (b) COMPOSITION.—The members of the Task Force
21 shall be—

- 22 (1) the Administrator;
23 (2) the Secretary of Energy;
24 (3) the Secretary of Agriculture;
25 (4) the Secretary of State;

1 (5) the Secretary of Commerce; and

2 (6) such other Cabinet Secretaries as the Presi-
3 dent may name to the membership of the Task
4 Force.

5 (c) CHAIRMAN.—The Administrator shall serve as
6 Chairman of the Task Force.

7 (d) REPORT TO PRESIDENT.—

8 (1) IN GENERAL.—Not later than July 1, 2013,
9 and every 5 years thereafter, the Task Force shall
10 submit to the President a report making rec-
11 ommendations, including specific legislation for the
12 President to recommend to Congress, in response to
13 the most recent report submitted by the National
14 Academy of Sciences under section 701 and the
15 most recent report of the Comptroller General under
16 section 702.

17 (2) INCLUSIONS.—The Task Force shall include
18 with the report an explanation of any inconsistencies
19 between the Task Force's recommendations and—

20 (A) the report and recommendations sub-
21 mitted by the National Academy of Sciences
22 under section 701; or

23 (B) any recommendations submitted by the
24 Comptroller General under section 702.

1 (e) PRESIDENTIAL RECOMMENDATION TO CON-
2 GRESS.—Not later than January 1, 2014, and every 5
3 years thereafter, the President shall submit to Congress
4 a report making recommendations, including the text of
5 any legislation proposed, based on the report submitted
6 to the President under subsection (d).

7 (f) SAVINGS CLAUSE.—Nothing in this title limits,
8 procedurally affects, or otherwise restricts the authority
9 of the Administrator, a State, or any person to use au-
10 thorities under this Act or any other law to adopt or en-
11 force any rule.

12 **SEC. 704. EXPEDITED CONGRESSIONAL ACTION ON CER-**
13 **TAIN PRESIDENTIAL RECOMMENDATIONS.**

14 (a) CONSIDERATION.—In any calendar year during
15 which a report is submitted under section 703(e), the Sen-
16 ate and the House of Representatives may consider a joint
17 resolution, in accordance with subsection (b), that amends
18 section 711 of the Clean Air Act to decrease the number
19 of allowances to be issued, if and to the extent specifically
20 recommended by the President pursuant to section 703(e).

21 (b) REQUIREMENTS.—A joint resolution considered
22 under subsection (a)—

23 (1) shall be introduced during the 60-day pe-
24 riod beginning on the date on which a report is sub-
25 mitted under section 703(e);

1 (2) after the resolving clause and “That”, shall
2 contain only: “effective beginning
3 _____, the table in section 711 of the
4 Clean Air Act is amended _____.”, the
5 blanks being filled in with the effective date and re-
6 ductions in the quantity of emission allowances to be
7 issued, respectively; and

8 (3) shall be referred to the Committee on En-
9 ergy and Commerce of the House of Representatives
10 and the Committee on Environment and Public
11 Works of the Senate.

12 (c) APPLICABLE LAW.—Subsections (c) through (g)
13 of section 802 of title 5, United States Code, shall apply
14 to any joint resolution described in this section, except
15 that in applying such subsections—

16 (1) references therein to “subsection (a)” shall
17 refer to subsection (a) of this section;

18 (2) references therein to the “submission or
19 publication date” or “submission or publication date
20 defined under subsection (b)(2)” shall mean the date
21 on which Congress receives the report submitted
22 under section 703(e) of this Act;

23 (3) in subsection (e), the words “respecting a
24 rule” shall be ignored; and

- 1 (4) subsection (e)(2) of such section 802 shall
- 2 not apply to a resolution described in this section.

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