I

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

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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.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Investing in Climate Action and Protection Act".

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

SEC. 2. FINDINGS.

Congress finds that—

(1) unchecked global warming poses a significant threat to—

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

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

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

(D) the global environment;

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

(3) under the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, the United States is committed to stabilizing greenhouse gas concentrations in the atmosphere at a level that will prevent dangerous anthropogenic interference with with climate system;

(4) according to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, stabilizing greenhouse gas concentrations in the atmosphere at a level that will prevent dangerous interference with the climate system, including preventing global mean surface temperature from increasing to more than 3.6 degrees Fahrenheit (2 degrees Celsius) above preindustrial levels, will require a global effort to reduce anthropogenic greenhouse gas emissions worldwide by 50 to 85 percent below 2000 levels by 2050;

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

(6) prompt, decisive action is critical, since global warming pollutants can persist in the atmosphere for more than a century;

(7) the ingenuity of the people of the United States will allow the United States to become a leader in curbing global warming;

(8) it is possible and desirable to cap greenhouse gas emissions, from sources that together account for the majority of those emissions in the United States, at the 2005 level in 2012, and to

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

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

(B) significant investment in energy efficiency policies and research, development, demonstration, and deployment of zero- and low-carbon energy technologies;

(C) cost containment measures;

(D) measures to avoid windfall profits to polluters;

(E) measures to promote a strong global effort to combat climate change, including measures to encourage major developing countries to reduce greenhouse gas emissions;

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

(G) periodic review of requirements and programs;

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

data and steps taken, or not taken, by foreign countries;

(10) accurate emission data and timely compliance with the requirements of the greenhouse gas emission reduction and trading program established under this Act are needed to ensure that reductions are achieved in a fair and efficient manner;

(11) Federal oversight of the markets for tradable allowances and credits subject to the program, and for derivatives thereof, is necessary to ensure transparency, fairness, and stability in such markets; and

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

(A) the transportation sector, where reducing greenhouse gas emissions requires changes in vehicles, fuels, and consumer behavior; and

(B) the built environment, where reducing direct and indirect greenhouse gas emissions requires changes in buildings, appliances, lighting, heating, cooling, and consumer behavior.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish the core of a Federal program that will reduce United States greenhouse gas emissions substantially enough between 2008 and 2050 to avert the catastrophic impacts of global climate change; and

(2) to accomplish that purpose while preserving robust growth in the United States economy, creating new jobs, and avoiding the imposition of undue hardship on United States citizens.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) ADDITIONAL; ADDITIONALITY.—The terms ‘‘additional’’ and ‘‘additionality’’, except in subtitle E of title III, mean the extent to which reductions in greenhouse gas emissions or increases in sequestration are incremental to business-as-usual, measured as the difference between—

(A) the baseline; and

(B) net greenhouse gas emissions or sequestration resulting from an offset project.

(2) ADMINISTRATOR.—The term ‘‘Administrator’’ means the Administrator of the Environmental Protection Agency.

(3) BASELINE.—The term ‘‘baseline’’ means the net greenhouse gas emissions or sequestration

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

(4) BIOLOGICAL SEQUESTRATION.—The term ‘‘biological sequestration’’ means—

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

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

(5) CARBON DIOXIDE EQUIVALENT.—The term ‘‘carbon dioxide equivalent’’ means, for each greenhouse gas, the quantity of the greenhouse gas that the Administrator determines, pursuant to section 703 or 704 of the Clean Air Act (as added by section 101 of this Act), makes the same contribution to global warming as 1 metric ton of carbon dioxide.

(6) DEVELOPING COUNTRY.—The term ‘‘developing country’’ means a country eligible to receive financial assistance from the International Bank for Reconstruction and Development (commonly known as the World Bank).

(7) EMISSION ALLOWANCE.—The term ‘‘emission allowance’’ means an authorization, established by the Administrator under section 711(a) of the Clean Air Act (as added by section 101 of this Act),

to emit 1 carbon dioxide equivalent of greenhouse gas.

(8) GEOLOGICAL SEQUESTRATION.—The term ''geological sequestration'' means the isolation of greenhouse gases, without reversal, in geological formations, in accordance with section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) (as added by section 501 of this Act), as determined by the Administrator.

(9) GREENHOUSE GAS.—The term ''greenhouse gas'' means any of—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) sulfur hexafluoride;

(E) a hydrofluorocarbon;

(F) a perfluorocarbon;

(G) nitrogen trifluoride; or

(H) any other anthropogenic gas designated by the Administrator as a greenhouse gas under section 704 of the Clean Air Act (as added by section 101 of this Act).

(10) OFFSET CREDIT.—The term ''offset credit'' means a credit issued by the Administrator under subtitle E of title VII of the Clean Air Act (as

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

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

(B) increase in biological sequestration.

(11) OFFSET PROJECT.—The term ''offset project'' means a project that reduces greenhouse gas emissions not covered by the requirements of section 712(a) of the Clean Air Act (as added by section 101 of this Act) or increases biological sequestration.

(12) REVERSAL.—The term ''reversal'' means an intentional or unintentional release to the atmosphere of a significant quantity, as determined by the Administrator, of greenhouse gas that was biologically or geologically sequestered in order to accomplish the purposes of title VII of the Clean Air Act (as added by section 101 of this Act).

(13) SEQUESTERED AND SEQUESTRATION.—The terms ''sequestered'' and ''sequestration'' mean the separation, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

TITLE I—CAPPING GREENHOUSE GAS EMISSIONS

SEC. 101. AMENDMENT OF CLEAN AIR ACT.

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

“TITLE VII—GREENHOUSE GAS EMISSIONS

“SEC. 700. DEFINITIONS.

‘‘In this title:

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

‘‘(A) the baseline; and

‘‘(B) net greenhouse gas emissions or sequestration resulting from an offset project.

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

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

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

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

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

“(5) COVERED ENTITY.—The term ‘covered entity’ means, for each calendar year—

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

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

“(C) a facility that produces, or an entity that imports, in that year petroleum- or coal-based liquid or gaseous fuel, the combustion of which will emit more than 10,000 carbon dioxide equivalents of greenhouse gas;

"(D) a local distribution company that in that year delivers natural gas, the combustion of which will emit more than 10,000 carbon dioxide equivalents of greenhouse gas;

"(E) a facility that produces for sale or distribution, or an entity that imports, in that year more than 10,000 carbon dioxide equivalents of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride, or any other fluorinated gas that is a greenhouse gas, as designated by the Administrator under section 704, or any combination thereof; and

"(F) a site at which carbon dioxide is geologically sequestered on a commercial scale.

"(6) DESTRUCTION CREDIT.—The term 'destruction credit' means a credit issued by the Administrator under section 712(f).

"(7) DEVELOPING COUNTRY.—The term 'developing country' means a country eligible to receive financial assistance from the International Bank for Reconstruction and Development (commonly known as the World Bank).

"(8) EMISSION ALLOWANCE.—The term 'emission allowance' means an authorization, established by the Administrator under section 711(a), to emit 1 carbon dioxide equivalent of greenhouse gas.

"(9) FACILITY.—The term 'facility' means 1 or more buildings, structures, or installations of an entity on 1 or more contiguous or adjacent properties located in the United States.

"(10) FAIR MARKET VALUE.—The term 'fair market value' means the average market price, during a specified time period, of an emission allowance.

"(11) GEOLOGICAL SEQUESTRATION; GEOLOGICALLY SEQUESTERED.—The terms 'geological sequestration' and 'geologically sequestered' mean the isolation of greenhouse gases, without reversal, in geological formations, in accordance with section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) (as added by section 501 of the Investing in Climate Action and Protection Act), as determined by the Administrator.

"(12) GREENHOUSE GAS.—The term 'greenhouse gas' means any of—

"(A) carbon dioxide;

"(B) methane;

"(C) nitrous oxide;

"(D) sulfur hexafluoride;

"(E) a hydrofluorocarbon;

"(F) a perfluorocarbon;

"(G) nitrogen trifluoride; or

"(H) any other anthropogenic gas designated by the Administrator as a greenhouse gas under section 704.

"(13) INDUSTRIAL FACILITY.—The term 'industrial facility' means—

"(A) any facility in the manufacturing sector (as defined in North American Industrial Classification System codes 31, 32, and 33);

"(B) any natural gas processing plant; and

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

"(14) INTERNATIONAL EMISSION ALLOWANCE.—The term 'international emission allowance' means a tradable authorization to emit 1 carbon dioxide equivalent of greenhouse gas that—

"(A) is issued by a national or supranational foreign government pursuant to a governmental program that imposes a mandatory absolute tonnage limit on greenhouse gas emissions from 1 or more foreign countries, or from 1 or more economic sectors in such country or countries, pursuant to protocols adopted in accordance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992; and

"(B) is not in the nature of an offset credit or allowance awarded based on the achievement of an increase in biological sequestration or a reduction in greenhouse gas emissions that are not subject to the mandatory absolute tonnage limits referred to in subparagraph (A).

"(15) INTERNATIONAL OFFSET CREDIT.—The term 'international offset credit' means—

"(A) a Certified Emission Reduction credit that has been certified under the Clean Development Mechanism of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, done at Kyoto on December 11, 1997; or

"(B) an equivalent tradable credit issued under a successor protocol to the United Nations Framework on Climate Change, done at New York on May 9, 1992, provided that—

"(i) the credit represents 1 carbon dioxide equivalent of increase in biological sequestration or reduction in greenhouse gas emissions not subject to a governmentally mandated absolute tonnage limit; and

"(ii) such increase in biological sequestration or reduction in greenhouse gas emissions is real, verifiable, additional, permanent, and enforceable.

"(16) INTERNATIONAL RESERVE ALLOWANCE.—The term 'international reserve allowance' means an allowance (denominated in carbon dioxide equivalents) that is established pursuant to section 765(a)(2).

"(17) LEAKAGE.—The term 'leakage' means—

"(A) a significant unaccounted increase in greenhouse gas emissions by a facility or entity caused by an offset project that produces an accounted reduction in greenhouse gas emissions, as determined by the Administrator; or

"(B) a significant unaccounted decrease in sequestration that is caused by an offset project that results in an accounted increase in sequestration, as determined by the Administrator.

"(18) LOCAL DISTRIBUTION COMPANY.—The term 'local distribution company' has the meaning given that term in section 2(17) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(17)).

"(19) NATURAL GAS PROCESSING PLANT.—The term 'natural gas processing plant' means a facility in the United States that is designed to separate natural gas liquids from natural gas.

"(20) OFFSET CREDIT.—The term 'offset credit' means a credit issued by the Administrator under subtitle E which represents 1 carbon dioxide equivalent of—

"(A) reduction in greenhouse gas emissions that are not covered by the requirements of section 712(a); or

"(B) increase in biological sequestration.

"(21) OFFSET PROJECT.—The term 'offset project' means a project that reduces greenhouse gas emissions not covered by the requirements of section 712(a) or increases biological sequestration.

"(22) PROJECT DEVELOPER.—The term 'project developer' means an individual or entity implementing an offset project.

"(23) REGISTRY.—The term 'Registry' means the Federal greenhouse gas registry established under section 707(a).

“(24) RETIRE.—The term ‘retire’, with respect to an emission allowance, offset credit, destruction credit, international emission allowance, international offset credit, or international reserve allowance, means to disqualify such allowance or credit for any subsequent use under this title, regardless of whether the use is a sale, exchange, or submission of the allowance or credit in satisfying a compliance obligation.

“(25) REVERSAL.—The term ‘reversal’ means an intentional or unintentional release to the atmosphere of a significant quantity, as determined by the Administrator, of greenhouse gas that was biologically or geologically sequestered in order to accomplish the purposes of this title.

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

“Subtitle A—Tracking Emissions

“SEC. 701. PURPOSE.

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

"(1) is complete, consistent, transparent, and accurate;

"(2) will collect reliable and accurate data that can be used by public and private entities to identify sources of emissions and design efficient and effective energy security initiatives and greenhouse gas emission reduction strategies; and

"(3) will provide appropriate high-quality data to be used for implementing greenhouse gas reduction policies.

"SEC. 702. DEFINITIONS.

"In this subtitle:

"(1) AFFECTED ENTITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'affected entity' means, for any calendar year—

"(i) a covered entity;

"(ii) another entity that emits a greenhouse gas, as determined by the Administrator; or

"(iii) any vehicle fleet, with emissions of more than 10,000 carbon dioxide equivalents in that year, if the Administrator determines that the inclusion of such fleet will help achieve the purposes of the Investing in Climate Action and Protection Act.

"(B) EXCLUSIONS.—The term 'affected entity' does not include any entity that—

"(i) is not a covered entity;

"(ii) is owned or operated by a small business (as described in part 121 of title 13, Code of Federal Regulations (or a successor regulation)); and

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

"(2) CARBON CONTENT.—The term 'carbon content' means the quantity of carbon (in carbon dioxide equivalent) contained in a fuel.

"(3) CLIMATE REGISTRY.—The term 'Climate Registry' means the greenhouse gas emissions registry jointly established and managed by more than 40 States and Indian tribes in 2007 to collect high-quality greenhouse gas emission data from facilities, corporations, and other organizations to support various greenhouse gas emission reporting and reduction policies for the member States and Indian tribes.

''(4) FEEDSTOCK FOSSIL FUEL.—The term 'feedstock fossil fuel' means fossil fuel used as raw material in a manufacturing process.

''(5) GREENHOUSE GAS EMISSIONS.—The term 'greenhouse gas emissions' means emissions of a greenhouse gas, including—

''(A) stationary combustion source emissions emitted as a result of combustion of fuels in stationary equipment, such as boilers, furnaces, burners, turbines, heaters, incinerators, engines, flares, and other similar sources;

''(B) process emissions consisting of emissions from chemical or physical processes other than combustion;

''(C) fugitive emissions consisting of intentional and unintentional emissions from equipment leaks, such as joints, seals, packing, and gaskets, or from piles, pits, cooling towers, and other similar sources; and

''(D) biogenic emissions resulting from biological processes, such as anaerobic decomposition, nitrification, denitrification, and enteric fermentation.

''(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the

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

"(7) SOURCE.—The term 'source' means any building, structure, installation, unit, point, operation, vehicle, land area, or other item that emits or may emit a greenhouse gas.

"SEC. 703. DETERMINATION OF CARBON DIOXIDE EQUIVALENT VALUE OF GREENHOUSE GASES.

"(a) INITIAL DETERMINATION.—Not later than 90 days after the date of enactment of this title, the Administrator shall—

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

"(2) publish such determination in the Federal Register.

"(b) PERIODIC REVIEW.—

"(1) Not later than January 1, 2013, and (except as provided in paragraph (3)) not less than every 5 years thereafter, the Administrator shall—

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

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

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

"(3) The Administrator may adjust the frequency of review and revision under paragraph (1) if the Administrator determines that such adjustment is appropriate in order to synchronize such review and revision with any similar review process carried out pursuant to the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, or to an agreement negotiated under that convention, except that in no event shall the Administrator carry out such review and revision any less frequently than every 10 years.

"(c) METHODOLOGY.—In determining the quantity of a greenhouse gas that makes the same contribution to global warming as 1 metric ton of carbon dioxide, for purposes of this section or section 704, the Administrator shall take into account the guidelines established by the Intergovernmental Panel on Climate Change or a successor organization under the United Nations.

"SEC. 704. DESIGNATION OF GREENHOUSE GASES.

"(a) DETERMINATION ON ADMINISTRATOR'S INITIATIVE.—The Administrator shall—

"(1) designate as a greenhouse gas, for purposes of section 700(12) of this title and section 4(9) of the Investing in Climate Action and Protection Act, any anthropogenic gas 1 metric ton of which makes the same or greater contribution to global warming as 1 metric ton of carbon dioxide, as determined by the Administrator; and

"(2) publish in the Federal Register such designation, including the quantity of the gas that the Administrator determines makes the same contribution to global warming as 1 metric ton of carbon dioxide.

"(b) PETITIONS TO DESIGNATE A GREENHOUSE GAS.—

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

"(2) AVAILABILITY OF DATA.—Any such petition shall include a showing by the petitioner that there are data on the gas adequate to support the petition.

"(3) DETERMINATION.—Within one year after receipt of a petition, the Administrator shall determine the quantity of the gas that makes the same contribution to global warming as 1 metric ton of carbon dioxide and shall take one of the following actions:

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

"(B) If the Administrator determines that 1 metric ton of the gas does not make a contribution to global warming that is equal to or greater than that made by 1 metric ton of carbon dioxide, the Administrator shall deny the petition and shall publish in the Federal Register a written explanation of the reasons for the Administrator's decision.

"(4) GROUNDS FOR DENIAL.—The Administrator may not deny a petition solely on the basis of inadequate resources or time for review.

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

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

"(c) MANUFACTURING NOTICES.—

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

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

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

"(C) such person has submitted to the Administrator, at least 90 days before such manufacture or import, a notice of such person's intent to manufacture or import such gas, including the common or trade name, the chemical identity, and the molecular structure of the gas.

"(2) REVIEW AND ACTION BY THE ADMINISTRATOR.—Within one year after receipt of a notice under paragraph (1)(C), the Administrator shall determine the quantity of the relevant gas that makes the same contribution to global warming as 1 metric ton of carbon dioxide and shall take one of the following actions:

"(A) If the Administrator determines that 1 metric ton of the gas makes a contribution to global warming that is equal to or greater than that made by 1 metric ton of carbon dioxide, the Administrator shall take the actions described in subsection (a).

"(B) If the Administrator determines that 1 metric ton of the gas does not make a contribution to global warming that is equal to or greater than that made by 1 metric ton of carbon dioxide, the Administrator shall publish in the Federal Register a written explanation of the reasons for the Administrator's decision.

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

"(1) be deemed to constitute the initial determination for the greenhouse gas for purposes of section 703(a); and

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

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

"SEC. 705. REPORTING REQUIREMENTS.

"(a) IN GENERAL.—Subject to this section, each affected entity shall submit to the Administrator, for inclusion in the Registry, periodic reports, including annual and quarterly data, that—

"(1) include—

"(A) the quantity and type of fossil fuels, including feedstock fossil fuels, that are extracted, produced, refined, imported, exported, or consumed by the entity; and

"(B) in the case of a local distribution company, the quantity of natural gas delivered by the local distribution company, including a separate accounting of the quantity delivered to entities that are not covered entities;

"(2) include the quantity of greenhouse gas generated, produced, imported, exported, or consumed by the entity;

“(3) include the quantity of greenhouse gas that has been captured and sequestered by the entity;

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

“(5) include the quantity of electricity imported or consumed by the entity, and information on the quantity of greenhouse gases emitted when the imported or consumed electricity was generated, as determined by the methodology published by the Administrator under section 706(a)(3);

“(6) include the aggregate quantity of all greenhouse gas emissions from sources at the entity;

“(7) include greenhouse gas emissions expressed in metric tons of each greenhouse gas emitted and in the quantity of carbon dioxide equivalents of each greenhouse gas emitted;

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

"(9) include information about the entity, as determined by the Administrator, which shall include corporate ownership of the entity;

"(10) quantify greenhouse gas emissions in accordance with the measurement standards established under section 706;

"(11) include other data necessary for accurate and complete accounting of greenhouse gas emissions, as determined by the Administrator;

"(12) include an appropriate certification regarding the accuracy and completeness of reported data, as determined by the Administrator; and

"(13) are submitted electronically to the Administrator, in such form and to such extent as may be required by the Administrator.

"(b) DE MINIMIS EXEMPTIONS.—

"(1) IN GENERAL.—The Administrator may determine—

"(A) whether certain sources at an affected entity should be considered to be eligible for a de minimis exemption from a requirement for reporting under subsection (a); and

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

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

"(c) VERIFICATION OF REPORT REQUIRED.—Before including the information from a report required under this section in the Registry, the Administrator shall verify the completeness and accuracy of the report using information provided under this section, obtained under section 114 or 307(a), or obtained under other provisions of law.

"(d) TIMING.—

"(1) CALENDAR YEARS 2007 THROUGH 2010.— For a base period of calendar years 2007 through 2010, each affected entity shall submit required annual data described in this section to the Administrator not later than March 31, 2011. The Administrator may waive reporting requirements for calendar years 2007 through 2010 for an affected entity if the Administrator determines that the affected entity did not keep data or records necessary to meet reporting requirements.

''(2) SUBSEQUENT CALENDAR YEARS.—For calendar year 2011 and each subsequent calendar year, each affected entity shall submit quarterly data described in this section to the Administrator not later than 60 days after the end of the applicable quarter.

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

''(1) fossil fuel production, refining, importation, exportation, or consumption data;

''(2) greenhouse gas emission data; or

''(3) other relevant data.

''SEC. 706. DATA QUALITY AND VERIFICATION.

''(a) PROTOCOLS AND METHODS.—

''(1) IN GENERAL.—The Administrator shall establish by regulation, taking into account the work done by the Climate Registry, comprehensive protocols and methods to ensure the accuracy, completeness, consistency, and transparency of data on greenhouse gas emissions and fossil fuel production, refining, importation, exportation, and consumption submitted to the Registry that include—

''(A) accounting and reporting standards for fossil fuel production, refining, importation, exportation, and consumption;

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

''(C) a requirement that, if an affected entity has already been directed to monitor emissions of a greenhouse gas using a continuous emission monitoring system under existing law, that system be used in complying with this title with respect to the greenhouse gas;

''(D) for cases in which the Administrator determines that monitoring emissions with the precision, reliability, accessibility, and timeliness similar to that provided by a continuous emission monitoring system is not technologically or economically feasible, standardized methods for calculating greenhouse gas emissions in specific industries using other readily available and reliable information, such as fuel consumption, materials consumption, production, or other relevant activity data, on the condition that those methods do not underreport emissions, as compared with the continuous emission monitoring system;

"(E) information on the accuracy of measurement and calculation methods;

"(F) methods to avoid double-counting of greenhouse gas emissions;

"(G) protocols to prevent an affected entity from avoiding the reporting requirements of this subtitle (such as by reorganizing into multiple entities or outsourcing activities that result in greenhouse gas emissions); and

"(H) protocols for verification of data submitted by affected entities.

"(2) BEST PRACTICES.—The protocols and methods developed under paragraph (1) shall incorporate and conform to the best practices from the most recent Federal, State, and international protocols for the measurement, accounting, reporting, and verification of greenhouse gas emissions to ensure the accuracy, completeness, and consistency of the data.

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

Federal Register a methodology for calculating the greenhouse gas emissions from the generation of electricity, taking into account the location of the entity and any regional variations in fuels used for electric power generation.

"(b) VERIFICATION; INFORMATION BY REPORTING ENTITIES.—Each affected entity shall—

"(1) provide information sufficient for the Administrator to verify, in accordance with the protocols and methods developed under subsection (a), that the fossil fuel data and greenhouse gas emission data of the affected entity have been completely and accurately reported; and

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

"(A) data sources;

"(B) information on internal control activities;

"(C) information on assumptions used in reporting emissions and fuels;

"(D) uncertainty analyses; and

"(E) other relevant data and information to facilitate the verification of reports submitted to the Registry.

“(c) WAIVER OF REPORTING REQUIREMENTS.—The Administrator may waive reporting requirements for specific entities if the Administrator determines that sufficient and equally or more reliable data are available under other provisions of law.

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

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

“(2) take appropriate enforcement action pursuant to this section and section 113.

“SEC. 707. FEDERAL GREENHOUSE GAS REGISTRY.

“(a) ESTABLISHMENT.—The Administrator shall establish a Federal greenhouse gas registry.

“(b) ADMINISTRATION.—In establishing the Registry, the Administrator shall—

“(1) design and operate the Registry;

“(2) provide coordination and technical assistance for the development of proposed protocols and methods, taking into account the duties carried out by the Climate Registry, to be published by the Administrator;

"(3)(A) develop an electronic format for reporting under guidelines established under section 706(a)(1); and

"(B) make the electronic format available to reporting entities;

"(4) verify and audit the data submitted by affected entities;

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

"(6) calculate carbon content and greenhouse gas emissions associated with the combustion of fossil fuel data reported by affected entities; and

"(7) promptly publish on the Internet all information contained in the Registry, except in any case in which publishing the information would result in a disclosure of—

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

"(B) confidential business information that cannot be derived from information that is otherwise publicly available and that would cause significant calculable competitive harm if published (except that information on total greenhouse gas emissions shall not be considered to be confidential business information).

“(c) THIRD-PARTY VERIFICATION.—The Administrator may use the services of third parties that have no conflicts of interest to verify reports required under section 705.

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

“Subtitle B—Reducing Emissions

“SEC. 711. EMISSION ALLOWANCE ACCOUNT.

“(a) IN GENERAL.—The Administrator shall establish a separate quantity of emission allowances for each of calendar years 2012 through 2050, in accordance with subsection (d).

“(b) IDENTIFICATION NUMBERS.—The Administrator shall assign to each emission allowance established under subsection (a) a unique identification number that includes the calendar year for which that emission allowance was established.

“(c) LEGAL STATUS OF EMISSION ALLOWANCES.—

“(1) IN GENERAL.—An emission allowance does not constitute a property right.

"(2) TERMINATION OR LIMITATION.—Nothing in this Act or any other provision of law shall be construed to limit or alter the authority of the United States to terminate or limit an emission allowance.

"(3) OTHER PROVISIONS UNAFFECTED.—Nothing in this Act relating to emission allowances shall affect the application of, or the responsibility for compliance with, any other provision of law to or of a covered entity.

"(d) ALLOWANCES FOR EACH CALENDAR YEAR.—The numbers of emission allowances established by the Administrator under subsection (a) for each of calendar 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

“SEC. 712. COMPLIANCE OBLIGATION.

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

“(1) For a covered entity that is a facility within the electric power sector, 1 emission allowance for each carbon dioxide equivalent of greenhouse gas that such facility emitted in the calendar year, excluding—

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

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

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

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

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

"(C) any greenhouse gas that is captured and geologically sequestered.

"(3) For a covered entity that produced or imported petroleum- or coal-based liquid or gaseous fuel (other than petroleum coke), 1 emission allowance for each carbon dioxide equivalent of greenhouse gas that will be emitted from the combustion of any such fuel produced for use in the United States or imported during the calendar year, assuming no capture or sequestration of any greenhouse gas emissions.

"(4) For a covered entity that is a local distribution company, 1 emission allowance for each carbon dioxide equivalent of greenhouse gas that will be emitted from the combustion of the natural gas such entity delivered during the calendar year, assuming no capture or sequestration of that greenhouse gas, and excluding any natural gas that is delivered to a covered entity that is a facility described in paragraph (1) or (2).

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

''(6) For a covered entity that is a geological sequestration site, 1 emission allowance for each carbon dioxide equivalent of greenhouse gas that such site emitted in the calendar year.

''(7) A covered entity to which more than 1 of paragraphs (1) through (6) apply shall submit emission allowances in compliance with all applicable paragraphs, except that a covered entity shall not be required to submit more than 1 emission allowance for the same emissions.

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

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

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

“(2) satisfy up to 15 percent of its compliance obligations under subsection (a) by submitting in lieu of an emission allowance an international emission allowance or an international offset credit approved by the Administrator under subtitle F;

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

"(d) RETIREMENT OF ALLOWANCES AND CREDITS.—Immediately upon receipt of an emission allowance, offset credit, or destruction credit under subsection (a), the Administrator shall retire the emission allowance, offset credit, or destruction credit. Treatment of international emission allowances and international offset credits submitted under this section shall be governed by section 753.

"(e) DETERMINATION OF COMPLIANCE.—Not later than July 1 of each year, the Administrator shall determine whether the owners and operators of all covered entities are in full compliance with subsection (a) for the preceding year.

"(f) DESTRUCTION CREDIT.—If the Administrator determines that an entity has, during any of calendar years 2012 through 2050, converted a greenhouse gas other than methane by thermal, chemical, or other means to another gas with a low- or zero-global warming potential, the Administrator shall establish and distribute to that entity a quantity of destruction credits that is equal to the number of carbon dioxide equivalents of reduction in global warming potential achieved through such conversion.

"SEC. 713. PENALTY FOR NONCOMPLIANCE.

"(a) EXCESS EMISSIONS PENALTY.—

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

"(2) AMOUNT.—The amount of an excess emissions penalty required to be paid under paragraph (1) shall be an amount equal to the product obtained by multiplying—

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

"(B) the greater of—

"(i) $200; or

"(ii) 3 times the fair market value of an emission allowance during the calendar year for which the emission allowances were due.

"(3) TIMING.—An excess emissions penalty required under this subsection shall be immediately due and payable to the Administrator, without demand, in accordance with such regulations as shall be promulgated by the Administrator by the date that is 1 year after the date of enactment of this title.

"(4) DEPOSIT.—The Administrator shall deposit each excess emissions penalty paid under this subsection in the Treasury of the United States.

"(5) NO EFFECT ON LIABILITY.—An excess emissions penalty due and payable by the owner or operator of a covered entity under this subsection shall not diminish the liability of the owner or operator for any fine, penalty, or assessment against the owner or operator for the same violation under any other provision of this Act or any other law.

"(b) EXCESS EMISSION ALLOWANCE.—The owner or operator of a covered entity that fails for any year to submit to the Administrator, by the deadline described in section 712(a) or 733(c), 1 or more of the emission allowances due pursuant to either of those sections shall be liable to offset the excess emissions by an equal quantity of emission allowances during—

"(1) the following calendar year; or

"(2) such longer period as the Administrator may prescribe.

“Subtitle C—Distribution of Allowances

“SEC. 721. AUCTIONS.

‘‘(a) IN GENERAL.—The Administrator shall, pursuant to regulations promulgated under this section, auction all emission allowances established under section 711, except as provided in section 723.

‘‘(b) INITIAL REGULATIONS.—Not later than 180 days after the date of enactment of this title, the Administrator shall promulgate regulations governing the auction of allowances under this section. Such regulations shall include the following requirements:

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

‘‘(2) AUCTION SCHEDULE; CURRENT AND FUTURE VINTAGES.—The Administrator shall, at each quarterly auction, offer for sale both a portion of the allowances with the same vintage as the year in which the auction is being conducted and a portion of the allowances with vintages from future years. The preceding sentence shall not apply to auctions held in 2010 and 2011, during which, by necessity, the Administrator shall auction only allowances with a vintage year that is later than the year in which the auction is held. Beginning with the first auction and at each quarterly auction held thereafter, the Administrator may offer for sale allowances with vintages of up to four years in advance of the year in which the auction is being conducted.

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

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

"(5) DISCLOSURE OF BENEFICIAL OWNERSHIP.—Each bidder in the auction shall be required to disclose the person or entity sponsoring or benefitting from the bidder's participation in the auction if such person or entity is, in whole or in part, other than the bidder or the bidder's employer.

"(6) BIDDING LIMITS.—No person may, directly or in concert with another participant, purchase more than 33 percent of the allowances offered for sale at any quarterly auction.

"(7) PUBLICATION OF INFORMATION.—After the auction, the Administrator shall, in a timely fashion, publish the identities of winning bidders, the quantity of allowances obtained by each winning bidder, and the auction clearing price.

"(8) OTHER REQUIREMENTS.—The Administrator may include in the regulations such other requirements or provisions as the Administrator deems necessary to promote effective, efficient, transparent, and fair administration of auctions under this section.

"(c) REVISION OF REGULATIONS.—The Administrator may, at any time, revise the initial regulations promulgated under subsection (b) based on the Administrator's experience in administering allowance auctions. Such revised regulations need not meet the requirements identified in subsection (b) if the Administrator determines that an alternative auction design would be more effective, taking into account factors including costs of administration, transparency, fairness, and risks of collusion or manipulation.

"SEC. 722. AUCTION PROCEEDS.

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

"(1) The Investing in Climate Action and Protection Act Management Fund.

"(2) The Climate Change Education and Outreach Fund.

"(3) The Climate Trust Rebate Fund.

"(4) The Low-Carbon Technology Fund.

"(5) The National Energy Efficiency Fund.

"(6) The Agriculture and Forestry Carbon Fund.

"(7) The Climate Change Worker Transition Fund.

"(8) The National Climate Change Adaptation Fund.

"(9) The Natural Resource Conservation Fund.

"(10) The International Forest Protection Fund.

"(11) The International Clean Technology Fund.

"(12) The International Climate Change Adaptation Fund.

"(b) AMOUNTS IN FUNDS.—Each Fund established by subsection (a) shall consist of such amounts as are deposited into the respective Fund under this section.

"(c) INVESTING IN CLIMATE ACTION AND PROTECTION ACT MANAGEMENT FUND.—

"(1) IN GENERAL.—For each of fiscal years 2010 through 2050, the Administrator shall deposit into the Investing in Climate Action and Protection Act Management Fund such percentage of the proceeds of the auctions conducted by the Administrator for such fiscal year under this section, not to exceed 0.5 percent of the total value of the proceeds from auctions conducted in that fiscal year, as the President determines to be sufficient to efficiently and effectively administer this title and title II of the Investing in Climate Action and Protection Act.

"(2) USE OF FUNDS.—Funds from the Investing in Climate Action and Protection Act Management Fund may be used by—

"(A) the Administrator for—

"(i) the costs of carrying out this title, including the costs of promulgation of regulations, development of policy guidance, development and operation of information systems, certification of monitoring equipment, conducting facilities audits and inspections, monitoring and modeling, quality assurance and verification functions, enforcement, administration, outreach, training, field audits, and financial management; and "(ii) contracting with the National Academy of Sciences for periodic review under the Investing in Climate Action and Protection Act; and

"(B) the Federal Energy Regulatory Commission for the costs of carrying out title II of the Investing in Climate Action and Protection Act.

"(3) TREATMENT.—Amounts in the Investing in Climate Action and Protection Act Management Fund—

"(A) shall be used only to advance the purposes described in section 3 of the Investing in Climate Action and Protection Act;

"(B) are subject to the availability of appropriations; and

"(C) shall remain available until expended.

"(d) CLIMATE CHANGE EDUCATION AND OUTREACH FUND.—For each of the fiscal years 2010 through 2050, the Administrator shall deposit $50,000,000 from the auction proceeds for such fiscal year in the Climate Change Education and Outreach Fund.

"(e) USE OF REMAINING PROCEEDS.—

"(1) FISCAL YEARS 2010 THROUGH 2019.—For each of fiscal years 2010 through 2019, the Administrator shall allocate the remaining proceeds of the auctions conducted by the Administrator during the 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

“(2) FISCAL YEARS 2020 THROUGH 2050.—For each of fiscal years 2020 through 2050, the Administrator shall allocate the remaining proceeds of the auctions conducted by the Administrator during the 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

“SEC. 723. TRANSITIONAL ASSISTANCE TO MANUFACTURERS OF TRADE-EXPOSED PRIMARY GOODS.

“(a) DEFINITIONS.—In this section:

“(1) CURRENTLY OPERATING MANUFACTURING FACILITY.—The term ‘currently operating manufacturing facility’ means an eligible manufacturing facility that had significant operations during the calendar year preceding the calendar year for which emission allowances are being distributed under this section.

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

“(3) NEW ENTRANT MANUFACTURING FACILITY.—The term ‘new entrant manufacturing facility’ means an eligible manufacturing facility that will begin operation during the calendar year for which emission allowances are being distributed under this section.

"(4) PRIMARY GOOD.—The term 'primary good' means—

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

"(B) paper.

"(5) PRODUCTION AMOUNT.—The term 'production amount' means—

"(A) for a currently operating manufacturing facility, the quantity of the trade-exposed primary good the facility produced, on average, during the most recent 3 calendar years for which data is available, or such shorter historical period as the facility has been in operation; and

"(B) for a new entrant manufacturing facility, the expected production capacity for the trade-exposed primary good by the facility for the calendar year.

"(6) TRADE-EXPOSED PRIMARY GOOD.—The term 'trade-exposed primary good' means a primary good that the Administrator determines is likely to be significantly disadvantaged in internationally competitive markets as a result of direct and indirect costs of compliance with this title.

"(b) CATEGORIES OF TRADE-EXPOSED PRIMARY GOODS.—Not later than 180 days after the date of enactment of this title, the Administrator shall publish in the Federal Register a list of categories and subcategories of trade-exposed primary goods for the purposes of this section and subtitle G.

"(c) ELIGIBLE MANUFACTURING FACILITIES.—

"(1) LIST.—Not later than 120 days prior to the start of each of calendar years 2012 through 2019, the Administrator shall publish in the Federal Register a list of eligible manufacturing facilities for each category and subcategory of trade-exposed primary goods listed under subsection (b). The list published under this paragraph shall include information on the production amount for each listed category and subcategory of goods.

"(2) ALLOWANCE ALLOCATION.—In addition to the list under paragraph (1), the publication under this subsection shall specify the quantity of emission allowances to be allocated to each eligible manufacturing facility pursuant to subsections (d) through (i).

"(3) OBTAINING INFORMATION.—The Administrator shall issue regulations to provide the Administrator access to the information necessary to publish the list required under paragraph (1). Such regulations shall not require manufacturing facilities to submit information available to the Administrator from other Federal agencies or public sources of information.

"(d) TOTAL ALLOCATION.—For each of calendar years 2012 through 2019, the Administrator shall allocate 6 percent of the quantity of emission allowances established under section 711 for the relevant year to eligible manufacturing facilities in accordance with this section.

"(e) DISTRIBUTION SYSTEM.—Not later than 1 year after the date of enactment of this title, the Administrator shall promulgate a regulation establishing a system for distributing to the owners or operators of eligible manufacturing facilities the emission allowances described in subsection (d). Such distribution shall occur by January 1 of the year for which the allowances are being distributed.

"(f) TOTAL ALLOCATION FOR EACH CATEGORY AND SUBCATEGORY OF ELIGIBLE MANUFACTURING FACILITIES.—The proportion of total emission allowances distributed by the Administrator for each calendar year to each category and subcategory of eligible manufacturing facilities shall be determined by the Administrator based upon the relative predicted adverse impact of direct and indirect costs of compliance with this title on each category or subcategory. The Administrator shall establish such proportion not later than January 1, 2011, and shall revise such proportion by January 1 of each year thereafter only to reflect the predicted changes in production levels of each category or subcategory.

''(g) INDIVIDUAL ALLOCATIONS TO ELIGIBLE MANUFACTURING FACILITIES.—The quantity of emission allowances distributed by the Administrator for a calendar year to an eligible manufacturing facility shall be a quantity equal to the product obtained by multiplying—

''(1) the total quantity of emission allowances available for distribution to all eligible manufacturing facilities in the appropriate category or subcategory for the calendar year as determined under subsection (f); and

''(2) the ratio that the production amount of the facility bears to the sum of—

''(A) the total quantity of the trade-exposed primary good produced, on average, over the 3 preceding calendar years, by currently operating manufacturing facilities; and

"(B) the expected production capacity for the trade-exposed primary good of all new entrant manufacturing facilities for the calendar year.

"(h) NEW ENTRANT MANUFACTURING FACILITIES.—The system established pursuant to subsection (e) shall authorize the Administrator to require the return to the Administrator of an appropriate portion of the emission allowances distributed to a new entrant manufacturing facility if actual production by such facility is lower than the production amount used to calculate the distribution to the facility.

"(i) FACILITIES THAT SHUT DOWN.—The system established pursuant to subsection (e) shall ensure that—

"(1) emission allowances are not distributed to an owner or operator for any facility that has been permanently shut down at the time of the distribution;

"(2) if a facility receives a distribution of emission allowances under this section for a calendar year and subsequently permanently shuts down during that calendar year, the owner or operator of such facility promptly returns to the Administrator a quantity of emission allowances equal to the quantity that the Administrator determines is the portion that the owner or operator will no longer need to meet its submission obligations for such facility under section 712; and

"(3) the owner or operator of any facility that permanently shuts down in a calendar year promptly returns to the Administrator any emission allowances that the Administrator has distributed for that facility for any subsequent calendar year.

"Subtitle D—Trading, Banking, and Borrowing

"SEC. 731. TRADING.

"(a) SALE, EXCHANGE, AND RETIREMENT OF EMISSION ALLOWANCES.—Except as otherwise provided in this title, the lawful holder of an emission allowance may, without restriction, sell, exchange, transfer, submit for compliance in accordance with section 712, or request that the Administrator retire the emission allowance.

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

"(c) ALLOWANCE TRANSFER SYSTEM.—Not later than 18 months after the date of enactment of this title, the Administrator shall promulgate regulations to carry out the provisions of this title relating to emission allowances, including regulations providing that the transfer of emission allowances shall not be effective until such date as a written certification of the transfer, signed by a responsible official of each party to the transfer, is received and recorded by the Administrator in accordance with those regulations.

''(d) ALLOWANCE TRACKING SYSTEM.—The regulations promulgated under subsection (c) shall include a system for issuing, recording, and tracking emission allowances that shall specify all necessary procedures and requirements for an orderly and competitive functioning of the emission allowance system.

''SEC. 732. BANKING.

''(a) IN GENERAL.—An emission allowance may be used to meet the requirements of section 712 in the calendar year for which the allowance is issued, as indicated in the identification number of the emission allowance, or any subsequent calendar year.

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

''SEC. 733. BORROWING.

''(a) REGULATIONS.—Not later than 3 years after the date of enactment of this title, the Administrator shall promulgate regulations under which, subject to the requirements of this section, the owner or operator of a covered entity may—

"(1) borrow emission allowances from the Administrator; and

"(2) for a calendar year, submit borrowed emission allowances to the Administrator in satisfaction of up to 15 percent of the compliance obligation under section 712(a).

"(b) LIMITATIONS.—An emission allowance borrowed pursuant to this section shall be an emission allowance established by the Administrator for a specific future calendar year under section 711(a). The Administrator shall not lend an emission allowance drawn from a calendar year (as indicated in the identification number of the emission allowance) that is more than 5 years later than the calendar year in which such loan is made.

"(c) REPAYMENT WITH INTEREST.—For each emission allowance that an owner or operator of a covered entity borrows pursuant to this section, such owner or operator shall, not later than December 31 of the calendar year from which the borrowed emission allowance was drawn (as indicated in the identification number of the borrowed emission allowance), submit to the Administrator a quantity of emission allowances that is equal to the sum of—

"(1) 1; and

"(2) the product obtained by multiplying—

"(A) 0.1; and

"(B) the number of years, including prorated portions of years, between the date on which the emission allowance was borrowed and the date on which the loan is repaid.

"Subtitle E—Domestic Offsets

"SEC. 741. ESTABLISHMENT OF DOMESTIC OFFSET PROGRAM.

"(a) REGULATIONS.—Not later than 18 months after the date of enactment of this title, the Administrator shall promulgate regulations establishing a program for the issuance of offset credits in accordance with the requirements of this subtitle.

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

"(1) authorize the issuance of offset credits generated through qualifying offset projects within the United States that achieve greenhouse gas emission reductions below, or increases in biological sequestration above, the project baseline;

"(2) ensure that such offset credits represent real, verifiable, additional, permanent, and enforceable reductions in greenhouse gas emissions or increases in biological sequestration; and

"(3) provide for the implementation of the requirements of this subtitle.

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

"SEC. 742. ELIGIBLE PROJECT TYPES.

"(a) ELIGIBLE PROJECT TYPES.—The types of projects eligible to generate offset credits under this subtitle shall be limited to projects that—

"(1) reduce greenhouse gas emissions, from agricultural facilities in the United States that are not subject to performance standards issued under section 771, resulting from enteric fermentation or manure management and disposal;

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

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

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

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

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

"(2) any activity receiving support under subtitle D of title III of the Investing in Climate Action and Protection Act.

"SEC. 743. PROTOCOLS AND ACCOUNTING METHODS.

"(a) DEVELOPMENT OF MONITORING AND QUANTIFICATION TOOLS FOR OFFSET PROJECTS.—

"(1) IN GENERAL.—The Administrator shall develop standardized tools for use in the monitoring and quantification of net reductions in greenhouse gas emissions or net increases in biological sequestration for each eligible offset project type.

"(2) TOOL DEVELOPMENT.—The tools described in paragraph (1) shall, for each eligible offset project type, include applicable—

"(A) statistically sound field and remote sensing sampling methods, procedures, techniques, protocols, or programs;

"(B) models, factors, equations, or look-up tables; and

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

"(b) DEVELOPMENT OF ACCOUNTING AND DISCOUNTING METHODS.—

"(1) IN GENERAL.—The Administrator shall—

"(A) develop standardized methods for use in estimating the baseline, accounting for additionality and uncertainty, and discounting for leakage for each eligible offset project type; and

"(B) require that leakage be subtracted from reductions in greenhouse gas emissions or increases in biological sequestration attributable to a project.

"(2) BASELINE ESTIMATION AND ADDITIONALITY DETERMINATION.—The standardized methods used to establish baselines and determine additionality shall, for each project type, at a minimum—

"(A) in the case of an afforestation or reforestation project, determine the greenhouse gas flux and carbon stock on comparable land identified on the basis of—

"(i) similarity in current management practices;

"(ii) similarity of regional, State, or local policies or programs; and

"(iii) similarity in geographical and biophysical characteristics;

"(B) in the case of an emission reduction project, use as a basis emissions from comparable facilities; and

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

"(D) ensure that emission reductions or increases in biological sequestration are not considered additional that are the result of activities that—

"(i) are required by or undertaken to comply with any law, including any regulation; or

"(ii) were commenced prior to the initiation of the offset project.

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

"(A) the scope of the offset project in terms of activities and geography covered;

"(B) the markets relevant to the offset project;

"(C) emission intensity per unit of production, both inside and outside of the offset project; and

"(D) a time period sufficient in length to yield a stable leakage rate.

"(c) STANDARDS ADDRESSING PERMANENCE IN AFFORESTATION AND REFORESTATION PROJECTS.—The Administrator shall prescribe specific standards ensuring that each offset allowance generated through an afforestation or reforestation project represents a permanent net increase in biological sequestration, and that full account is taken of any actual or potential reversal of such sequestration, with an adequate margin of safety. In prescribing such standards, the Administrator shall seek to maximize the certainty that the overall cap on greenhouse gas emissions established by this title is not compromised.

"(d) UNCERTAINTY.—

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

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

"(A) the robustness and rigor of the methods used by a project developer to monitor and quantify reductions in greenhouse gas emissions or net biological sequestration;

"(B) the robustness and rigor of methods used to determine additionality, leakage, and permanence; and

"(C) a proportional discount that increases relative to uncertainty, as determined by the Administrator to encourage better measurement and accounting.

"(e) ACQUISITION OF NEW DATA AND REVIEW OF METHODS.—The Administrator shall—

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

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

"(A) validation of existing methods, protocols, procedures, techniques, factors, equations, or models;

"(B) development of new methods, protocols, procedures, techniques, factors, equations, or models;

"(C) increased availability of field data or other datasets; and

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

"SEC. 744. PROJECT INITIATION.

"(a) IN GENERAL.—The Administrator may prescribe rules requiring project developers for such project types as the Administrator considers appropriate, prior to initiation of an offset project, to—

"(1) submit a petition for project initiation, including—

"(A) a plan for monitoring and quantifying reductions in emissions or net increases in biological sequestration resulting from the project;

"(B) a certification that the project will not have significant adverse effects on the environment; and

"(C) such other information as the Administrator considers necessary to meet the objectives of this subtitle; and

"(2) obtain the Administrator's approval of the offset project, pursuant to subsection (b).

"(b) APPROVAL AND NOTIFICATION.—

"(1) IN GENERAL.—If the Administrator establishes project initiation requirements under subsection (a), the Administrator shall, not later than 60 days after the submission of a complete petition under subsection (a)(1)—

"(A) determine whether the petition satisfies the applicable requirements of this subtitle; and

"(B) notify the project developer of such determination.

"(2) APPEAL.—The Administrator shall establish mechanisms for appeal and review of negative determinations made under this subsection.

"SEC. 745. OFFSET VERIFICATION AND ISSUANCE OF CREDITS.

"(a) IN GENERAL.—Offset credits may be claimed for net emission reductions or increases in biological sequestration annually, after accounting for any necessary discounts in accordance with section 743, by submitting a verification report for an offset project to the Administrator.

"(b) OFFSET VERIFICATION.—

"(1) SCOPE OF VERIFICATION.—A verification report for an offset project—

"(A) shall be completed by a verifier accredited in accordance with paragraph (3); and

"(B) shall be developed taking into consideration—

"(i) the information and methodology contained within any monitoring and quantification plan submitted under section 744(a)(1)(A);

"(ii) data and subsequent analysis of the offset project, including—

"(I) quantification of net emission reductions or increases in biological sequestration;

"(II) determination of additionality;

"(III) calculation of leakage;

"(IV) assessment of permanence;

"(V) discounting for uncertainty; and

"(VI) the adjustment of net emission reductions or increases in biological sequestration by the discounts determined under clauses (II) through (V); and

"(iii) subject to the requirements of this subtitle, any other information identified by the Administrator as being necessary to achieve the purposes of this subtitle.

"(2) VERIFICATION REPORT REQUIREMENTS.—The Administrator shall specify the required components of a verification report, including—

"(A) the quantity of offsets generated;

"(B) the amount of discounts applied;

"(C) an assessment of methods (and the appropriateness of those methods);

"(D) an assessment of quantitative errors or omissions (and the effect of the errors or omissions on offsets);

"(E) any potential conflicts of interest between a verifier and project developer; and

"(F) any other provision that the Administrator considers to be necessary to achieve the purposes of this subtitle.

"(3) VERIFIER ACCREDITATION.—

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

"(B) PUBLIC ACCESSIBILITY.—Each verifier meeting the requirements for accreditation in accordance with this paragraph shall be listed in a publicly accessible database, which shall be maintained and updated by the Administrator.

"(c) REGISTRATION AND AWARDING OF OFFSETS.—

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

"(A) determine whether the offsets satisfy the applicable requirements of this subtitle; and

"(B) notify the project developer of that determination.

"(2) AFFIRMATIVE DETERMINATION.—In the case of an affirmative determination under paragraph (1), the Administrator shall—

"(A) assign a unique serial number to each offset credit to be issued;

"(B) register the offset credits, together with—

"(i) a verification report issued pursuant to this section; and

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

"(C) issue the offset credits.

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

"SEC. 746. AUDITS.

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

"(b) REQUIREMENTS.—The regulations promulgated under this section shall specifically consider—

"(1) principles for initiating and conducting audits;

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

"(A) reporting and recordkeeping; and

"(B) site review or visitation;

"(3) the rights and privileges of an audited party; and

"(4) the establishment of an appeal process.

"SEC. 747. TIMING AND THE PROVISION OF OFFSET CREDITS.

"(a) INITIATION OF OFFSET PROJECTS.—An offset project that commences operation on or after the effective date of regulations promulgated under section 741(a) shall be eligible to generate offset credits under this subtitle only if the offset project meets the other applicable requirements of this subtitle.

"(b) PRE-EXISTING PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Administrator may issue offset credits under this subtitle for offset projects that, as of the effective date of regulations promulgated under section 741(a), are registered under or meet the standards of the Climate Registry, the California Action Registry, the GHG Registry, the Chicago Climate Exchange, the GHG CleanProjects Registry, or any other Federal, State, or private reporting programs or registries if the Administrator determines that such offset projects satisfy the applicable requirements of this subtitle.

"(2) LIMITATION.—Offset credits shall be issued under this subtitle only for reductions in emissions or increases in biological sequestration that occur after the date of promulgation of regulations under section 741(a).

"SEC. 748. ENVIRONMENTAL CONSIDERATIONS.

"(a) COORDINATION TO MINIMIZE NEGATIVE EFFECTS.—In promulgating and implementing regulations under this subtitle, the Administrator shall act (including by rejecting projects, if necessary) to avoid or minimize, to the maximum extent practicable, adverse effects on human health or the environment resulting from the implementation of offset projects under this subtitle.

"(b) USE OF NATIVE TREE SPECIES IN AFFORESTATION AND REFORESTATION PROJECTS.—Not later than 18 months after the date of enactment of this title, the Administrator shall promulgate regulations for the selection and use of tree species in afforestation and reforestation offset projects—

"(1) to ensure native species are given primary consideration in such projects;

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

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

"SEC. 749. OWNERSHIP AND TRANSFER OF OFFSET CREDITS.

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

"(b) TRANSFERABILITY.—An offset credit generated pursuant to this subtitle may be sold, traded, or transferred, on the conditions that—

"(1) the offset credit has not expired or been retired or canceled; and

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

“Subtitle F—International Emission Allowances and Offset Credits

“SEC. 751. INTERNATIONAL EMISSION ALLOWANCES.

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

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

“SEC. 752. INTERNATIONAL OFFSET CREDITS.

“(a) REGULATIONS.—The Administrator shall, following the promulgation of regulations governing domestic offset allowances under subtitle E of this title, promulgate regulations providing for the approval of categories or subcategories of qualifying international offset credits for submission under section 712 or section 765.

“(b) REQUIREMENTS.—The regulations promulgated under subsection (a) shall require that, in order for a category or subcategory of international offset credits to be approved for use under this title—

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

"(2) such international offset credits have not been awarded based on the destruction of hydrofluorocarbons;

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

"(4) the foreign country in which the project that generated the international offset credits was carried out—

"(A) has taken comparable action to reduce greenhouse gas emissions within that country, as determined by the President pursuant to section 764(b);

"(B) was responsible, in the most recent calendar year for which emissions data is available, for less than 0.5 percent of total global greenhouse gas emissions; or

"(C) is identified by the United Nations as among the least developed of developing countries.

"SEC. 753. RETIREMENT.

"(a) ENTITY CERTIFICATION.—The owner or operator of an entity that submits an international emission allowance or international offset credit under section 712 or section 765 shall certify to the Administrator that such international emission allowance or international offset credit has not previously been used to comply with any foreign or international greenhouse gas regulatory program.

"(b) RETIREMENT.—

"(1) FOREIGN AND INTERNATIONAL REGULATORY ENTITIES.—The Administrator shall seek, by whatever means appropriate, to ensure that any relevant foreign and international regulatory entities—

"(A) are notified of the submission, for purposes of compliance with this title, of any international emission allowance or international 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 President, taking into consideration the level of economic development of the foreign country.

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

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

“(4) FOREIGN COUNTRY.—The term ‘foreign country’ means a member of, or observer government to, the World Trade Organization, other than the United States.

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

“(6) INTERNATIONAL AGREEMENT.—The term ‘international agreement’ means any international agreement to which the United States is a party, including the Marrakesh agreement establishing the

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

"(7) TRADE-EXPOSED PRIMARY GOOD.—The term 'trade-exposed primary good' has the meaning given that term in section 723(a)(6).

"(8) UNITED STATES IMPORTER.—The term 'United States importer' means an entity that imports into the United States a trade-exposed primary good produced in a covered foreign country.

"SEC. 762. PURPOSES.

"The purposes of this subtitle are—

"(1) to promote a strong global effort to significantly reduce greenhouse gas emissions;

"(2) to ensure, to the maximum extent practicable, that greenhouse gas emissions occurring outside the United States do not undermine the environmental objectives of the United States in addressing global climate change; and

"(3) to encourage effective international action to achieve those objectives through—

"(A) agreements negotiated between the United States and foreign countries; and

"(B) measures carried out by the United States that comply with applicable international agreements.

"SEC. 763. INTERNATIONAL NEGOTIATIONS.

"(a) FINDING.—Congress finds that the purposes described in section 762 can be most effectively addressed and achieved through agreements negotiated between the United States and foreign countries.

"(b) NEGOTIATING OBJECTIVE.—

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

"(2) INTENT OF CONGRESS REGARDING OBJECTIVE.—To the extent that the agreements described in subsection (a) involve measures that will affect international trade in any good or service, it is the intent of Congress that the negotiating objective of the United States shall be to focus multilateral and bilateral international agreements on the reduction of greenhouse gas emissions to advance achievement of the purposes described in section 762.

"(c) NOTIFICATION TO FOREIGN COUNTRIES.—

"(1) REQUIREMENT.—Immediately upon enactment of this Act, the President shall notify each foreign country of the negotiating objective under subsection (b).

"(2) REQUEST FOR COMPARABLE ACTION.—Notification shall include a request that any foreign country that would not otherwise be excluded under subparagraph (B) or (C) of section 765(b)(2) take comparable action to limit greenhouse gas emissions of the foreign country.

"SEC. 764. DETERMINATION OF COMPARABLE ACTION.

"(a) INTERAGENCY REVIEW.—

"(1) INTERAGENCY GROUP.—

"(A) ESTABLISHMENT.—The President shall establish an interagency group to carry out this subsection.

"(B) CHAIRPERSON.—The chairperson of the interagency group established under subparagraph (A) shall be the Secretary of State.

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

"(2) DETERMINATIONS.—The interagency group established under paragraph (1)(A) shall determine whether, and the extent to which, each foreign country has taken comparable action to limit the greenhouse gas emissions of the foreign country.

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

"(b) PRESIDENTIAL DETERMINATIONS.—Not later than January 1, 2011, and annually thereafter, the President shall—

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

"(2) submit to Congress an annual report describing the determinations of the President under paragraph (1); and

"(3) publish the determinations in the Federal Register.

"SEC. 765. INTERNATIONAL RESERVE ALLOWANCE PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Administrator shall establish a program under which the Administrator, during the 1-year period beginning on January 1, 2019, and annually thereafter, shall offer for sale to

United States importers international reserve allowances in accordance with this subsection.

"(2) SOURCE.—International reserve allowances under paragraph (1) shall be issued from a special reserve of allowances that is separate from, and established in addition to, the quantity of allowances established under section 711.

"(3) PRICE.—The price of international reserve allowances shall be the fair market value of emission allowances during the previous 12 months, as determined by the Administrator.

"(4) SERIAL NUMBER.—The Administrator shall assign a unique serial number to each international reserve allowance issued under this subsection.

"(5) TRADING SYSTEM.—The Administrator may establish, by rule, a system for the sale, exchange, purchase, and transfer of international reserve allowances.

"(6) COVERED ENTITIES.—International reserve allowances may not be submitted by covered entities to comply with the allowance submission requirements of section 712.

"(7) PROCEEDS.—All proceeds from the sale of international reserve allowances under this subsection shall be deposited in the International Clean Technology Fund established under section 722(a).

"(b) FOREIGN COUNTRY LISTS.—

"(1) IN GENERAL.—Not later than January 1, 2019, and annually thereafter, the President shall develop and publish in the Federal Register, together with the determinations under section 764(b), 2 lists of foreign countries, in accordance with this subsection.

"(2) EXCLUDED LIST.—The President shall identify and publish in a list, to be known as the 'excluded list'—

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

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

"(C) each foreign country the United Nations has identified as among the least-developed of developing countries.

"(3) COVERED LIST.—The President shall identify and publish in a list, to be known as the 'covered list', each foreign country that is not included on the excluded list under paragraph (2).

"(c) WRITTEN DECLARATIONS.—

"(1) IN GENERAL.—Effective beginning January 1, 2020, a United States importer shall, as a condition of importation or withdrawal for consumption from a warehouse of a trade-exposed primary good, submit to the Administrator and the appropriate office of U.S. Customs and Border Protection a written declaration with respect to each such importation or withdrawal.

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

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

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

"(3) INCLUSION.—A written declaration under paragraph (1) shall include the unique serial number of each international reserve allowance associated with the importation of the applicable trade-exposed primary good.

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

"(5) CORRECTED DECLARATION.—

"(A) IN GENERAL.—If, after making a declaration required under this subsection, an importer has reason to believe that the declaration contains information that is not correct, the importer shall provide a corrected declaration by not later than 30 days after the date of discovery of the error, in accordance with subparagraph (B).

"(B) METHOD.—A corrected declaration under subparagraph (A) shall be in the form of a letter or other written statement to the Administrator and the office of U.S. Customs and Border Protection to which the original declaration was submitted.

"(d) QUANTITY OF ALLOWANCES REQUIRED.—

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

"(2) INITIAL COMPLIANCE YEAR.—

"(A) IN GENERAL.—Subject to subparagraph (B), the methodology under paragraph (1) shall establish an international reserve allowance requirement (per unit imported into the United States) for the initial compliance year for each category or subcategory of trade-exposed primary goods produced in each covered foreign country that is equal to the quotient obtained by dividing—

"(i) the total greenhouse gas emissions (including indirect greenhouse gas emissions) from the covered foreign country that are attributable to the category or subcategory of trade-exposed primary goods produced in that country during the most recent year for which data are available; by

"(ii) the total quantity of the category or subcategory of trade-exposed primary good produced in the covered foreign country during the same calendar year.

"(B) ADJUSTMENTS.—The Administrator shall adjust the requirement under subparagraph (A) to take into account the level of economic development of the covered foreign country in which the trade-exposed primary goods were produced.

"(3) SUBSEQUENT COMPLIANCE YEARS.—For each subsequent compliance year, the Administrator shall revise the international reserve allowance requirement applicable to each category or subcategory of imported trade-exposed primary goods produced in each covered foreign country to reflect changes in the factors described in paragraph (2).

"(4) PUBLICATION.—Not later than 90 days before the beginning of each compliance year, the Administrator shall publish in the Federal Register a schedule describing the required number of international reserve allowances for each category or subcategory of imported trade-exposed primary goods produced in each covered foreign country, as calculated under this subsection.

"(e) INTERNATIONAL EMISSION ALLOWANCES AND OFFSET CREDITS.—A United States importer may satisfy up to 15 percent of its obligation under this section by submitting, in lieu of an international reserve allowance, an international emission allowance approved by the Administrator under section 751 or an international offset credit approved by the Administrator under section 752.

"(f) RETIREMENT OF ALLOWANCES.—The Administrator shall retire each international reserve allowance submitted to achieve compliance with this section. Treatment of international allowances and international offset credits submitted under this section shall be governed by section 753.

"(g) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—The Administrator, in consultation with the Secretary of State, shall adjust the international reserve allowance requirements established under this section (including the quantity of international reserve allowances required for each category or subcategory of trade-exposed primary goods produced in a covered foreign country) as the Administrator determines to be necessary to ensure that the United States complies with all applicable international agreements.

"(h) FINAL REGULATIONS.—Not later than January 1, 2018, the Administrator shall promulgate such regulations as the Administrator determines to be necessary to carry out this section.

"SEC. 766. ADJUSTMENT OF INTERNATIONAL RESERVE ALLOWANCE REQUIREMENTS.

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

"(b) INADEQUATE REQUIREMENTS.—If the President determines that an applicable international reserve allowance requirement is not adequate to achieve the purposes of this subtitle, the President, simultaneously with the submission of the report under subsection (a), shall—

"(1) adjust the requirement; or

"(2) take such other action as the President is authorized to take by law and determines to be necessary to improve the effectiveness of the requirement, in accordance with all applicable international agreements.

"(c) EFFECTIVE DATE.—An adjustment under subsection (b)(1) shall take effect beginning on January 1 of a compliance year, as determined by the President.

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

"SEC. 771. PERFORMANCE STANDARDS FOR CERTAIN SOURCES THAT ARE NOT COVERED ENTITIES.

"(a) DEFINITION.—For purposes of this section, the term 'performance standard source' means a stationary source of methane or nitrous oxide emissions that are not covered by the compliance requirements of section 712 and that exceed 10,000 carbon dioxide equivalents per year, including coal mines, landfills, wastewater treatment operations, and animal feeding operations. Such term shall not include sources of emissions from agricultural soil management, rice cultivation, field burning of agricultural residues, or management of forest lands.

"(b) LIST OF CATEGORIES.—Not later than 90 days after the date of enactment of this title, the Administrator shall publish a list of all categories or subcategories of performance standard sources subject to the requirements of this section. The Administrator shall review such list at least once every 5 years, and shall revise the list as necessary.

"(c) RULEMAKING.—Not later than 2 years after initial publication of the list under subsection (b), the Administrator shall issue a final rule for each category or subcategory of performance standard sources requiring such sources to operate in conformance with the standards established under subsection (d). Such rules shall establish compliance dates for each category or subcategory listed under subsection (b), which shall be no later than 3 years after the issuance of the rule under this subsection. The Administrator shall, not less often than every 8 years, review and, as necessary, revise the rules issued under this subsection, taking into account developments in practices, processes, and control technologies.

"(d) STANDARDS.—

"(1) ESTABLISHMENT.—The rules issued under subsection (c) shall establish, for each category or subcategory of performance standard sources listed under subsection (b), standards for the best available control technologies and practices for reducing methane or nitrous oxide emissions from sources in that category or subcategory.

"(2) CONSIDERATIONS.—In establishing standards under paragraph (1), the Administrator shall consider—

"(A) compliance costs;

"(B) health and environmental impacts not associated with methane and nitrous oxide emissions;

"(C) energy requirements; and

"(D) technologies and practices developed or used outside the United States.

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

"(4) ALTERNATIVE COMPLIANCE THRESHOLD.—The Administrator may establish an optional alternative compliance threshold for a category or subcategory of performance standard sources based on the volume or size of the source's operations, where such alternative threshold is demonstrated to be an accurate indicator of the mass of methane and nitrous oxide emissions from the source and is equivalent to a 10,000 carbon dioxide equivalent per year threshold.

"(5) ALTERNATIVE MEANS OF COMPLIANCE.—The Administrator may approve a request by an owner or operator of a performance standard source to use an alternative means of compliance with the requirements for such source under the applicable rule issued under subsection (c) if such alternative will achieve a reduction in emissions at least equal to reductions achieved under the performance standards in the applicable rule.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the Administrator's duties or authority under section 111 or any other section of this Act.

"SEC. 772. PERFORMANCE STANDARDS FOR NEW COAL-FIRED POWER PLANTS.

"(a) COVERED EGUS DEFINED.—For purposes of this section, the term 'covered EGU' means an electric generating unit that—

"(1) has a rated capacity of 25 megawatts or more;

"(2) derives at least 50 percent of its annual fuel input from coal, petroleum coke, or any combination of these fuels; and

"(3) commences construction on or after January 1, 2009.

"(b) STANDARDS OF EMISSION PERFORMANCE FOR COVERED ELECTRIC GENERATING UNITS.—

"(1) OBLIGATIONS OF COVERED EGUS.—Each covered EGU shall achieve, on the compliance schedule set forth in paragraph (2), either—

"(A) the capture and geological sequestration of not less than 85 percent of the total carbon dioxide emissions produced by the covered EGU on an annual average basis; or

"(B) a greater rate of capture and geological sequestration as established by regulations promulgated by the Administrator under subsection (c), provided that such regulations were promulgated prior to commencement of construction of the covered EGU.

"(2) COMPLIANCE SCHEDULE.—(A) Covered EGUs that commence operation prior to January 1, 2020, must be in compliance with the emission performance standard applicable under regulations promulgated under subsection (c) by either—

"(i) January 1, 2016; or

"(ii) four years after the covered EGU commences operation,

whichever occurs later.

"(B) Any other covered EGU must be in compliance with the emission performance standard on the date when it commences operation except that, prior to January 1, 2025, such EGU may obtain a compliance date extension of up to 18 months if the owner or operator can demonstrate to the Administrator's satisfaction that it is unable to meet the emission performance standard because of technical infeasibility.

"(c) REGULATIONS.—

"(1) INITIAL REGULATIONS.—Not later than 180 days after the date of enactment of this title, the Administrator shall promulgate regulations implementing the requirements of this section.

"(2) REVISED REGULATIONS.—Not later than January 1, 2012, and at 5-year intervals thereafter, the Administrator shall, by rule, increase the minimum rate of capture and geological sequestration of carbon dioxide emissions under subsection (b)(1)(A) if the Administrator determines that a greater rate of capture and geological sequestration is achievable through the application of the best available control technology, taking into account the cost of achieving such increase, energy impacts, and any health and environmental impacts not associated with carbon dioxide emissions.".

SEC. 102. CONFORMING AMENDMENTS.

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

(1) In subsection (a)(3), by striking ''or title VI,'' and inserting ''title VI, or title VII,''.

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

(3) In paragraph (2), by striking ''or title VI'' and inserting ''title VI, or title VII''.

(4) In subsection (c)—

(A) in the first sentence of paragraph (1), by striking ''or title VI (relating to stratospheric ozone control),'' and inserting ''title VI (relating to stratospheric ozone control), or title VII (relating to reduction of greenhouse gas emissions),''; and

(B) in the first sentence of paragraph (3), by striking ''or VI'' and inserting ''VI, or VII''.

(5) In subsection (d)(1)(B), by striking ''or VI'' and inserting ''VI, or VII''.

(6) In subsection (f), in the first sentence, by striking ''or VI'' and inserting ''VI, or VII''.

(b) INSPECTIONS, MONITORING, AND ENTRY.—Section 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is amended by striking ‘‘section 112,’’ and all that follows through ‘‘(ii)’’ and inserting the following: ‘‘section 112, any regulation of solid waste combustion under section 129, or any regulation of greenhouse gas emissions under title VII, (ii)’’.

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

(1) In subsection (a), by striking ‘‘, or section 306’’ and inserting ‘‘section 306,or title VII’’.

(2) In subsection (b)(1)—

(A) by striking ‘‘,,’’ and inserting ‘‘,’’ in each place such punctuation appears; and

(B) by striking ‘‘section 120,’’ in the first sentence and inserting ‘‘section 120, any final action under title VII,’’.

(3) In subsection (d)(1) by amending subparagraph (S) to read as follows:

‘‘(S) the promulgation or revision of any regulation under title VII,’’.

SEC. 103. COMPLEMENTARY POLICIES FOR HYDROFLUOROCARBONS.

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

(1) By adding at the end the following:

"(d) DEFINITION OF HYDROFLUOROCARBON SUBSTITUTE.—In this section, the term 'hydrofluorocarbon substitute' means a hydrofluorocarbon or other greenhouse gas that has a global warming potential of more than 150 and that is used in or for types of equipment, appliances, or processes that previously relied on class I or class II substances.".

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

"(4)(A) Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations establishing standards and requirements regarding the sale or distribution, or offer for sale and distribution in interstate commerce, use, and disposal of hydrofluorocarbon substitutes for class I and class II substances not covered by paragraph (1), including the use, recycling, and disposal of those hydrofluorocarbon substitutes during the maintenance, service, repair, or disposal of appliances and industrial process refrigeration equipment.

"(B) The standards and requirements established under subparagraph (A) shall take effect not later than 1 year after the date of promulgation of the regulations.''.

(3) In subsection (b), by inserting ''and hydrofluorocarbon substitutes for those substances'' after ''substances'' in the matter preceding paragraph (1), by inserting ''(or hydrofluorocarbon substitutes for those substances)'' after ''substances'' in paragraph (1), and by inserting ''(or a hydrofluorocarbon substitute for such substance)'' after ''substance'' in paragraphs (2) and (3) in each place such term appears.

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

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

''(5) The term 'hydrofluorocarbon substitute' means a hydrofluorocarbon or other greenhouse gas that has a global warming potential of more than 150 and that is used in or for types of equipment, appliances, or processes that previously relied on class I or class II substances.''.

(2) In subsection (e)—

(A) by striking ''OF CLASS I OR CLASS II SUBSTANCES'' in the subsection heading; and

(B) by adding at the end the following: ''Effective beginning January 1, 2010, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce to any person (other than a person performing service for consideration on motor vehicle air-conditioning systems in compliance with this section) any hydrofluorocarbon substitute that is suitable for use in a motor vehicle air-conditioning system and that is in a container that contains less than 20 pounds of the hydrofluorocarbon substitute.''.

SEC. 104. WAIVER OF PREEMPTION FOR CALIFORNIA GREENHOUSE GAS EMISSION STANDARDS FOR VEHICLES.

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

''(f) WAIVER.—Notwithstanding subsection (b) or any other provision of law, the application for a waiver of preemption dated December 21, 2005, submitted to the Administrator pursuant to subsection (b) by the State of California for regulations of that State to control greenhouse gas emissions from motor vehicles shall be considered to be approved.''.

SEC. 105. LOW-CARBON FUEL STANDARD.

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

(1) by redesignating subparagraphs (G) through (L) as subparagraphs (J) through (O), respectively;

(2) by inserting after subparagraph (F) the following:

"(G) CULTIVATED NOXIOUS PLANT.—The term 'cultivated noxious plant' means a plant that is included on—

"(i) the Federal noxious weed list maintained by the Animal and Plant Health Inspection Service; or

"(ii) any comparable State list.

"(H) FUEL EMISSION BASELINE.—The term 'fuel emission baseline' means the average lifecycle greenhouse gas emissions per unit of energy of the aggregate of all transportation fuels sold or introduced into commerce in calendar year 2005, as determined by the Administrator under paragraph (13).

"(I) FUEL PROVIDER.—The term 'fuel provider' includes, as the Administrator determines to be appropriate, any individual or entity that produces, refines, blends, or imports any transportation fuel in commerce in, or into, the United States.''; and

(3) by striking subparagraph (O) (as redesignated by paragraph (1)) and inserting the following:

``(O) TRANSPORTATION FUEL.—The term 'transportation fuel' means fuel for use in motor vehicles, nonroad vehicles, nonroad engines, or aircraft.''.

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

``(13) ADVANCED CLEAN FUEL PERFORMANCE STANDARD.—

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

``(i) establish a methodology for use in determining the lifecycle greenhouse gas emissions per unit of energy of all transportation fuels in commerce for which the Administrator has not already established such a methodology; and

``(ii) determine the fuel emission baseline.

"(B) PERFORMANCE STANDARD.—Not later than January 1, 2010, the Administrator shall, by regulation, establish a requirement applicable to transportation fuel providers to reduce, on an annual average basis, the average lifecycle greenhouse gas emissions per unit of energy of the aggregate quantity of transportation fuel produced, refined, blended, or imported by the fuel provider to a level that is, to the maximum extent practicable—

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

"(ii) by not later than calendar year 2012, equivalent to the difference between the fuel emission baseline and the lifecycle greenhouse gas emissions per unit of energy reduced by the volumetric renewable fuel requirements of paragraph (2)(B);

"(iii) by not later than calendar year 2023, at least 5 percent less than the fuel emission baseline; and "(iv) by not later than calendar year 2028, at least 10 percent less than the fuel emission baseline.

"(C) PREVENTION OF AIR QUALITY DETERIORATION.—

"(i) STUDY.—Not later than 18 months after the date of enactment of this paragraph, the Administrator shall complete a study to determine whether the greenhouse gas emission reductions required under subparagraph (B) will adversely impact air quality as a result of changes in vehicle and engine emissions of air pollutants regulated under this Act.

"(ii) CONSIDERATIONS.—The study shall include consideration of different blend levels, types of transportation fuels, and available vehicle technologies and appropriate national, regional, and local air quality control measures.

"(iii) REGULATIONS.—Not later than 3 years after the date of enactment of this paragraph, the Administrator shall either—

"(I) promulgate fuel regulations to implement appropriate measures to mitigate, to the maximum extent practicable and taking into consideration the results of the study conducted under this clause, any adverse impacts on air quality as a result of the greenhouse gas emission reductions required by this subsection; or

"(II) make a determination that no such measures are necessary.

"(D) PERFORMANCE STANDARD FOR CALENDAR YEAR 2033 AND THEREAFTER.—For calendar year 2033, and every 5 years thereafter, the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall revise the applicable performance standard under subparagraph (B) to reduce, to the maximum extent practicable, the average lifecycle greenhouse gas emissions per unit of energy of the aggregate quantity of transportation fuel sold or introduced into commerce in the United States.

"(E) REVISION OF REGULATIONS.—In accordance with the purposes of the Investing in

Climate Action and Protection Act, the Administrator may, as appropriate, revise the regulations promulgated under subparagraphs (A) and (B) as necessary to reflect or respond to changes in the transportation fuel market or other relevant circumstances.

"(F) METHOD OF CALCULATION FOR HYDROGEN AND ELECTRICITY.—In calculating under subparagraph (A)(i) the lifecycle greenhouse gas emissions of hydrogen or electricity (when used as a transportation fuel), the Administrator shall—

"(i) include emission resulting from the production of the hydrogen or electricity; and

"(ii) consider the energy delivered by—

"(I) 6.4 kilowatt-hours of electricity;

"(II) 32 standard cubic feet of hydrogen; or

"(III) 1.25 gallons of liquid hydrogen,

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

"(G) DETERMINATION OF LIFECYCLE GREENHOUSE GAS EMISSIONS.—In carrying out this paragraph, the Administrator shall use the best available scientific and technical information to determine the lifecycle greenhouse gas emissions per unit of energy of transportation fuels derived from—

"(i) renewable biomass;

"(ii) electricity, including the entire lifecycle of the fuel;

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

"(iv) hydrogen, including the entire lifecycle of the fuel.

"(H) EQUIVALENT EMISSIONS.—In carrying out this subparagraph, the Administrator shall consider transportation fuel derived from cultivated noxious plants, and transportation fuel derived from biomass sources other than renewable biomass, to have emissions per unit of energy equivalent to the greater of—

"(i) the lifecycle greenhouse gas emissions of such transportation fuel; or

"(ii) the fuel emission baseline.

"(I) ELECTION TO PARTICIPATE.—An electricity provider may elect to participate in the program under this paragraph if the electricity provider provides and separately tracks electricity for transportation through a meter that—

"(i) measures the electricity used for transportation separately from electricity used for other purposes; and

"(ii) allows for load management and time-of-use rates.

"(J) CREDITS.—

"(i) IN GENERAL.—The regulations promulgated to carry out this paragraph shall permit fuel providers to generate credits for achieving, during a calendar year, greater reductions in lifecycle greenhouse gas emissions of the fuel provided, blended, or imported by the fuel provider than are required under subparagraph (B).

"(ii) METHOD OF CALCULATION.—The number of credits received by a fuel provider under clause (i) for a calendar year shall be the product obtained by multiplying the aggregate quantity of fuel produced, distributed, or imported by the fuel provider during the calendar year by the difference between—

"(I) the lifecycle greenhouse gas emissions per unit of energy of that quantity of fuel; and

"(II) the maximum lifecycle greenhouse gas emissions per unit of energy of that quantity of fuel permitted for the calendar year under subparagraph (B).

"(K) COMPLIANCE.—

"(i) IN GENERAL.—Each fuel provider subject to this paragraph shall demonstrate compliance with this paragraph, including, as necessary, through the use of credits generated, banked, or purchased.

"(ii) NO LIMITATION ON TRADING OR BANKING.—There shall be no limit on the ability of any fuel provider to trade or bank credits pursuant to this subparagraph.

"(iii) USE OF BANKED CREDITS.—A fuel provider may use banked credits under this subparagraph with no discount or other adjustment to the credits.

"(iv) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—A fuel provider that is unable to generate or purchase sufficient credits to meet the requirements of subparagraph (B) may carry the compliance deficit forward, subject to the condition that the fuel provider, for the calendar year following the year for which the deficit is created—

"(I) achieves compliance with subparagraph (B); and

"(II) generates or purchases additional credits to offset the deficit from the preceding calendar year.

"(v) TYPES OF CREDITS.—To encourage innovation in transportation fuels—

"(I) only credits created in the production of transportation fuels may be used for the purpose of compliance described in clause (i); and

"(II) credits created by or in other sectors, such as manufacturing, 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 futures and options markets), through a system of effective self-regulation of trading facilities, clearing systems, and market participants;

"(2) ensure transparency and fair competition in those markets; and

"(3) ensure that those markets will function in a stable and efficient manner so as to avoid harm to the environmental objectives of title I of the Investing in Climate Action and Protection Act or the United States economy.

"SEC. 402. DEFINITIONS.

"In this part:

"(1) CARBON CLEARING ORGANIZATION.—

"(A) IN GENERAL.—The term 'carbon clearing organization' means a clearinghouse, clearing association, clearing corporation, or similar entity, facility, system, or organization that—

"(i) enables each party to an agreement, contract, or transaction involving a regulated instrument to substitute, through novation or otherwise, the credit of the organization for the credit of the parties;

"(ii) arranges or provides, on a multilateral basis, for the settlement or netting of obligations resulting from agreements, contracts, or transactions involving regulated instruments executed by participants in the organization; or

"(iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the organization the credit risk arising from agreements, contracts, or transactions involving regulated instruments executed by the participants.

"(B) EXCLUSIONS.—The term 'carbon clearing organization' does not include an entity, facility, system, or organization solely because it arranges or provides for—

"(i) settlement, netting, or novation of obligations resulting from agreements, contracts, or transactions, on a bilateral basis and without a central counterparty; or

"(ii) settlement or netting of cash payments through an interbank payment system.

"(2) COMMISSION.—The term 'Commission' means the Federal Energy Regulatory Commission.

"(3) CONTRACT OF SALE.—The term 'contract of sale' includes a sale, an agreement of sale, and an agreement to sell.

"(4) DEALER.—The term 'dealer' means an individual, association, partnership, corporation, or trust that—

"(A) is engaged in soliciting or in accepting orders for the purchase or sale of a regulated instrument on or subject to the rules of a registered carbon trading facility; and

"(B) in or in connection with the solicitation or acceptance of such an order, accepts money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trade or contract that results or may result therefrom.

"(5) DIRECTOR.—The term 'Director' means the Director of the Office of Carbon Market Oversight.

"(6) ELIGIBLE CONTRACT PARTICIPANT.—The term 'eligible contract participant' has the meaning given the term in section 1a(12) of the Commodity Exchange Act (7 U.S.C. 1a(12)).

"(7) EMISSION ALLOWANCE.—The term 'emission allowance' has the meaning given that term in section 700(8) of the Clean Air Act.

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

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

"(10) INTRODUCING BROKER.—The term 'introducing broker' means any person (except an individual who elects to be and is registered as an associated person of a dealer) engaged in soliciting or in accepting orders for the purchase or sale of a regulated instrument on or subject to the rules of a registered carbon trading facility, who does not accept money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trade or contract that results or may result from such a solicitation or acceptance.

"(11) MEMBER.—The term 'member' means, with respect to a trading facility or a carbon clearing organization, an individual, association, partnership, corporation, or trust owning or holding membership in, admitted to membership representation on, or having trading privileges on the trading facility or carbon clearing organization.

"(12) OFFSET CREDIT.—The term 'offset credit' has the meaning given that term in section 700(20) of the Clean Air Act.

"(13) REGULATED ALLOWANCE.—The term 'regulated allowance' means an emission allowance or an offset credit.

"(14) REGULATED ALLOWANCE DERIVATIVE.— The term 'regulated allowance derivative' means an instrument that is or includes an instrument—

"(A) which—

"(i) is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'; or "(ii) is a contract of sale for future delivery; and

"(B) the value of which, in whole or in part, is directly linked to the price of a regulated allowance or another regulated allowance derivative.

"(15) REGULATED INSTRUMENT.—The term 'regulated instrument' means a regulated allowance or a regulated allowance derivative.

"(16) TRADING FACILITY.—The term 'trading facility' means a person or group of persons that constitutes, maintains, or provides a physical or electronic facility or system in which multiple participants have the ability to execute or trade agreements, contracts, or transactions involving a regulated instrument by accepting bids and offers made by other participants that are open to multiple participants in the facility or system.

"(17) UNITED STATES.—The term 'United States' includes the territories and possessions of the United States.

"SEC. 403. OFFICE OF CARBON MARKET OVERSIGHT; JURISDICTION.

"(a) ESTABLISHMENT OF OFFICE OF CARBON MARKET OVERSIGHT.—

"(1) IN GENERAL.—There is established in the Federal Energy Regulatory Commission an Office of Carbon Market Oversight, which shall be headed by a Director for Carbon Market Oversight. The position of Director for Carbon Market Oversight shall be in addition to the Directors of other offices at the Commission.

"(2) APPOINTMENT OF DIRECTOR.—The Director for Carbon Market Oversight shall be appointed by the Commission and shall be an individual who is, by reason of background and experience in the regulation of commodities, securities, or other financial markets, especially qualified to direct a program of oversight of the market in regulated instruments.

"(b) ADMINISTRATION OF THIS PART.—The Commission, acting through the Director for Carbon Market Oversight, shall administer this part.

"(c) EXCLUSIVE JURISDICTION OVER REGULATED INSTRUMENTS NOT SUBJECT TO THE SECURITIES LAWS.—

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

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

"(2) EXCEPTION.—Notwithstanding paragraph (1), nothing in this part shall be construed to limit any authority of the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 and following).

"(d) REGULATIONS.—The Commission shall promulgate regulations governing the implementation of this part not later than 1 year after the date of the enactment of this title, and shall revise the regulations from time to time thereafter.

"SEC. 404. REGULATION OF CARBON TRADING.

"(a) LIMITATION OF CERTAIN ACTIVITIES TO ENTITIES REGISTERED UNDER THIS PART.—

"(1) CARBON TRADING FACILITY ACTIVITIES.—

"(A) IN GENERAL.—It shall be unlawful for a person to offer to enter into, execute, confirm the execution of, or conduct an office or a business for the purpose of soliciting, accepting an order for, or otherwise dealing in, an agreement, contract, or transaction involving a contract for the purchase or sale of a regulated instrument, unless—

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

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

“(iii) the contract for the purchase or sale is evidenced by a record in writing which shows the date, the parties to the contract and their addresses, the property covered and its price, and the terms of delivery.

“(B) EXCEPTION FOR DERIVATIVE TRANSACTIONS BETWEEN ELIGIBLE CONTRACT PARTICIPANTS.—Subparagraph (A) shall not apply to an agreement, contract, or transaction involving only a regulated allowance derivative between persons who are eligible contract participants at the time at which the persons enter into the agreement, contract, or transaction.

“(2) BROKER OR DEALER ACTIVITIES.—It shall be unlawful for a person to act in the capacity of an introducing broker, a dealer, a floor broker, or a floor trader, in connection with the purchase or sale of a regulated instrument, unless the person is registered in that capacity with the Commission, and the registration is not suspended, revoked, or expired.

"(3) CARBON CLEARING ORGANIZATION ACTIVITIES.—

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

"(B) EXCEPTION FOR CLEARING OF DERIVATIVE TRANSACTIONS BETWEEN ELIGIBLE CONTRACT PARTICIPANTS.—Subparagraph (A) shall not apply to functions performed with respect to an agreement, contract, or transaction involving only a regulated allowance derivative between persons who are eligible contract participants at the time at which the persons enter into the agreement, contract, or transaction.

"(b) PROHIBITION ON PRICE OR MARKET MANIPULATION, FRAUD, AND FALSE OR MISLEADING STATE-

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

"(1) in connection with a transaction involving a regulated instrument, to—

"(A) use any manipulative or deceptive device or contrivance in violation of such regulations as the Commission may prescribe to protect the public interest or consumers;

"(B) corner or attempt to corner the instrument; or

"(C) cheat or defraud, or attempt to cheat or defraud, any other person;

"(2) for the purpose of creating a false or misleading appearance of active trading in a regulated instrument, or a false or misleading appearance with respect to the market for such an instrument, to—

"(A) effect any transaction in the instrument which involves no change in the beneficial ownership of the instrument;

"(B) enter an order for the purchase of the instrument, with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the sale of any such instrument, has been or will be entered by or for the same or different parties; or

"(C) enter an order for the sale of the instrument with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the purchase of the instrument, has been or will be entered by or for the same or different parties;

"(3) to deliver or cause to be delivered a knowingly false, misleading, or inaccurate report concerning information or conditions that affect or tend to affect the price of a regulated instrument;

"(4) to make, or cause to be made, in an application, report, or document required to be filed under this part or any rule or regulation prescribed under this part, a statement which is false or misleading with respect to a material fact, or to omit any material fact required to be stated therein or necessary to make the statements therein not misleading; or

"(5) to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document that contains a false, fictitious, or fraudulent statement or entry, to an entity registered under this part acting in furtherance of its official duties under this part.

"(c) PREVENTION OF EXCESSIVE SPECULATION.—

"(1) IN GENERAL.—To prevent, decrease, or eliminate burdens associated with excessive speculation relating to regulated instruments, the Commission shall prescribe regulations establishing such position or transaction limitations and position accountability requirements as the Commission determines to be necessary with respect to any regulated instrument.

"(2) INAPPLICABILITY TO BONA FIDE HEDGING TRANSACTIONS AND POSITIONS.—The limitations and requirements prescribed under paragraph (1) shall not apply to a position or transaction that is a bona fide hedging position or transaction, as defined by the Commission consistent with the purposes of this part.

"(d) LARGE TRADER REPORTING.—

"(1) IDENTIFICATION REQUIREMENTS FOR LARGE TRADERS.—For the purpose of monitoring the effect on the markets of transactions involving a substantial volume or a large fair market value or exercise value and for the purpose of otherwise assisting the Commission in the enforcement of this part, each large trader shall—

"(A) provide such information to the Commission as the Commission may by regulation prescribe as necessary or appropriate, identifying the large trader and all accounts in or through which the large trader effects such a transaction; and

"(B) identify, in accordance with such regulations as the Commission may prescribe as necessary or appropriate, to any broker or dealer registered under this part, by or through whom the large trader directly or indirectly effects transactions in regulated instruments, the large trader and all accounts directly or indirectly maintained with the broker or dealer by the large trader in or through which the transactions are effected.

"(2) RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS.—

"(A) RECORDKEEPING.—Each broker or dealer registered under this part shall make and keep for prescribed periods such records as the Commission, by regulation, deems necessary or appropriate with respect to transactions in regulated instruments that—

"(i) equal or exceed the reporting activity level; and

"(ii) are effected, directly or indirectly—

"(I) by or through the registered broker or dealer of a large trader;

"(II) for any person that the broker or dealer knows is a large trader; or

"(III) for any person that the broker or dealer has reason to know is a large trader on the basis of transactions effected by or through the broker or dealer.

"(B) REPORTING.—The records required under subparagraph (A) shall be available for reporting to the Commission on the morning of the day following the day the transactions are effected, and shall be reported to the Commission immediately on request by the Director.

"(3) AGGREGATION RULES.—The Commission may prescribe regulations governing the manner in which transactions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control.

"(4) EXAMINATION OF BROKER AND DEALER RECORDS.—All records required to be made and kept pursuant to this subsection by brokers and dealers registered under this part, with respect to transactions effected by large traders, are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this part.

"(5) FACTORS TO BE CONSIDERED IN COMMISSION ACTIONS.—In carrying out this subsection, the Commission shall take into account—

"(A) existing reporting systems;

"(B) the costs associated with maintaining information with respect to transactions effected by large traders and reporting the information to the Commission; and

"(C) the relationship between the United States and international markets in regulated instruments.

"(6) EXEMPTIONS.—The Commission, by regulation or order, consistent with the purposes of this part, may exempt any person or class of persons or any transaction or class of transactions, conditionally, on specified terms and conditions, or for stated periods, from the operation of this subsection and the regulations prescribed under this subsection.

"(7) AUTHORITY OF COMMISSION TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in section 552(b)(3)(B).

"(8) DEFINITIONS.—In this subsection:

"(A) LARGE TRADER.—The term 'large trader' means every person who, for the person's own account or an account for which the person exercises investment discretion, effects transactions for the purchase or sale of a regulated instrument, directly or indirectly by or through a broker or dealer registered under this part, in an aggregate amount equal to or in excess of the identifying activity level.

"(B) IDENTIFYING ACTIVITY LEVEL.—The term 'identifying activity level' means transactions in regulated instruments at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by regulation, specifying the time interval during which the transactions shall be aggregated.

"(C) REPORTING ACTIVITY LEVEL.—The term 'reporting activity level' means transactions in regulated instruments at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by regulation or order, specifying the time interval during which the transactions shall be aggregated.

"(D) PERSON.—The term 'person' means a natural person, company, government, or political subdivision, agency, or instrumentality of a government, and includes 2 or more persons acting as a partnership, limited partnership, syndicate, or other group, but does not include a foreign central bank.

"(e) RECORDKEEPING; REPORTING; ACCESS TO BOOKS AND RECORDS.—

"(1) MEMBERS OF REGISTERED ENTITIES.—Each member of an entity registered under this part shall—

"(A) keep books and records, and make such reports as are required by the Commission, regarding the transactions and positions of the member, and the transactions and positions of the customer involved, in regulated instruments, in such form and manner, and for such period, as may be required by the Commission; and

"(B) make the books and records available for inspection by any representative of the Commission or the Department of Justice.

"(2) REGISTERED ENTITIES.—Each entity registered under this part shall—

"(A) maintain daily trading records (including a time-stamped audit trail), that include such information, in such form, and for such period as the Commission may require by regulation; and

"(B) make such reports from the records, at such times and places, and in such form, as the Commission may require by regulation to protect the public interest and the interest of persons trading in regulated instruments.

"SEC. 405. REGISTRATION OF CARBON TRADING FACILITIES, BROKERS, DEALERS, AND CARBON CLEARING ORGANIZATIONS.

"(a) CARBON TRADING FACILITIES.—

"(1) APPLICATION.—A trading facility may apply to the Commission for designation as a registered carbon trading facility by submitting to the Commission an application that contains such information and commitments as the Commission may require.

"(2) REQUIREMENTS FOR DESIGNATION.—To be designated as a registered carbon trading facility, the trading facility shall demonstrate to the Commission the following:

"(A) PREVENTION OF MARKET MANIPULATION.—The trading facility is capable of preventing market manipulation through market surveillance, compliance, and enforcement practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

"(B) FAIR AND EQUITABLE TRADING.—The trading facility has established, and is capable of enforcing, rules to ensure fair and equitable trading through the trading facility, and the capacity to detect, investigate, and discipline any person that violates the rules.

"(C) ESTABLISHMENT AND ENFORCEMENT OF RULES GOVERNING OPERATION OF TRADE EXECUTION FACILITY.—The trading facility has established, and is capable of enforcing, rules governing the manner of operation of the trade execution facility maintained by the trading facility, including the operation of any electronic matching platform.

"(D) FINANCIAL INTEGRITY OF TRANSACTIONS.—The trading facility has established, and is capable of enforcing, rules and procedures for ensuring the financial integrity of transactions entered into by or through the trading facility, including the clearance and settlement of the transactions.

"(E) DISCIPLINARY PROCEDURES.—The trading facility has established, and is capable of enforcing procedures that authorize the trading facility to discipline, suspend, or expel members or market participants that violate the rules of the trading facility, or similar methods for performing the same functions, including delegation of the functions to third parties.

"(F) PUBLIC ACCESS.—The trading facility is capable of providing the public with access to the rules, regulations, and contract specifications of the trading facility.

"(G) ABILITY TO OBTAIN INFORMATION.—The trading facility has established, and is capable of enforcing rules that allow the trading facility to obtain any necessary information to perform any of the functions described in this paragraph, including the capacity to carry out such international information-sharing agreements as the Commission may require.

"(3) MAINTENANCE OF DESIGNATION.—To maintain the designation of a trading facility as a registered carbon trading facility, the trading facility shall comply (and shall have reasonable discretion in establishing the manner in which it complies) with the following:

"(A) COMPLIANCE WITH RULES OF THE TRADING FACILITY.—The trading facility shall monitor and enforce compliance with the rules of the trading facility, including the terms and conditions of any contracts to be traded on or through the trading facility and any limitations on access to the trading facility.

"(B) CONTRACTS NOT READILY SUBJECT TO MANIPULATION.—The trading facility shall list on the trading facility only contracts that are not readily susceptible to manipulation.

"(C) MONITORING OF TRADING.—The trading facility shall monitor trading on or through the facility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process.

"(D) POSITION LIMITATIONS OR ACCOUNTABILITY.—To reduce the potential threat of market manipulation, the trading facility shall adopt position limitations or position accountability for speculators, where necessary and appropriate.

"(E) EMERGENCY AUTHORITY.—The trading facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where necessary and appropriate, including the authority to—

"(i) liquidate or transfer open positions in any contract;

"(ii) suspend or curtail trading in any regulated instrument; and

"(iii) require market participants to meet special margin requirements.

"(F) AVAILABILITY OF GENERAL INFORMATION.—The trading facility shall make available to market authorities, market participants, and the public information concerning—

"(i) the terms and conditions of the contracts traded on or through the trading facility; and

"(ii) the mechanisms for executing transactions on or through the trading facility.

"(G) DAILY PUBLICATION OF TRADING INFORMATION.—The trading facility shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for all regulated instruments traded on the trading facility.

"(H) EXECUTION OF TRANSACTIONS.—The trading facility shall provide a competitive, open, and efficient market and mechanism for executing transactions on or through the trading facility.

"(I) SECURITY OF TRADE INFORMATION.—The trading facility shall maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the trading facility to use the information to assist the prevention of customer and market abuses and provide evidence of violations of the rules of the trading facility.

"(J) FINANCIAL INTEGRITY OF CONTRACTS.—The trading facility shall establish and enforce rules providing for the financial integrity of any contract traded on or through the trading facility (including the clearance and settlement of the transactions), and rules to ensure the financial integrity of introducing brokers, dealers, floor brokers, and floor traders doing business on or through the trading facility, and the protection of customer funds.

"(K) PROTECTION OF MARKET PARTICIPANTS.—The trading facility shall establish and enforce rules to protect market participants from abusive practices committed by any party acting as an agent for the participants.

"(L) DISPUTE RESOLUTION.—The trading facility shall establish and enforce rules regarding and provide facilities for alternative dispute resolution as appropriate for market participants and any market intermediaries.

"(M) GOVERNANCE FITNESS STANDARDS.—The trading facility shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the trading facility, and any other person with direct access to the trading facility (including any parties affiliated with any of the persons described in this subparagraph).

"(N) CONFLICTS OF INTEREST.—The trading facility shall establish and enforce rules to minimize conflicts of interest in the decisionmaking process of the trading facility and establish a process for resolving any such conflict of interest.

"(O) COMPOSITION OF BOARDS OF MUTUALLY OWNED TRADING FACILITIES.—In the case of a mutually owned trading facility, the trading facility shall ensure that the composition of the governing board reflects market participants.

"(P) RECORDKEEPING.—The trading facility shall maintain records of all activities related to the business of the trading facility in a form and manner acceptable to the Commission for a period of 5 years.

"(Q) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this part, the trading facility shall endeavor to avoid—

"(i) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or

"(ii) imposing any material anticompetitive burden on trading on or through the trading facility.

"(b) BROKERS, DEALERS, AND THEIR ASSOCIATES.—The Commission may prescribe regulations governing—

"(1) the eligibility of a person to act in the capacity of an introducing broker, a dealer, or a floor broker, or a floor trader in the United States;

"(2) the registration of introducing brokers, dealers, floor brokers, and floor traders with the Commission; and

"(3) the conduct of a person registered pursuant to regulations prescribed under paragraph (2), and of a partner, officer, employee, or agent of the registered person, in connection with transactions involving a regulated instrument.

"(c) CARBON CLEARING ORGANIZATIONS.—

"(1) APPLICATION.—An entity may apply to the Commission for registration as a carbon clearing organization by submitting to the Director an application that contains such information and commitments as the Commission may require for the purpose of making the determinations required for approval under paragraph (2).

"(2) REQUIREMENTS FOR REGISTRATION.—To be registered and to maintain registration as a carbon clearing organization, an applicant shall demonstrate to the Commission that the applicant complies (and shall have reasonable discretion in establishing the manner in which it complies) with the following core principles:

"(A) FINANCIAL RESOURCES.—The applicant shall demonstrate that the applicant has adequate financial, operational, and managerial resources to discharge the responsibilities of a carbon clearing organization.

"(B) PARTICIPANT AND PRODUCT ELIGIBILITY.—The applicant shall establish—

"(i) appropriate admission and continuing eligibility standards (including appropriate minimum financial requirements) for members of and participants in the applicant; and

"(ii) appropriate standards for determining eligibility of agreements, contracts, or transactions submitted to the applicant.

"(C) RISK MANAGEMENT.—The applicant shall have the ability to manage the risks associated with discharging the responsibilities of a carbon clearing organization through the use of appropriate tools and procedures.

"(D) SETTLEMENT PROCEDURES.—The applicant shall have the ability to—

"(i) complete settlements on a timely basis under varying circumstances;

"(ii) maintain an adequate record of the flow of funds associated with each transaction that the applicant clears; and

"(iii) comply with the terms and conditions of any permitted netting or offset arrangements with other carbon clearing organizations.

"(E) TREATMENT OF FUNDS.—The applicant shall have standards and procedures designed to protect and ensure the safety of member and participant funds.

"(F) DEFAULT RULES AND PROCEDURES.—The applicant shall have rules and procedures designed to allow for efficient, fair, and safe management of events when members or participants become insolvent or otherwise default on their obligations to the applicant.

"(G) RULE ENFORCEMENT.—The applicant shall—

"(i) maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with rules of the applicant and for resolution of disputes; and

"(ii) have the authority and ability to discipline, limit, suspend, or terminate the activities of a member or participant for violations of rules of the applicant.

"(H) SYSTEM SAFEGUARDS.—The applicant shall demonstrate that the applicant—

"(i) has established and will maintain a program of oversight and risk analysis to ensure that the automated systems of the applicant function properly and have adequate capacity and security; and

"(ii) has established and will maintain emergency procedures and a plan for disaster recovery, and will periodically test backup facilities sufficient to ensure daily processing, clearing, and settlement of transactions.

"(I) REPORTING.—The applicant shall provide to the Director all information necessary for the Commission to conduct oversight of the activities of the applicant.

"(J) RECORDKEEPING.—The applicant shall maintain for a period of 5 years records of all activities related to the activities of the applicant as a carbon clearing organization in a form and manner acceptable to the Commission.

"(K) PUBLIC INFORMATION.—The applicant shall make information concerning the rules and operating procedures governing the clearing and settlement systems (including default procedures) available to market participants.

"(L) INFORMATION-SHARING.—The applicant shall—

"(i) enter into and abide by the terms of all appropriate and applicable domestic and international information-sharing agreements; and

"(ii) use relevant information obtained from the agreements in carrying out the risk management program of the applicant.

"(M) ANTITRUST CONSIDERATIONS.—Unless appropriate to achieve the purposes of this part, the applicant shall avoid—

"(i) adopting any rule or taking any action that results in any unreasonable restraint of trade; or

"(ii) imposing any material anticompetitive burden on trading on a registered carbon trading facility.

"SEC. 406. ADMINISTRATIVE ENFORCEMENT.

"(a) INVESTIGATIONS.—

"(1) IN GENERAL.—The Commission may make such investigations as the Commission deems necessary to determine whether any person has violated, is violating, or is about to violate this part, a regulation or order issued under this part, or a rule of an entity registered under this part, or to secure information which may serve as a basis for recommending legislation concerning matters to which this part relates. In conducting any such investigation, the Commission may request the assistance of appropriate Federal agencies.

"(2) PUBLICATION OF RESULTS.—The Commission may publish the results of any such investigation and such general statistical information gathered in the investigation as the Commission deems of interest to the public.

"(3) PUBLIC DISCLOSURE OF INFORMATION AND DATA.—

"(A) IN GENERAL.—The Commission may not publish data and information that would separately disclose a transaction or market position of any person, a trade secret, or the names of a customer, except where the disclosure is made in connection with a congressional proceeding or in an administrative or judicial proceeding brought under this part.

"(B) AUTHORITY TO WITHHOLD INFORMATION.—The Commission may withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person under this part.

"(4) DISCLOSURE OF REGISTRATION INFORMATION TO OTHER GOVERNMENT ENTITIES.—The Commission shall provide any registration information maintained by the Commission under this part on any registrant on reasonable request made by any department or agency of any State or any political subdivision of a State. Whenever the Administrator determines that such information may be appropriate for use by any department or agency of a

State or political subdivision of a State, the Commission shall provide such information without request.

"(b) REVIEW OF ADVERSE ACTION BY REGISTERED CARBON TRADING FACILITY.—

"(1) IN GENERAL.—

"(A) DISCIPLINARY ACTIONS.—The Commission may, in accordance with such standards and procedures as the Commission deems appropriate, review a decision by a registered carbon trading facility to suspend, expel, otherwise discipline a member of the trading facility, or deny access to the trading facility.

"(B) OTHER ACTIONS.—On application of any person who is adversely affected by any other registered carbon trading facility decision, the Commission may review the decision and issue such order with respect to the decision as the Commission deems appropriate to protect the public interest.

"(2) SCOPE OF AUTHORITY.—The Commission may affirm, modify, set aside, or remand a trading facility decision reviewed under paragraph (1), after a determination on the record as to whether the decision was made in accordance with the rules of the trading facility.

"(c) ENFORCEMENT PROCEEDINGS AGAINST CERTAIN PERSONS.—

"(1) SERVICE OF COMPLAINT.—If the Commission has reason to believe that a person (other than a registered carbon trading facility or carbon clearing organization) has violated this part or a regulation or order issued under this part, the Commission may serve upon the person a complaint stating the charges of the Commission in that respect, which complaint shall have attached or contain a notice of hearing, specifying a day and place not less than 3 days after the service of the complaint, requiring the person to show cause why an order should not be made prohibiting the person from trading on or subject to the rules of any registered carbon trading facility, and directing that all such trading facilities refuse all privileges to the person, until further notice of the Commission and to show cause why the registration of the person, if registered with the Commission in any capacity, should not be suspended or revoked.

"(2) INVESTIGATORY POWERS.—

"(A) IN GENERAL.—For the purpose of securing effective enforcement of this part, and for the purpose of any investigation or proceeding 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 the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records.

"(ii) REMEDIES.—

"(I) IN GENERAL.—The court may issue an order requiring the person to appear before the Commission or an Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question.

"(II) EFFECT OF FAILURE TO OBEY COURT ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

"(3) PENALTIES.—

"(A) Upon evidence received in a proceeding under paragraph (1), the Commission may issue an order—

"(i) prohibiting the person from trading on or subject to the rules of any registered carbon trading facility, and requiring all such facilities to refuse the person all privileges for such period as may be specified in the order;

"(ii) if the person is registered with the Commission in any capacity, suspending, for a period of not more than 6 months, or revoking, the registration of the person;

"(iii) assessing the person, in accord with the gravity of the violation, a civil penalty of not more than the greater of $100,000 or triple the monetary gain to the person for each such violation; and

"(iv) requiring restitution to customers of damages proximately caused by the violation.

"(B) AMOUNT OF CIVIL PENALTY BASED ON GRAVITY OF VIOLATION.—In determining the amount of the money penalty, if any, to be assessed under subparagraph (A)(iii), the Commission shall consider the appropriateness of the penalty to the gravity of the violation.

"(C) NOTICE OF ORDER.—The Commission shall send notice of the order forthwith by registered mail or by certified mail, or deliver the notice to the offending person and the governing board of each registered carbon trading facility.

"(4) APPEALS.—A petition for review of an order issued under paragraph (3) of this subsection may be filed in the Court of Appeals for the District of Columbia Circuit.

"(d) AUTHORITY TO SUSPEND OR REVOKE REGISTERED CARBON TRADING FACILITY DESIGNATION OR CARBON CLEARING ORGANIZATION REGISTRATION.—The Commission may suspend for a period of not more than 6 months, or revoke, the designation of a trading facility as a registered carbon trading facility, or the registration of an entity as a carbon clearing organization, if, after notice and opportunity for a hearing on the record, the Commission finds that—

"(1) the trading facility or the entity, as the case may be, has not complied with a requirement of section 405(a)(3), or section 405(c)(2), as the case may be; or

"(2) a director, officer, employee, or agent of the trading facility or entity, as the case may be, has violated this part or a regulation or order issued under this part.

"(e) CEASE AND DESIST ORDERS.—If the Commission finds that a person has violated this part or a regulation or order issued under this part, the Commission may, in conjunction with an order issued against the person under subsection (c)(1), after notice and opportunity for a hearing on the record, and subject to appeal as provided for in subsection (c)(4), issue an order directing the person to cease and desist from the violation.

"(f) TRADING SUSPENSIONS; EMERGENCY AUTHORITY.—

"(1) TRADING SUSPENSIONS.—If the Commission determines that the public interest so requires, the Commission may, by order, summarily suspend all trading of regulated instruments on any trading facility or otherwise, for a period not exceeding 90 calendar days. The action described in the preceding sentence shall not take effect unless the Commission notifies the President of the decision of the Commission, and the President notifies the Commission that the President does not disapprove of the decision.

"(2) EMERGENCY ORDERS.—

"(A) IN GENERAL.—The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or an entity registered under this part, as the Commission determines is necessary in the public interest—

"(i) to maintain or restore fair and orderly markets in regulated instruments; or

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in regulated instruments.

"(B) EFFECTIVE PERIOD.—An order of the Commission under this paragraph shall continue in effect for the period specified by the Commission, and may be extended. Except as provided in subparagraph (C), an order of the Commission under this paragraph may not continue in effect for more than 10 business days, including extensions.

"(C) EXTENSION.—An order of the Commission under this paragraph may be extended to continue in effect for more than 10 business days if, at the time of the extension, the Commission finds that the emergency still exists and determines that the continuation of the order beyond 10 business days is necessary in the public interest and for the protection of investors to attain an objective described in clause (i) or (ii) of subparagraph (A). In no event shall an order of the Commission under this paragraph continue in effect for more than 30 calendar days.

"(D) EXEMPTION.—In exercising the authority provided by this paragraph, the Commission shall not be required to comply with section 553 of title 5, United States Code.

"(3) TERMINATION OF EMERGENCY ACTIONS BY PRESIDENT.—The President may direct that action taken by the Commission under paragraph (2) shall not continue in effect.

"(4) COMPLIANCE WITH ORDERS.—A member of a trading facility, introducing broker, dealer, floor broker, or floor trader shall not effect any transaction in, or induce the purchase or sale of, any regulated instrument in contravention of an order of the Commission under this subsection, unless the order has been stayed, modified, or set aside as provided in paragraph (5) or has ceased to be effective on direction of the President as provided in paragraph (3).

"(5) LIMITATIONS ON REVIEW OF ORDERS.—An order of the Commission pursuant to this subsection shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit. Review shall be based on an examination of all the information before the Commission at the time the order was issued. The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the Commission's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(6) EMERGENCY DEFINED.—In this subsection, the term 'emergency' means—

"(A) a major market disturbance characterized by or constituting—

"(i) sudden and excessive fluctuations of prices of regulated instruments generally, or a substantial threat thereof, that threaten fair and orderly markets; or

"(ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in regulated instruments, or a substantial threat thereof; or

"(B) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

"(i) the functioning of markets in regulated instruments, or any significant portion or segment of the markets; or

"(ii) the transmission or processing of transactions in regulated instruments.

"(g) OTHER AUTHORITY TO ISSUE ORDERS.—The Commission may issue such other orders as may be necessary to ensure compliance with this part or a regulation prescribed under this part.

"SEC. 407. CIVIL JUDICIAL ENFORCEMENT.

"(a) IN GENERAL.—If it appears to the Commission that a person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this part or a regulation or order issued under this part, the Commission may bring an action in the appropriate district court of the United States or United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, or to enforce compliance with this part or a regulation or order issued under this part.

"(b) FORMS OF RELIEF.—

"(1) INJUNCTIVE RELIEF; RESTRAINING ORDER.—On a proper showing, the court shall grant a permanent or temporary injunction or issue a restraining order, without bond.

"(2) CIVIL MONEY PENALTY.—

"(A) IN GENERAL.—The Commission may seek and the court, on a proper showing, shall have jurisdiction to impose on any person found in the action brought under this section to have committed a violation a civil penalty in an amount that is not more than the greater of $100,000 or triple the monetary gain to the person for the violation.

"(B) ENFORCEMENT OF PENALTY BY THE ATTORNEY GENERAL.—If a person on whom such a penalty is imposed fails to pay the penalty within the time prescribed in the order of the court, the Commission may refer the matter to the Attorney General who shall recover the penalty by action in the appropriate United States district court.

"SEC. 408. CRIMINAL ENFORCEMENT.

"(a) VIOLATIONS GENERALLY.—Whoever knowingly violates section 404 or any regulation promulgated under section 404, or willfully violates any other provision of this part or a regulation issued under this part the violation of which is made unlawful or the observance of which is required by or under this part, shall be fined not more than $1,000,000 (or not more than $500,000, if the violator is an individual), imprisoned not more than 5 years, or both, and shall pay the costs of prosecution.

"(b) FAILURE TO COMPLY WITH CEASE AND DESIST ORDER.—

"(1) IN GENERAL.—If, after the period allowed for appeal of an order issued under section 406(e) or after the affirmance of such an order, a person subject to the order fails or refuses to comply with the order, the person shall be—

"(A) fined not more than the greater of $100,000 or triple the monetary gain to the person, imprisoned not less than 6 months nor more than 1 year, or both; or

"(B) if the failure or refusal to comply involves a violation referred to in subsection (a) of this section, shall be subject to the penalties provided in such subsection for the violation.

"(2) SPECIAL RULE.—Each day during which a failure or refusal to comply with such an order continues is deemed a separate offense for purposes of paragraph (1).

"SEC. 409. MARKET REPORTS.

"(a) COLLECTION AND ANALYSIS OF INFORMATION.—The Commission shall, on a continuous basis, collect and analyze the following information on the functioning of the markets for regulated instruments established under this part:

"(1) The status of, and trends in, the markets, including prices, trading volumes, transaction types, and trading channels and mechanisms.

"(2) Spikes, collapses, and volatility in prices of regulated instruments, and the causes therefor.

"(3) The relationship between the market for emission allowances, offset credits, and allowance derivatives, and the spot and futures markets for energy commodities, including electricity.

"(4) Evidence of fraud or manipulation in any such market, the effects on any such market of any such fraud or manipulation (or threat of fraud or manipulation) that the Commission has identified, and the effectiveness of corrective measures undertaken by the Commission to address the fraud or manipulation, or threat.

"(5) The economic effects of the markets, including to macro- and micro-economic effects of unexpected significant increases and decreases in the price of regulated instruments.

"(6) Any changes in the roles, activities, or strategies of various market participants.

"(7) Regional, industrial, and consumer responses to the market, and energy investment responses to the markets.

"(8) Any other issue related to the markets that the Commission deems appropriate.

"(b) QUARTERLY REPORTS TO THE CONGRESS.—Not later than 1 month after the end of each calendar quarter, the Commission shall submit to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, and make available to the public, a report on the matters described in subsection (a) with respect to the quarter, including recommendations for any administrative or statutory measures the Commission considers necessary to address any threats to the transparency, fairness, or integrity of the markets in regulated instruments.

"SEC. 410. APPLICATION OF OTHER PROVISIONS.

"The provisions of sections 3, 306 through 308, and 313 through 317 of this Act shall not apply to the administration or enforcement of this part.".

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

Subtitle A—Climate Trust Tax Credits and Rebates

SEC. 301. PURPOSE.

The purpose of this subtitle is to distribute proceeds from emission allowance auctions under title VII of the Clean Air Act (as added by section 101 of this Act) to middle- and low-income households, through refundable tax credits for wage earners and senior citizens and monthly rebates to low-income citizens, to offset any increased direct or indirect energy costs such households may experience as a result of the regulation of greenhouse gas emissions.

SEC. 302. CLIMATE TRUST TAX CREDIT FOR WORKING FAMILIES AND SENIOR CITIZENS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. CLIMATE TRUST TAX CREDIT.

''(a) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the energy cost increase attributable to carbon regulation.

"(b) ENERGY COST INCREASE ATTRIBUTABLE TO CARBON REGULATION.—For purposes of this section—

"(1) IN GENERAL.—The energy cost increase attributable to carbon regulation for any taxable year shall be an amount equal to the applicable percentage of the base projected energy cost increase.

"(2) APPLICABLE PERCENTAGE.—The applicable percentage shall be determined in accordance with the following table:

"In the case of:	With:	The applicable percentage 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 making a joint return	No qualifying children	90
	1 qualifying child	140
	2 qualifying children	170

"(3) BASE PROJECTED ENERGY COST INCREASE.—The term 'base projected energy cost increase' means the base projected cost increase in effect under the Climate Trust Rebate Program (section 303 of the Investing in Climate Action and Protection Act) for the calendar in which the taxable year of the taxpayer begins.

''(c) LIMITATIONS.—

''(1) PHASE-IN.—In the case of a taxpayer with earned income for the taxable year of less than $8,000, the amount allowed as a credit under subsection (a) shall not exceed the amount which bears the same ratio to the amount which would be so allowed as—

''(A) the earned income of the taxpayer for the taxable year, bears to

''(B) $8,000.

''(2) PHASE-OUT.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be allowed as a credit under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph is the amount which bears the same ratio to the amount which would be so allowed as—

''(i) the excess of—

''(I) the taxpayer's adjusted gross income (or, if greater, earned income) for the taxable year, over

"(II) the applicable amount, bears to

"(ii) the applicable denominator.

"(C) APPLICABLE AMOUNT; APPLICABLE NUMERATOR.—The applicable amount and applicable denominator shall be determined in accordance with the following table:

"In the case of:	The applicable amount is:	The applicable denominator 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

"(d) DEFINITIONS AND SPECIAL RULES.—

"(1) ELIGIBLE INDIVIDUAL.—For purposes of this section—

"(A) IN GENERAL.—The term 'eligible individual' means, with respect to a taxable year, any individual who—

"(i) has earned income for such taxable year, and

"(ii) is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.

"(B) CERTAIN ELIGIBLE INDIVIDUAL RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (F) of section 32(c)(1) shall apply.

"(2) EARNED INCOME QUALIFYING CHILD.—For purposes of this section, the term 'earned income' shall have the meaning given such term by section 32(c).

"(3) QUALIFYING CHILD.—For purposes of this section, the term 'qualifying child' shall have the meaning given such term by section 24.

"(4) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 7703), this section shall apply only if a joint return is filed for the taxable year under section 6103.

"(5) COORDINATION WITH CLIMATE TRUST REBATE PROGRAM.—

"(A) IN GENERAL.—The amount which would be allowed as a credit to a taxpayer under subsection (a) shall, before the application of subsection (c), be reduced (but not below zero) by the amounts received by the taxpayer under the Climate Trust Rebate Program under section 303 of the Investing in Climate

Action and Protection Act for months beginning in the taxable year.

“(B) ALLOCATION OF CLIMATE TRUST REBATES.—For purposes of this subparagraph, in the case of 2 or more eligible individuals who are members of the same household (as defined for purposes of the Climate Trust Rebate Program) with respect to which an amount is received under such program for any month, for each such month beginning in the taxable year such an individual shall be treated as receiving an amount equal to—

“(i) the amount received with respect to such household for such month, divided by

“(ii) the number of eligible individuals who are members of such household at the beginning of such month.

“(e) SENIOR CITIZENS CLIMATE TRUST CREDIT.—

“(1) IN GENERAL.—In the case of an individual with qualifying retirement income for the taxable year, the taxpayer may elect to apply subsections (c) and (d)(1) by substituting ‘qualifying retirement income’ for ‘earned income’.

"(2) LIMITATION.—If the taxpayer makes the election described in paragraph (1) for the taxable year, the amount allowed as a credit under subsection (a) for such taxable year shall not exceed an amount equal to 55 percent of the amount which would (but for this paragraph) be so allowed.

"(3) QUALIFYING INCOME.—For purposes of this section, the term 'qualifying retirement income' means—

"(A) a distribution (other than a rollover) from—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a),

"(iii) an annuity contract described in section 403(b),

"(iv) an individual retirement account described in section 408(a),

"(v) an individual retirement annuity described in section 408(b),

"(vi) a Roth IRA (as defined in 408A(b)), "(vii) an eligible deferred compensation plan (as defined in section 457),

"(viii) a governmental plan (as defined in section 414(d)),

"(ix) a trust described in section 501(c)(18), or

"(x) any other plan, contract, account, annuity, or trust which, at any time, has been determined by the Secretary to be such a plan, contract, account, annuity, or trust,

"(B) social security benefits (within the meaning of section 86(d)),

"(C) any compensation or pension received under chapter 11, chapter 13, or chapter 15 of title 38, United States Code, and

"(D) any other amount received which is in the nature of a retirement benefit payment.".

(b) APPROPRIATIONS FOR REFUND.—Section 1324(b)(2) of title 31, United States Code, is amended by striking "or 53(e)" and inserting ", 53(e), or 36".

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 36 and inserting the following new items:

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 303. CLIMATE TRUST REBATES FOR LOW-INCOME HOUSEHOLDS.

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

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency or, if the President designates an alternative agency under subsection (b)(1), the head of such agency.

(2) BASE PROJECTED COST INCREASE.—The term "base projected cost increase" means an amount equal to the projected average annual increase, for a year in direct and indirect energy costs for a 1-person household in the middle quintile of the income scale, that results from the regulation of greenhouse gas emissions under title VII of the Clean Air Act (as added by section 101 of this Act), provided that each quintile shall—

(A) be based on income adjusted for household size; and

(B) have an equal aggregate number of individuals.

(3) ELDERLY OR DISABLED MEMBER.—The term ‘‘elderly or disabled member’’ has the meaning given such term in section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012).

(4) ELECTRONIC BENEFIT TRANSFER CARD.—The term ‘‘electronic benefit transfer card’’ means a card that makes a rebate provided under the Program accessible to a household through an Electronic Benefits Transfer System.

(5) ELECTRONIC BENEFIT TRANSFER SYSTEM.—The term ‘‘Electronic Benefit Transfer System’’ means a system by which rebates provided under the Program are issued from and stored in a central databank by means of electronic benefit transfer cards.

(6) HOUSEHOLD.—The term ‘‘household’’ means—

(A) an individual who lives alone; or

(B) a group of individuals who live together.

(7) STATE.—The term ‘‘State’’ means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, or the Commonwealth of the Northern Mariana Islands.

(8) STATE AGENCY.—The term ''State agency'' means—

(A) an agency of a State (including the local offices of such agency) that has the responsibility for the administration of federally aided public assistance programs in such State; or

(B) in a State in which such programs are operated on a decentralized basis, the corresponding local agencies that administer such programs.

(b) CLIMATE TRUST REBATE PROGRAM.—

(1) FORMULATION AND ADMINISTRATION OF PROGRAM.—The Administrator of the Environmental Protection Agency, or the head of such other Executive agency (as defined in section 105 of title 5 of the United States Code) as the President may designate, shall formulate and administer in accordance with this section a program to be known as the ''Climate Trust Rebate Program'' (in this section referred to as the ''Program'').

(2) STATE PARTICIPATION IN THE PROGRAM.—At the request of a State, eligible households in such State shall be provided an opportunity to receive compensation through the issuance of a rebate in ac-

cordance with this section for increased energy related costs resulting from compliance with the requirements of title VII of the Clean Air Act.

(3) FUNDING.—Rebates under this section shall be funded from the Climate Trust Rebate Fund established under section 722(a) of the Clean Air Act. Such funds shall be available for expenditure, without further appropriation or fiscal year limitation, to carry out this section.

(c) ELIGIBILITY.—Subject to subsection (d), a household shall be eligible to participate in the Program if the State agency designated by the chief executive officer of such State to carry out the Program in such State determines that—

(1) such household contains 1 or more individuals who participate in the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(2) such household, without regard to whether such household includes an elderly or disabled member, meets—

(A) the gross income standard described in section 5(c)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(2)); and

(B) the financial resources limit described in section 5(g) the Food Stamp Act of 1977 (7 U.S.C. 2014(g)).

(d) LIMITATIONS.—The Administrator shall establish procedures to ensure that—

(1) individuals who are not—

(A) citizens or nationals of the United States; or

(B) immigrants lawfully residing in the United States;

are excluded for the purpose of calculating rebates under subsection (e); and

(2) households do not receive more than 1 rebate per month.

(e) REBATE CALCULATION.—

(1) BASE PROJECTED COST INCREASE.—Not later than October 1 of 2009, and of each subsequent calendar year, the Administrator of the Energy Information Administration shall calculate and publish the base projected cost increase for the following year.

(2) MAXIMUM REBATE AMOUNT.—The maximum rebate amount for each month of a calendar year shall be—

(A) set by the Administrator; and

(B) equal to 1⁄12 of—

(i) 90 percent of the base projected cost increase for a household containing 1 individual;

(ii) 140 percent of the base projected cost increase for a household containing 2 individuals;

(iii) 170 percent of the base projected cost increase for a household containing 3 individuals; and

(iv) 200 percent of the base projected cost increase for a household containing 4 or more individuals.

(3) MONTHLY REBATE AMOUNTS.—Eligible households shall receive a monthly rebate calculated in the following manner:

(A) A household with gross income, as determined in the manner provided in section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014), that is less than 50 percent of the poverty line shall receive the maximum rebate amount for a household of equal size.

(B) A household with gross income, as determined in the manner provided in section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014), that is not less than 50 percent of the poverty line and not more than 130 percent of the poverty line shall receive a rebate in an amount determined in accordance with a schedule of phase-down rates based on household size, established by the Administrator and specifying the amount by which the otherwise applicable maximum rebate amount shall be reduced for each dollar by which such gross income exceeds 50 percent of the poverty line. The phase-down rate shall be—

(i) for household sizes of 4 or fewer individuals, equal to the maximum rebate amount divided by 80 percent of the poverty line applicable to the particular household size involved; and

(ii) for household sizes of 5 or more individuals, equal to a rate determined in accordance with a methodology established by the Administrator.

(C) Households with gross income exceeding 130 percent of the poverty line shall not be eligible to receive a rebate under the Program.

(f) SCHEDULE AND STANDARDS FOR IMPLEMENTATION OF PROGRAM.—The Administrator shall establish by rule a schedule and standards to implement the Program. Such standards shall—

(1) specify the required level of household protection regarding privacy, ease of rebate use, and access to the rebates under the Program;

(2) prohibit the imposition of any fee on a household for the withdrawal or expenditure of any part of such rebates;

(3) require States participating in the Program to provide such rebates to recipient households through an Electronic Benefit Transfer System or by direct deposits into accounts established by household members at financial institutions; and

(4) provide for the interoperability of the Program among States and among law enforcement authorities that monitor compliance with the Program.

(g) STATE ADMINISTRATION OF PROGRAM.—A participating State, and the State agency designated under subsection (b), shall be responsible for—

(1) certifying the eligibility of households to receive rebates under the Program; and

(2) issuance and control of rebates, and accountability therefor.

(h) REIMBURSEMENT OF STATE ADMINISTRATIVE COSTS.—Subject to standards established by the Administrator, the Administrator shall reimburse each participating State as follows for administrative costs incurred by the designated State agency to carry out the Program:

(1) For 3 years such costs shall be reimbursed at the rate of—

(A) 90 percent of any automated data processing improvement, and Electronic Benefit Transfer contract amendment, necessary to provide rebates under the Program; and

(B) 75 percent of such costs remaining.

(2) For subsequent years such costs shall be reimbursed at the rate of 50 percent.

(i) TREATMENT OF REBATES.—The amount of any rebate received under the Program shall not be considered to be income or resources for any purpose under any Federal, State, or local law, including any law relating to taxation (including income tax) or public assistance (including programs that provide health care, cash aid, child care, nutrition assistance, and housing assistance). No participating State (or political subdivision thereof) shall decrease any assistance otherwise provided to an individual or a household based on the fact that a household applied 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 appropriation or fiscal year limitation, to carry out this subtitle.

SEC. 313. RENEWABLE ENERGY AND ENERGY EFFICIENCY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) IN GENERAL.—In each of fiscal years 2010 through 2020, the Secretary of Energy shall use 35 percent of the funds deposited in the Low-Carbon Technology Fund for renewable energy and energy efficiency technology programs in accordance with this section. In addition to amounts otherwise authorized to be appropriated for the programs described in subsection (b), there are authorized to be appropriated such sums as may be necessary for carrying out such programs for fiscal years 2010 through 2020.

(b) ALLOCATION OF FUNDS.—Funds available under this section shall be distributed as follows:

(1) RENEWABLE ELECTRICITY.—1/4 of such funds shall be used to carry out—

(A) renewable energy programs under section 931 of the Energy Policy Act of 2005 (42 U.S.C. 16231);

(B) solar thermal energy storage programs under section 602 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17171);

(C) photovoltaic technology demonstration programs under section 607 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17175);

(D) hydrothermal and geothermal energy programs under sections 613 through 616 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17192–95); and

(E) marine and hydrokinetic renewable energy programs under sections 633 and 634 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17212 and 17213).

(2) ELECTRIC TRANSMISSION AND DISTRIBUTION EFFICIENCY.—1/8 of such funds shall be used to carry out—

(A) electric transmission and distribution programs under section 925 of the Energy Policy Act of 2005 (42 U.S.C. 16215); and

(B) smart grid technology programs under sections 1304 and 1306 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17384 and 17386).

(3) LOW-CARBON RENEWABLE FUELS AND BIOENERGY.—1/8 of such funds shall be used to carry out—

(A) biofuels and bioenergy programs under section 932 of the Energy Policy Act of 2005 (42 U.S.C. 16232);

(B) biofuels distribution and advanced biofuels infrastructure programs under section 248 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17054); and

(C) biomass programs under section 307 of the Biomass Research and Development Act of 2000 (7 U.S.C. 8606).

(4) LOW-EMISSION VEHICLES.—$\frac{3}{16}$ of such funds shall be used to carry out—

(A) advanced vehicle efficiency technologies programs under section 911(a)(2)(A) of the Energy Policy Act of 2005 (42 U.S.C. 16191(a)(2)(A));

(B) efficient hybrid and advanced diesel vehicles and components programs under section 712 of the Energy Policy Act of 2005 (42 U.S.C. 16062); and

(C) lightweight vehicle materials programs under section 651 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17241).

(5) BUILDING EFFICIENCY.—$\frac{1}{8}$ of such funds shall be used to carry out—

(A) the Zero-Net-Energy Commercial Buildings Initiative under section 422 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082); and

(B) building efficiency technology programs under section 911(a)(2)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16191).

(6) INDUSTRIAL EFFICIENCY.—$1/16$ of such funds shall be used to carry out—

(A) the energy-intensive industries efficiency program under section 452 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111); and

(B) the waste energy recovery incentive grant program under section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343).

(7) ENERGY STORAGE TECHNOLOGIES.—$1/16$ of such funds shall be used to carry out the energy storage technology programs under section 641 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17231).

(8) ADVANCED RESEARCH PROJECTS AGENCY-ENERGY.—$1/16$ of such funds shall be used to fund programs carried out by the Advanced Research Projects Agency-Energy (ARPA–E) under section

5012 of the America COMPETES Act of 2007 (42 U.S.C. 16538), for research and development of energy technologies to achieve reductions in greenhouse gas emissions.

SEC. 314. RENEWABLE ENERGY DEPLOYMENT INCENTIVES.

(a) RENEWABLE ELECTRICITY PRODUCTION PAYMENTS.—

(1) ALLOCATION.—In each of fiscal years 2010 through 2030, the Secretary of Energy shall use 40 percent of funds deposited in the Low-Carbon Technology Fund, in accordance with this subsection, to encourage deployment of renewable electricity generation technologies.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations establishing a program to competitively distribute funds allocated under paragraph (1) to producers of renewable electricity through reverse auctions, in accordance with the requirements of this subsection.

(3) ELIGIBILITY CRITERIA.—The Secretary shall provide incentives only for the domestic production of electricity from—

(A) generation units placed into service after the date of enactment of this Act that generate electricity exclusively from solar, wind, biomass, ocean (including tidal, wave, current, and thermal), or geothermal resources; or

(B) additions of new capacity or increased efficiency that leads to increased generation at hydroelectric projects that commenced operation prior to the date of enactment of this Act.

(4) REVERSE AUCTIONS.—The Secretary shall distribute funds among producers of eligible renewable electricity, on a competitive basis, through reverse auctions, based on the bids from producers in terms of dollars per megawatt-hour of electricity generated. In deciding among bids, the Secretary shall give preference to the lowest price bids, with the following exceptions:

(A) The Secretary shall seek to ensure that the categories of renewable electricity technologies receiving funding under this subsection are diverse and that the distribution of funding is reasonably balanced among different technologies.

(B) The Secretary shall require each bidder to notify the Secretary of any other financial assistance the bidder may reasonably be anticipated to receive through other Federal, State, or local government programs for the same production, and shall seek to avoid providing payments under this subsection where the Secretary determines that such payments are likely, in light of other Federal, State, or local financial assistance, to provide the bidder with an unreasonably high rate of return.

(5) FORM OF ASSISTANCE.—Funds shall be distributed under this subsection pursuant to contracts to provide production payments to producers of renewable electricity for each year during the first 10 years of commercial service of the generating unit. The Secretary shall not award new contracts under this subsection after December 31, 2020.

(6) AMOUNT OF PAYMENTS.—Production payments made pursuant to this subsection shall be distributed to each producer at the end of each year of operation in an amount equal to the product obtained by multiplying—

(A) the price bid by the producer per megawatt-hour of electricity generated; by

(B) the lesser of—

(i) the number of megawatt-hours generated and sold by the electricity generation unit during the preceding year; and

(ii) the number of megawatt-hours bid for that year by the producer.

(b) DISTRIBUTED RENEWABLE ENERGY TECHNOLOGY REBATES.—

(1) DEFINITION OF DISTRIBUTED RENEWABLE ENERGY TECHNOLOGY.—For purposes of this subsection, the term ''distributed renewable energy technology'' means a technology that is designed to generate electric or thermal energy from solar, wind, or geothermal resources to serve energy consumers at or near the site at which the technology is installed.

(2) ALLOCATION.—For each of fiscal years 2010 through 2030, the Secretary of Energy shall use 5 percent of funds deposited in the Low-Carbon Technology Fund, in accordance with this subsection, to encourage deployment of distributed renewable energy technologies.

(3) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall promulgate regulations establishing a program to distribute funds made available under paragraph (2), in accordance with this subsection, through rebates to persons or entities that purchase, install, and operate distributed renewable energy technologies.

(4) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute rebates to persons or entities that purchase, install, and operate distributed renewable energy technologies either—

(A) directly;

(B) through utilities or manufacturers of distributed renewable energy technologies; or

(C) through such other entities as the Secretary of Energy determines will provide a cost-effective channel of distribution.

(5) ELIGIBILITY CRITERIA.—

(A) ELIGIBLE EQUIPMENT.—The Secretary of Energy shall provide incentives only to persons or entities that, after the date of enactment of this Act, purchase, install, and operate distributed renewable energy technology that is—

(i) new equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, except equipment that is used to generate energy for the purposes of heating a swimming pool;

(ii) new equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight;

(iii) new equipment used to produce, distribute, or use energy derived from a geothermal deposit; or

(iv) a new wind turbine which has a nameplate capacity of not greater than 100 kilowatts.

(B) LIMITATION.—Persons or entities shall not be eligible for rebates under this section for the purchase, installation, and operation of equipment for which they have received, or will receive, other financial incentives provided by a Federal, State, or local government.

(6) AMOUNT OF REBATES.—Rebates under this section shall not exceed the lesser of—

(A) 30 percent of cost of purchase and installation of eligible equipment; or

(B) $5,000 per site.

SEC. 315. CARBON CAPTURE AND SEQUESTRATION DEMONSTRATION AND DEPLOYMENT.

(a) ALLOCATION.—In each of fiscal years 2010 through 2020, the Secretary of Energy shall use 20 percent of funds deposited in the Low-Carbon Technology

Fund to encourage large-scale demonstration of carbon capture and geological sequestration technologies and early commercial deployment of such technologies at qualifying electric generating units.

(b) DEMONSTRATION OF CARBON CAPTURE AND SEQUESTRATION.—The Secretary of Energy shall use funds allocated under subsection (a) to complete the carbon capture and sequestration programs established under section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293) and section 703 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17251). For each of fiscal years 2010 through 2013, the Secretary shall fund those programs at the full level of authorization provided by those sections.

(c) EARLY DEPLOYMENT INCENTIVES FOR CARBON CAPTURE AND SEQUESTRATION.—

(1) ALLOCATION.—In each of fiscal years 2010 through 2020, the Secretary shall use the remaining funds available under subsection (a), after funding the programs under subsection (b), to encourage commercial deployment of carbon capture and sequestration technologies at qualifying electric generating units.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Sec-

retary shall promulgate regulations establishing a program to distribute funds allocated under paragraph (1), in the form of cost-sharing grants, to owners or operators of electric generating units in accordance with the requirements of this subsection.

(3) ELIGIBILITY CRITERIA.—The Secretary shall provide incentives under this section only to projects—

(A) at electric generating units—

(i) with a rated capacity of 250 megawatts or more; and

(ii) that derive at least 50 percent of their annual fuel input from coal, petroleum coke, or any combination of these fuels;

(B) that will achieve the capture and geological sequestration of not less than 85 percent of the total carbon dioxide emissions produced by the electric generating unit on an annual average basis;

(C) the construction of which commences no later than December 31, 2020; and

(D) that do not receive other Federal or State financial incentives, including loans, loan guarantees, grants, or tax credits.

(4) LEVEL OF FUNDING.—The level of assistance provided to owners or operators of eligible electric generating units under this subsection shall be no greater than is necessary to permit recovery of reasonable incremental capital and operating costs of the project that are specifically attributable to implementation of carbon capture and sequestration, taking into account the reduced cost of compliance with section 712 of the Clean Air Act (as added by section 101 of this Act). For purposes of this paragraph, reasonable incremental capital and operating costs shall be determined based on the most cost-effective reasonably available technology for capturing and sequestering carbon dioxide emissions, taking into account the location of the electric generating unit and the type of fuel (including coal type) used to power the unit.

(5) SELECTION CRITERIA.—As part of the regulations promulgated under this subsection, the Secretary shall establish objective criteria for the selection of projects, in the event that there are more grant applicants that meet the eligibility criteria in paragraph (3) than can be funded. Such criteria shall, at minimum—

(A) give preference to projects that most cost-effectively capture and sequester carbon dioxide, so as to maximize the tonnage of carbon dioxide sequestered per dollar of assistance provided; and

(B) seek to ensure funding for projects representing a diverse range of coal types, capture technologies, and geographic regions.

SEC. 316. FISCAL YEARS 2021 THROUGH 2050.

(a) RECOMMENDATIONS TO THE PRESIDENT AND CONGRESS.—The reports developed under section 703(d) and (e) of this Act shall contain recommendations on the allocation of funds from the Low Carbon Technology Fund in future fiscal years, beginning with fiscal year 2021.

(b) EXCEPTION.—Subsection (a) shall not apply to the first report delivered under section 703(d) or the first report delivered under section 703(e) of this Act.

(c) PRESIDENTIAL AUTHORITY.—If, after the 1-year period beginning on the date of submission of each report to which subsection (a) applies, Congress has not enacted a statute codifying the recommendations on the allocation of funds from the Low Carbon Technology Fund in future fiscal years or an alternative to such recommendations, the President is authorized to allocate funds from that Fund pursuant to the recommendations for the next 5 fiscal years.

Subtitle C—National Energy Efficiency Fund

SEC. 321. PURPOSES.

The purposes of this subtitle are—

(1) to encourage widespread adoption of energy efficiency policies and measures, including programs to—

(A) increase efficiency in electricity and natural gas consumption;

(B) encourage the adoption and enforcement of robust building efficiency codes;

(C) develop and implement policies and projects that will reduce vehicle miles traveled;

(D) provide weatherization and home energy assistance to low-income persons; and

(E) encourage recycling of energy intensive consumer goods; and

(2) by means of such programs to—

(A) achieve substantial negative- or low-cost reductions in greenhouse gas emissions;

(B) greatly reduce the overall cost to American consumers and businesses of achieving the climate protection objectives of this Act; and

(C) spur innovation, job creation, and economic growth in the United States through investment in energy efficiency technologies.

SEC. 322. DEFINITIONS.

For purposes of this subtitle:

(1) NATIONAL ENERGY EFFICIENCY FUND.—The term ''National Energy Efficiency Fund'' means the National Energy Efficiency Fund established under section 722 of the Clean Air Act (as added by section 101 of this Act).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(3) STATE.—The term ''State'' means—

(A) a State; and

(B) the District of Columbia.

SEC. 323. FUNDING.

Funds deposited in the National Energy Efficiency Fund shall be available for expenditure, without further appropriation or fiscal year limitation, in accordance with the requirements of this subtitle.

SEC. 324. ELECTRICITY CONSUMERS.

(a) DEFINITION OF ELECTRICITY SAVINGS.—

(1) IN GENERAL.—The term ''electricity savings'' means a net reduction in statewide end-use electricity consumption that is achieved through consumer energy efficiency measures and programs over a specified time period, relative to projected consumption for the same time period, as determined by the Secretary.

(2) INCLUSIONS.—The term ''electricity savings'' includes savings achieved as a result of—

(A) electricity-saving practices; and

(B) installation of energy-saving technologies and devices.

(3) EXCLUSION.—The term ''electricity savings'' does not include savings from measures that would likely be adopted in the absence of consumer energy efficiency measures and programs, as determined by the Secretary.

(b) ESTABLISHMENT OF PROGRAM.—In each of fiscal years 2011 through 2050, the Secretary shall distribute 46 percent of the funds deposited in the National Energy Efficiency Fund to States, in accordance with this section, to encourage cost-effective investment in consumer energy efficiency measures and programs.

(c) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall establish, by rule, a Start-Up Formula and a Performance-Based Formula, in accordance with paragraphs (2) and (3) of this subsection, to govern distribution of funds under this section.

(2) START-UP FORMULA.—The Start-up Formula referred to in paragraph (1) shall provide for the distribution of funds based on the following 2 factors, each given equal weight:

(A) The proportion that—

(i) the quantity of electricity delivered to consumers within the State during the 3 calendar years preceding the calendar year in which the funds are distributed; bears to

(ii) the total quantity of electricity delivered to consumers in the United States during those 3 calendar years.

(B) The proportion that—

(i) the population of the State in the most recent year for which data is available for all States, as determined by the Secretary; bears to

(ii) the population of the United States in that year.

(3) PERFORMANCE-BASED FORMULA.—The Performance-Based Formula referred to in paragraph (1) shall provide for the distribution of funds among States in direct proportion to the quantity of electricity savings actually achieved within each State in the prior year as a result of consumer energy efficiency measures and programs implemented in the State. Such formula shall—

(A) define an appropriate baseline for calculating electricity savings;

(B) define a minimum level of annual statewide electricity savings, which shall not be less than 0.5 percent, necessary to qualify for funding under the formula;

(C) take account of past performance in achieving electricity savings so as not to penalize 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 electricity 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 electricity savings target that requires such State to achieve annual electricity savings of not less than 0.25 percent in 2011 and 2012, and not less than 0.5 percent in 2013 and 2014.

(e) USE OF FUNDS.—

(1) IN GENERAL.—A State's use of funds distributed pursuant to this section shall be limited to measures and programs to—

(A) increase consumer energy efficiency;

(B) increase transmission and distribution efficiency; and

(C) promote deployment of—

(i) renewable electricity generation;

(ii) advanced biofuels that meet the baseline greenhouse gas lifecycle emissions requirements as defined in section 211(o)(1)(B) of the Clean Air Act (42 U.S.C. 7545(o)(1)(B)); and

(iii) low-emission vehicles.

(2) CERTIFICATION AND VERIFICATION.—The Secretary shall establish—

(A) guidelines specifying the types of activities for which funds distributed pursuant to this section may be used;

(B) procedures requiring States to certify that funds distributed pursuant to this section are used in accordance with this subsection; and

(C) procedures for reviewing and verifying States' compliance with this subsection.

(3) PENALTIES.—If the Secretary determines that a State is not in compliance with this subsection, the Secretary may withhold a portion of the funding, equal to twice the amount of funding re-

ceived by the State that was not spent in accordance with the requirements in this subsection, for which such State would otherwise be eligible under this section in later years.

(f) MEASUREMENT, MONITORING, CERTIFICATION, AND VERIFICATION OF ELECTRICITY SAVINGS.—

(1) METHODS AND STANDARDS.—The Secretary shall establish national measurement, monitoring, certification, and verification methods and standards to be used to evaluate the quantity of electricity savings achieved by a State for purposes of distributing funds based on the Performance-Based Formula.

(2) STATE REQUIREMENTS.—As a condition of receipt of funds based on the Performance-Based Formula, States must, in accordance with paragraph (1)—

(A) quantify and certify the quantity of electricity savings achieved each year by the State;

(B) provide data necessary to support and verify such claim, as determined by the Secretary; and

(C) provide third-party verification of reported electricity savings.

(g) REGULATIONS.—Not later than January 1, 2010, the Secretary shall promulgate regulations governing the implementation of this section. The Secretary shall review and, as appropriate, revise such regulations at least every 5 years.

SEC. 325. NATURAL GAS CONSUMERS.

(a) DEFINITION OF NATURAL GAS SAVINGS.—

(1) IN GENERAL.—The term ''natural gas savings'' means a net reduction in statewide natural gas consumption by residential and commercial consumers that is achieved through consumer energy efficiency measures and programs over a specified time period, relative to projected consumption for the same time period, as determined by the Secretary.

(2) INCLUSIONS.—The term ''natural gas savings'' includes savings achieved as a result of—

(A) natural gas-saving practices; and

(B) installation of energy-saving technologies and devices.

(3) EXCLUSION.—The term ''natural gas savings'' does not include savings from measures that would likely be adopted in the absence of consumer energy efficiency measures and programs, as determined by the Secretary.

(b) ESTABLISHMENT OF PROGRAM.—In each of fiscal years 2011 through 2050, the Secretary shall distribute 8 percent of the funds deposited in the National Energy Efficiency Fund to States, in accordance with this section, to encourage cost-effective investment in consumer energy efficiency measures and programs.

(c) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall establish, by rule, a Start-Up Formula and a Performance-Based Formula, in accordance with paragraphs (2) and (3) of this subsection, to govern distribution of funds under this section.

(2) START-UP FORMULA.—The Start-up Formula referred to in paragraph (1) shall provide for the distribution of funds based on the following 2 factors, each given equal weight:

(A) The proportion that—

(i) the quantity of natural gas delivered to residential and commercial consumers within the State during the 3 calendar years preceding the calendar year in which the funds are distributed; bears to

(ii) the total quantity of natural gas delivered to residential and commercial consumers in the United States during those 3 calendar years.

(B) The proportion that—

(i) the population of the State in the most recent year for which data is available for all States, as determined by the Secretary; bears to

(ii) the population of the United States in that year.

(3) PERFORMANCE-BASED FORMULA.—The Performance-Based Formula referred to in paragraph (1) shall provide for the distribution of funds among States in direct proportion to quantity of natural gas savings actually achieved within each State in the prior year as a result of consumer energy efficiency measures and programs implemented in the State. Such formula shall—

(A) define an appropriate baseline for calculating natural gas savings;

(B) define a minimum level of annual statewide natural gas savings, which shall not be less than 0.5 percent, necessary to qualify for funding under the formula;

(C) take account of past performance in achieving natural gas savings so as not to penalize 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

0.25 percent of the quantity of natural gas delivered to residential and commercial consumers in the State in 2011 and 2012, and not less than 0.5 percent in 2013 and 2014.

(e) USE OF FUNDS.—

(1) IN GENERAL.—A State's use of funds distributed pursuant to this section shall be limited to measures and programs described in section 324(e)(1).

(2) CERTIFICATION AND VERIFICATION.—The Secretary shall establish—

(A) guidelines specifying the types of activities for which funds distributed pursuant to this section may be used;

(B) procedures requiring States to certify that funds distributed pursuant to this section are used in accordance with this subsection; and

(C) procedures for reviewing and verifying States' compliance with this subsection.

(3) PENALTIES.—If the Secretary determines that a State is not in compliance with this subsection, the Secretary may withhold a portion of the funding, equal to twice the amount of funding received by the State that was not spent in accordance

with the requirements in this subsection, for which such State would otherwise be eligible under this section in later years.

(f) MEASUREMENT, MONITORING, CERTIFICATION, AND VERIFICATION OF NATURAL GAS SAVINGS.—

(1) METHODS AND STANDARDS.—The Secretary shall establish national measurement, monitoring, certification, and verification methods and standards to be used to evaluate the quantity of natural gas savings achieved by a State for purposes of distributing funds based on the Performance-Based Formula.

(2) STATE REQUIREMENTS.—As a condition of receipt of funds based on the Performance-Based Formula, States must, in accordance with paragraph (1)—

(A) quantify and certify the quantity of natural gas savings achieved each year by the State;

(B) provide data necessary to support and verify such claim, as determined by the Secretary; and

(C) provide third-party verification of reported natural gas savings.

(g) REGULATIONS.—Not later than January 1, 2010, the Secretary shall promulgate regulations governing the implementation of this section. The Secretary shall review and, as appropriate, revise such regulations at least every 5 years.

SEC. 326. BUILDING EFFICIENCY.

(a) IN GENERAL.—In each of fiscal years 2010 through 2050, the Secretary shall distribute 12 percent of the funds deposited in the National Energy Efficiency Fund to States to encourage adoption and enforcement of statewide commercial and residential building efficiency codes.

(b) DISTRIBUTION OF FUNDS.—Not later than January 1, 2010, the Secretary shall promulgate regulations governing distribution of funds under this section. Such regulations shall—

(1) provide that a State shall qualify for receipt of funds under this section only if such State is in compliance with section 304(c) of the Energy Conservation and Production Act (as amended by section 601 of this Act);

(2) establish a performance-based formula for distribution of funding under this section that will reward States that adopt and effectively enforce statewide building efficiency codes that achieve

greater energy savings than those required under section 304(c) of the Energy Conservation and Production Act (as amended by section 601 of this Act), using multiple tiers of energy savings performance; and

(3) establish a program for periodic review and verification of State enforcement of building efficiency codes to ensure the energy savings objectives of the program are being met.

(c) PERIODIC UPDATING.—The Secretary shall review and, as appropriate, revise the regulations adopted under subsection (b) at least every 5 years. Any revised regulations shall adhere to the requirements set forth in paragraphs (1) through (3) of subsection (b).

SEC. 327. SMART GROWTH AND MASS TRANSIT.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency or, if the President designates an alternative agency under subsection (b), the head of such agency.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means a State or an eligible unit of local government.

(3) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—The term ''eligible unit of local government'' means—

(A) a city with a population of at least 35,000; or

(B) a county with a population of at least 200,000.

(4) VMT REDUCTION PLAN.—The term ''VMT reduction plan'' means a comprehensive plan to reduce vehicle miles traveled within a jurisdiction, developed pursuant to guidelines issued by the Administrator under subsection (d) of this section.

(b) ESTABLISHMENT OF PROGRAM.—In each of fiscal years 2010 through 2050, the Administrator, or the head of such other Executive agency (as defined in section 105 of title 5, United States Code) as the President may designate, shall distribute 20 percent of the funds deposited in the National Energy Efficiency Fund to eligible entities in the form of grants to support the development and implementation of strategies to reduce vehicle miles traveled within their respective jurisdictions.

(c) ALLOCATION OF FUNDS.—Of amounts made available to provide grants under this section for each fiscal year, the Administrator shall allocate—

(1) 70 percent to eligible units of local government; and

(2) 30 percent to States.

(d) GUIDELINES FOR VMT REDUCTION PLANS AND GRANT PROPOSALS.—Not later than 18 months after the date of enactment of this Act, the Administrator shall promulgate guidelines for the development, by eligible units of local government and by States, of—

(1) VMT reduction plans for the relevant jurisdiction; and

(2) proposals to use funds provided under this section for the implementation of one or more elements of such a plan.

(e) PLANNING GRANTS.—The Administrator is authorized to make initial grants to eligible entities to support the development of VMT reduction plans and grant proposals in accordance with the guidelines issued under subsection (d), including through the retention of technical consultants.

(f) IMPLEMENTATION GRANTS.—

(1) IN GENERAL.—The Administrator shall award grants, on a competitive basis, to eligible entities to support the implementation of policies, measures, and projects that will substantially reduce vehicle miles traveled within the relevant jurisdiction.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Administrator shall not provide to an eligible entity any grant under this section until the eligible entity has submitted a VMT reduction plan and a grant proposal that satisfy the requirements of the guidelines established under subsection (d), and the Administrator has approved such plan and such proposal under this subsection.

(B) APPROVAL BY ADMINISTRATOR.—

(i) IN GENERAL.—The Administrator shall approve or disapprove a VMT reduction plan or grant proposal submitted under this subsection by not later than 180 days after the date of submission of the VMT reduction plan and grant proposal.

(ii) DISAPPROVAL.—If the Administrator disapproves a VMT reduction plan or grant proposal, the Administrator shall notify the eligible entity of the reasons for the disapproval and the eligible entity may revise and resubmit the plan or proposal for approval.

(3) SELECTION CRITERIA.—In awarding grants under this subsection, the Administrator shall seek to maximize the reduction in vehicle miles traveled achieved per dollar of assistance provided.

(4) USE OF FUNDS.—Implementation grants provided under this section may be used to implement any program or project that the Administrator determines is likely to result in substantial reductions in vehicle miles traveled in the relevant jurisdiction, including—

(A) efforts to increase mass transit service and ridership, including by adding new mass transit systems;

(B) promotion of transit-oriented and mixed-infill development, including through the updating of relevant zoning or other regulations;

(C) construction of bicycle and pedestrian infrastructure; and

(D) programs to promote telecommuting or satellite work centers.

(g) LIMITATIONS.—The Administrator is authorized to establish, by regulation, appropriate limitations on the proportion of planning grants under subsection (e) or implementation grants under subsection (f) that can be used for administrative expenses, revolving loan funds, or subgrants to other governmental or nongovernmental entities.

(h) REVIEW AND EVALUATION.—

(1) IN GENERAL.—The Administrator may review and evaluate the administration of use of any grant awarded under this section, including by conducting an audit, as the Administrator determines to be appropriate.

(2) WITHHOLDING OF FUNDS.—The Administrator may withhold from an eligible entity any portion of a grant to be provided to the eligible entity under the program if the Administrator determines that the eligible entity has failed to achieve compliance with any applicable guideline of the Administrator relating to the program established by this section, including the misuse of misappropriation of funds provided under this section.

SEC. 328. WEATHERIZATION ASSISTANCE PROGRAM AND LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) WEATHERIZATION ASSISTANCE PROGRAM.—In each of fiscal years 2010 through 2050, the Secretary shall use 5 percent of the funds deposited in the National Energy Efficiency Fund for the Weatherization Assistance Program for Low-Income Persons established under part

A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.).

(b) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—In each of fiscal years 2010 through 2050, the Secretary of Health and Human Services shall use 5 percent of the funds deposited in the National Energy Efficiency Fund for the Low-Income Home Energy Assistance Program established under the Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 329. RECYCLING.

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

(1) BEVERAGE.—The term ''beverage'' means water, mineral water, soda water, flavored water, sports drinks, juice, iced tea, wine cooler, beer or other malt beverage, or a carbonated nonalcoholic beverage of any variety in liquid form intended for human consumption, but does not include milk or other dairy products or dairy-derived products.

(2) BEVERAGE CONTAINER.—The term ''beverage container'' means a container constructed of metal, glass, plastic, or some combination of these materials and having a capacity of up to one gallon of liquid and which is or has been sealed and used to contain a beverage for sale in interstate commerce.

(b) ESTABLISHMENT OF PROGRAM.—In each of fiscal years 2010 through 2050, the Secretary shall distribute 4 percent of the funds deposited in the National Energy Efficiency Fund to States that adopt and enforce statewide programs for the recycling of beverage containers.

(c) DISTRIBUTION OF FUNDS.—Not later than January 1, 2010, the Secretary shall promulgate regulations governing distribution of funds under this section. Such regulations shall at a minimum—

(1) provide that a State shall qualify for receipt of funds under this section only if such State's recycling programs achieve a rate of recycling of at least 60 percent of the beverage containers sold within the State each year;

(2) establish a performance-based formula for distribution of funding under this section that will reward States that adopt and effectively enforce statewide recycling programs for beverage containers that achieve greater rates of recycling than are required under paragraph (1); and

(3) establish a program for periodic review and verification of State programs to ensure that claimed recycling rates are being achieved in practice.

(d) PERIODIC UPDATING.—The Secretary shall review and, as appropriate, revise the regulations adopted under subsection (c) at least every 5 years. Any revised regulations shall adhere to the requirements set forth in paragraphs (1) through (3) of subsection (c).

Subtitle D—Agriculture and Forestry Carbon Fund

SEC. 331. PURPOSE.

The purpose of this subtitle is to achieve real, verifiable, additional, permanent, and enforceable increases in carbon sequestration by, and reductions in greenhouse emissions from, agriculture and forest management activities within the United States through—

(1) the establishment of a program to provide financial incentives to undertake projects that achieve these objectives; and

(2) the implementation of coordinated research, education, and outreach initiatives in support of such program.

SEC. 332. DEFINITIONS.

In this subtitle—

(1) AGRICULTURE AND FORESTRY CARBON FUND.—The term "Agriculture and Forestry Carbon Fund" means the Agriculture and Forestry Carbon Fund established under section 722 of the Clean Air Act (as added by section 101 of this Act).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 333. FUNDING.

(a) IN GENERAL.—Funds deposited in the Agriculture and Forestry Carbon Fund shall be available for expenditure, without further appropriation or fiscal year limitation, to carry out this subtitle.

(b) LIMITATION.—The Secretary shall ensure that not less than 99 percent of the expenditures under this subtitle shall be dedicated to the incentive program under section 335.

SEC. 334. AGRICULTURAL AND FORESTRY GREENHOUSE GAS MANAGEMENT RESEARCH.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with scientific and agricultural and forestry experts, shall prepare and submit to the President and Congress a report that describes the status of research on agricultural and forestry greenhouse gas management, including a description of—

(1) research on soil carbon sequestration and other agricultural and forestry greenhouse gas management that has been carried out;

(2) information on techniques to measure and monitor increases in biological sequestration by, and

reductions in greenhouse emissions from, agriculture and forest management activities;

(3) information on large-scale observation and monitoring of greenhouse gas emissions from and biological sequestration by the agriculture and forestry sectors;

(4) any further research that is necessary;

(5) the proposed priority for further research; and

(6) the most appropriate approaches for conducting the further research.

(b) RESEARCH.—After the date of submission of the report required under subsection (a), the President and the Secretary (in collaboration with the member institutions of higher education of the Consortium for Agricultural Soil Mitigation of Greenhouse Gases, other institutions of higher education, and research entities) shall initiate a program to conduct any further research on agricultural and forestry greenhouse gas management that is necessary.

SEC. 335. INCENTIVE PROGRAM.

(a) AUTHORIZATION.—In each of fiscal years 2010 through 2050, the Secretary shall use the funds deposited in the Agriculture and Forestry Carbon Fund to provide incentive payments to entities that carry out projects in the United States that meet the criteria described in this section.

(b) ESTABLISHMENT OF PROGRAM.—

(1) REGULATIONS.—Not later than January 1, 2010, the Secretary shall, in consultation with the Administrator, promulgate regulations establishing a program to provide assistance to entities that carry out projects, within eligible project types under subsections (c) and (d), that achieve real, verifiable, additional, permanent, and enforceable increases in biological sequestration by, and reductions in greenhouse gas emissions from, agriculture and forest management activities within the United States.

(2) REQUIREMENTS.—In designing the program under paragraph (1), the Secretary shall—

(A) provide for the implementation of the requirements of this section;

(B) take into account the findings of the report prepared under section 334(a);

(C) integrate the program, as appropriate, with existing Natural Resources Conservation Service and Forest Service assistance programs, provided that funds distributed under this section shall not be substituted for, or otherwise used as a basis for reducing, funding authorized or appropriated to be provided under such existing programs;

(D) seek to maximize the reduction of greenhouse gas emissions and increases in sequestration per dollar of assistance provided; and

(E) incorporate any environmental safeguards the Administrator determines necessary to ensure that no significant environmental degradation results from projects that receive assistance under this section.

(c) ELIGIBLE PROJECT TYPES.—The types of projects eligible for assistance under this section shall be limited to—

(1) cropland and rangeland management practices that reduce greenhouse gas emissions (other than emissions from the combustion of fossil fuels) or increase biological sequestration, including—

(A) altered tillage practices;

(B) winter cover cropping, continuous cropping, and other means to increase biomass returned to soil in lieu of planting followed by fallowing;

(C) conversion of cropland to rangeland or grassland, on the condition that the land has been in nonforest use for at least 10 years before the date of initiation of the project;

(D) reduction of nitrogen fertilizer use or increase in nitrogen use efficiency;

(E) reduction in the frequency and duration of flooding of rice paddies; and

(F) reduction in carbon emissions from organic soils;

(2) forest management practices that result in an increase in forest stand volume; and

(3) other activities that the Secretary determines, in consultation with the Administrator, will result in net sequestration of carbon in wetlands or other nonforest natural lands.

(d) EXCLUDED ACTIVITIES.—The Secretary, in consultation with the Administrator, shall ensure that no assistance shall be provided under this section for—

(1) any activity eligible to receive offset credits under section 742 of the Clean Air Act (as added by section 101 of this Act); or

(2) any activity that is required by or undertaken to comply with any law, including any regulation.

(e) MEASUREMENT, MONITORING, AND VERIFICATION PROTOCOLS.—

(1) IN GENERAL.—The Secretary shall, in consultation with the Administrator and taking into account the report developed under section 334(a), develop measurement, monitoring, and verification protocols and tools for use by applicants and by the Secretary in administering this program.

(2) REQUIREMENTS.—Such protocols and tools shall be designed to ensure that increases in sequestration or reductions in emissions reported by entities are accurate, real, verifiable, additional, permanent, and enforceable.

(3) ACQUISITION OF NEW DATA AND REVIEW OF METHODS.—The Secretary shall establish a comprehensive field sampling program to improve the scientific bases on which the standardized tools and methods developed under this section are based.

(4) UPDATING.—The Secretary shall review, and revise if necessary, such protocols every five years, taking into account research performed under this subsection, section 334(b), and the reports prepared by the National Academy of Sciences pursuant to title VII of this Act.

(f) ENVIRONMENTAL CONSIDERATIONS.—

(1) COORDINATION TO MINIMIZE NEGATIVE EFFECTS.—In designing and implementing the pro-

gram established under this section, the Secretary, in consultation with the Administrator, shall act to avoid or minimize, to the maximum extent practicable, adverse effects on human health or the environment resulting from projects or activities receiving support under this section.

(2) USE OF NATIVE PLANT SPECIES.—Not later than January 1, 2010, the Secretary shall promulgate regulations for the selection, use, and storage of native and nonnative plant materials using assistance provided under this section—

(A) to ensure native species are given primary consideration in projects receiving assistance under this section, in accordance with applicable Department of Agriculture guidance for the use of native plant materials;

(B) to prohibit the use of federally designated or State-designated noxious weeds; and

(C) to prohibit the use of a species listed by a regional or State invasive plant council within the applicable region or State.

SEC. 336. OUTREACH INITIATIVE ON REVENUE ENHANCEMENT FOR AGRICULTURAL PRODUCERS AND FORESTERS.

(a) ESTABLISHMENT.—The Secretary, acting through the Chief of the Natural Resources Conservation Service, the Chief of the Forest Service, the Administrator of the Cooperative State Research, Education, and Extension Service, and land-grant colleges and universities, in consultation with the Administrator and the heads of other appropriate departments and agencies, shall establish an outreach initiative to provide information to agricultural producers, agricultural organizations, foresters, and other landowners about opportunities under this Act to earn new revenue.

(b) COMPONENTS.—The initiative under this section—

(1) shall be designed to ensure that, to the maximum extent practicable, agricultural organizations and individual agricultural producers, foresters, and other landowners receive detailed practical information about—

(A) opportunities to receive assistance under this subtitle and related application, certification, measurement, monitoring, and verification protocols, procedures, tools, and requirements;

(B) opportunities to earn offset credits under subtitle E of title VII of the Clean Air Act (as added by section 101 of this Act) and related initiation, measurement, and verification protocols, procedures, tools, and requirements; and

(C) local, regional, and national databases and aggregation networks to facilitate achievement, measurement, registration, and sales of offsets;

(2) shall provide—

(A) outreach materials, including the handbook published under subsection (c), to interested parties;

(B) workshops; and

(C) technical assistance; and

(3) may include the creation and development of regional marketing centers or coordination with existing centers (including centers within the Natural Resources Conservation Service or the Cooperative State Research, Education, and Extension Service or at land-grant colleges and universities).

(c) HANDBOOK.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in

consultation with the Administrator and after an opportunity for public comment, shall publish a handbook for use by agricultural producers, agricultural cooperatives, foresters, other landowners, offset buyers, and other stakeholders that provides easy-to-use guidance on—

(A) earning assistance under this subtitle; and

(B) securing issuance of and marketing offset credits under subtitle E of title VII of the Clean Air Act (as added by section 101 of this Act).

(2) DISTRIBUTION.—The Secretary shall ensure, to the maximum extent practicable, that the handbook—

(A) is made available through the Internet and in other electronic media;

(B) includes, with respect to the electronic form of the handbook described in subparagraph (A), electronic forms and calculation tools to facilitate the offset credit approval process under subtitle E of title VII of the Clean Air Act (as added by section 101 of this Act); and

(C) is distributed widely through land-grant colleges and universities and other appropriate institutions.

Subtitle E—Green Jobs Training and Worker Transition Assistance

CHAPTER 1—GENERAL PROVISIONS

SEC. 341. PURPOSES.

The purposes of this subtitle are—

(1) to support programs that provide worker training for high-quality jobs in the growing renewable energy and energy efficiency industries; and

(2) to provide adjustment assistance, in the form of income support, training, assistance in purchasing health care insurance, and job placement and relocation assistance, to any workers laid off as a result of the United States transition to a low-carbon economy.

SEC. 342. DEFINITIONS.

In this subtitle:

(1) ADVERSELY AFFECTED EMPLOYMENT.—The term ''adversely affected employment'' means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for adjustment assistance under this subtitle.

(2) ADVERSELY AFFECTED WORKER.—The term ‘‘adversely affected worker’’ means an individual who, because of lack of work in adversely affected employment—

(A) has been totally separated or partially separated from adversely affected employment, or

(B) has been totally separated from employment with the firm in a subdivision of which adversely affected employment exists.

(3) AVERAGE WEEKLY WAGE.—

(A) IN GENERAL.—The term ‘‘average weekly wage’’ means one-thirteenth of the total wages paid to an individual in the high calendar quarter.

(B) OTHER DEFINITIONS.—In this paragraph:

(i) HIGH CALENDAR QUARTER.—The term ‘‘high calendar quarter’’ means the calendar quarter in which the individual’s total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the calendar quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation from adversely affected employment occurred, or, in cases in which partial separation from adversely affected employment is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

(ii) CALENDAR QUARTER.—The term ‘‘calendar quarter’’ means any 3-month period beginning on January 1, April 1, July 1, or October 1 of a calendar year.

(4) CLIMATE CHANGE WORKER TRANSITION FUND.—The term ‘‘Climate Change Worker Transition Fund’’ means the Climate Change Worker Transition Fund established under section 722 of the Clean Air Act (as added by section 101 of this Act).

(5) PARTIAL SEPARATION; PARTIALLY SEPARATED.—

(A) IN GENERAL.—The term ‘‘partial separation’’ or ‘‘partially separated’’ means, with respect to an individual who has not been totally separated, that—

(i) the individual’s hours of work have been reduced to 80 percent or less of the individual's average weekly hours in adversely affected employment, and

(ii) the individual's wages have been reduced to 80 percent or less of the individual's average weekly wage in adversely affected employment.

(B) AVERAGE WEEKLY HOURS.—In this paragraph, the term ''average weekly hours'' means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (3)(B)(i) of this section.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(7) STATE; UNITED STATES.—The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, or the Commonwealth of the Northern Mariana Islands. The term ''United States'', when used in the geographical sense, includes each of the territories identified in the preceding sentence.

(8) STATE AGENCY.—The term ''State agency'' means the agency of the State which administers the State law.

(9) STATE LAW.—The term ''State law'' means the unemployment compensation law of the State, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

(10) TOTAL SEPARATION; TOTALLY SEPARATED.—The term ''total separation'' or ''totally separated'' means, with respect to an individual, the layoff or severance of the individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

(11) UNEMPLOYMENT COMPENSATION BENEFIT PERIOD.—

(A) IN GENERAL.—The term ''unemployment compensation benefit period'' means, with respect to an individual—

(i) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or

(ii) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.

(B) OTHER DEFINITIONS.—In this paragraph, the terms ‘‘regular compensation’’, ‘‘extended compensation’’, and ‘‘additional compensation’’ have the meanings given such terms in paragraphs (2), (3), and (4) of section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note.).

(12) UNEMPLOYMENT INSURANCE.—The term ‘‘unemployment insurance’’ means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act.

(13) WEEK OF UNEMPLOYMENT.—

(A) IN GENERAL.—The term ‘‘week of unemployment’’ means a week of total, part-total, or partial unemployment, as determined under the applicable State law or Federal unemployment insurance law.

(B) WEEK.—In this paragraph, the term "week" means a week as defined in the applicable State law.

SEC. 343. FUNDING.

(a) IN GENERAL.—Funds deposited in the Climate Change Worker Transition Fund shall be available for expenditure by the Secretary, in accordance with this section, without further appropriation or fiscal year limitation.

(b) ENERGY EFFICIENCY AND RENEWABLE ENERGY WORKER TRAINING PROGRAM.—In each of fiscal years 2010 through 2050, the Secretary shall use 25 percent of the funds deposited in the Climate Change Worker Transition Fund to implement the energy efficiency and renewable energy worker training program established under section 171(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(e)).

(c) ADJUSTMENT ASSISTANCE PROGRAM.—

(1) IN GENERAL.—In each of fiscal years 2010 through 2050, 75 percent of the funds deposited in the Climate Change Worker Transition Fund shall be available to the Secretary to carry out the worker transition program established under this subtitle.

(2) REMAINING FUNDS.—If, at the end of any fiscal year, after the requirements for worker transi-

tion assistance under chapter 2 of this subtitle have been fully satisfied, any of the funds described in paragraph (1) remain unexpended, such funds shall be used to by the Secretary to implement the energy efficiency and renewable energy worker training program described in subsection (b) of this section.

SEC. 344. ESTABLISHMENT OF WORKER TRANSITION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a program to provide adjustment assistance under this subtitle to workers separated from employment as a result of the implementation of title VII of the Clean Air Act (as added by section 101 of this Act).

(b) REGULATIONS.—The Secretary shall promulgate regulations, consistent with the requirements of this subtitle, to implement the program established under subsection (a).

SEC. 345. PETITION AND CERTIFICATION OF ELIGIBILITY.

(a) FILING OF PETITION.—A petition for certification of eligibility to apply for adjustment assistance under this subtitle may be filed with the Secretary by any of the following:

(1) A group of workers.

(2) A certified or recognized union or other duly authorized representative of such workers.

(3) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), including State employment security agencies, or the State dislocated worker unit established under title I of such Act, on behalf of such workers.

(b) DETERMINATION BY SECRETARY.—The Secretary, within 30 days after receiving a petition under subsection (a), shall determine whether the petition meets the eligibility requirements described in section 346. Upon a determination that the petition meets such requirements, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for adjustment assistance under this subtitle.

SEC. 346. GROUP ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—A group of workers shall be eligible to apply for adjustment assistance under this subtitle pursuant to a petition filed under section 345(a) if the Secretary determines that—

(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally separated or partially separated, or are threatened to be-

come totally separated or partially separated, from adversely affected employment;

(2) the sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) compliance with the requirements of title VII of the Clean Air Act (as added by section 101 of this Act) contributed importantly to such workers' separation or threat of separation from employment.

(b) DEFINITION OF "CONTRIBUTED IMPORTANTLY".—In subsection (a)(3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

SEC. 347. BENEFIT INFORMATION FOR WORKERS.

(a) IN GENERAL.—The Secretary shall provide full information to workers about the adjustment assistance under this subtitle and about the petition and application procedures, and the appropriate filing dates, for such adjustment assistance. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for adjustment assistance under this subtitle. In providing such information and assistance to workers under this section, the Secretary shall, to the extent possible, seek to cooperate with the certified or recognized union or other duly authorized representative of such workers.

(b) NOTICE OF BENEFITS.—

(1) TO WORKERS.—The Secretary shall provide written notice through the mail of the adjustment assistance available under this subtitle to each worker whom the Secretary has reason to believe is covered by a certification made under this subtitle—

(A) at the time such certification is made, if the worker was partially separated or totally separated from adversely affected employment before such certification; or

(B) at the time of total separation or partial separation from adversely affected employment of the worker, if subparagraph (A) does not apply.

(2) TO REPRESENTATIVES OF WORKERS.—The Secretary shall provide notice of the adjustment assistance available under this subtitle to the certified or recognized union or other duly authorized representative of workers described in paragraph (1).

(3) GENERAL PUBLICATION.—The Secretary shall publish notice of the adjustment assistance available under this subtitle to workers covered by each certification made under this subtitle in newspapers of general circulation in the areas in which the workers reside and on the Internet.

CHAPTER 2—PROGRAM BENEFITS

SEC. 351. INCOME SUPPORT ASSISTANCE.

(a) IN GENERAL.—An adversely affected worker who is covered by a certification issued by the Secretary under section 345(b) and who applies for adjustment assistance under this subtitle shall be provided income support assistance in the form of a weekly adjustment allowance in accordance with the requirements of this section.

(b) ELIGIBILITY REQUIREMENTS.—An adversely affected worker shall be eligible to receive a weekly adjustment allowance under this section if the following conditions are met:

(1) UNEMPLOYMENT.—The worker is unemployed for the week for which the adjustment allowance is paid.

(2) DATE OF SEPARATION.—The worker's total separation or partial separation from adversely affected employment occurred—

(A) on or after the date, as specified in the certification under which the worker is covered, on which total separation or partial separation from adversely affected employment began or threatened to begin; and

(B) before the expiration of the 2-year period beginning on the date on which the Secretary's determination under section 345(b) was made.

(3) PRIOR EMPLOYMENT.—The worker had, in the 52-week period ending with the week in which total separation or partial separation from adversely affected employment occurred—

(A) at least 26 weeks of employment in adversely affected employment with a single firm or subdivision of a firm; or

(B) if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary.

(4) ENROLLMENT IN TRAINING PROGRAM.—The worker—

(A) is enrolled in a training program approved by the Secretary under section 352(b)(2) and such enrollment began by the later of—

(i) the last day of the 26th week of the worker's initial unemployment compensation benefit period;

(ii) the last day of the 26th week after the week in which the Secretary issues a certification covering the worker;

(iii) a date 45 days after the later of the two dates described in clauses (i) and (ii), if the Secretary extends the time for enrollment based on extenuating circumstances relating to enrollment in a training program;

(iv) the last day of such period that the Secretary determines appropriate, if the failure to enroll is due to the failure to provide the worker with timely information regarding the date specified in clause (i) or (ii), as the case may be; or

(v) the last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c);

(B) has, after the date on which the worker became totally separated, or partially separated, from adversely affected employment, completed a training program approved by the Secretary under section 352(b)(2); or

(C) has received a written statement waiving training enrollment requirements under subsection (c)(1) of this section.

(c) WAIVERS OF TRAINING ENROLLMENT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (b)(4)(A) if the Secretary determines that it is not feasible or appropriate for the worker, because of one or more of the following reasons:

(A) MARKETABLE SKILLS.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

(B) RETIREMENT.—The worker is within 2 years of meeting all requirements for entitlement to either—

(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor); or

(ii) a private pension sponsored by an employer or labor organization.

(C) HEALTH.—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under State or Federal unemployment compensation laws.

(2) DURATION OF WAIVERS.—

(A) IN GENERAL.—A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise, except for waivers issued by reason of proximity of retirement age under subparagraph (1)(B), in which case the waiver shall be effective for the duration of the worker's enrollment in the program.

(B) REVOCATION.—The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify the worker in writing of the revocation.

(d) AMOUNT OF WEEKLY ADJUSTMENT ALLOWANCE.—

(1) FORMULA.—The weekly adjustment allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to 70 percent of the adversely affected worker's average weekly wage prior to separation from adversely affected employment, reduced (but not below zero) by—

(A) any unemployment insurance which the worker receives, or would receive if the worker applied for such insurance, which respect to such week, except that such reduction will not apply if the appropriate State agency or Federal agency finally determines that the worker was not entitled to unemployment insurance for that week; and

(B) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

(2) ADVERSELY AFFECTED WORKERS WHO ARE UNDERGOING TRAINING.—A weekly adjustment allowance payable to an adversely affected worker under this section shall be paid in lieu of any training allowance to which a worker would otherwise be

entitled under any other Federal law for the training of workers.

(e) LIMITATION ON WEEKLY ADJUSTMENT ALLOWANCE.—

(1) MAXIMUM AMOUNT.—Except as provided in paragraph (2), the maximum amount of weekly adjustment allowances payable to an adversely affected worker with respect to the period covered by a certification issued by the Secretary under section 345(b) shall be the amount which is the product of 52 multiplied by the amount of the adjustment allowance payable to the worker for a week of total unemployment as determined under subsection (d).

(2) FURTHER AMOUNTS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), in order to assist an adversely affected worker to complete training approved for the worker under section 352, and in accordance with regulations prescribed by the Secretary, payments may be made as weekly adjustment allowances for up to 52 additional weeks in the 52-week period that—

(i) follows the last week of entitlement to weekly adjustment allowances otherwise payable under this subtitle; or

(ii) begins with the first week of such training, if such training begins after the last week described in clause (i).

(B) LIMITATION.—Payments for such additional weeks may be made only for weeks in such 52-week period during which the individual is participating in such training.

(3) DURATION.—An adjustment allowance shall not be paid for any week occurring after the close of the 130-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment with respect to which the worker meets the eligibility requirements of subsection (b).

SEC. 352. TRAINING AND OTHER ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—An adversely affected worker who is covered by a certification issued by the Secretary under section 345(b) and who applies for adjustment assistance under this subtitle shall be provided, in the same manner and to the same extent as a worker covered by a certification under section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the training and other adjustment assistance described in subsection (b).

(b) TRAINING AND OTHER ADJUSTMENT ASSISTANCE DESCRIBED.—The training and other adjustment assistance referred to in subsection (a) are the following:

(1) Employment counseling, testing, and placement services, and supportive and other services, as described in section 235 of the Trade Act of 1974 (22 U.S.C. 2295).

(2) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that the limitation on total payments described in subsection (a)(2)(A) of such section shall not apply with respect to such training provided under the authority of this paragraph.

(3) Job search allowances described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(4) Relocation allowances described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(c) ENERGY EFFICIENCY AND RENEWABLE ENERGY WORKER TRAINING PROGRAM.—To the maximum extent practicable, an adversely affected worker who is eligible to receive training and other adjustment assistance under this section shall be eligible to receive assistance under the energy efficiency and renewable energy worker training program established under section 171(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(e)).

SEC. 353. REEMPLOYMENT ADJUSTMENT ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a reemployment trade adjustment assistance program for older workers that provides the benefits described in subsection (b).

(b) BENEFITS.—The Secretary shall, for the eligibility period described in subsection (c)(3), provide a worker described in subsection (c)(2) with a weekly adjustment allowance equal to 50 percent of the difference between—

(1) the wages received by the worker from reemployment; and

(2) the wages received by the worker at the time of separation.

(c) ELIGIBILITY.—

(1) IN GENERAL.—A group of workers certified as eligible for adjustment assistance under this subtitle is eligible for benefits described in subsection (b) under the program established under subsection (a).

(2) INDIVIDUAL ELIGIBILITY.—A worker in a group of workers described in paragraph (1) may elect to receive benefits described in subsection (b)

under the program established under subsection (a) if the worker—

(A) is at least 50 years of age;

(B) earns not more than $60,000 each year in wages from reemployment;

(C)(i) is employed on a full-time basis as defined by State law in the State in which the worker is employed; or

(ii) is employed at least 20 hours per week and is enrolled in training approved under section 352(b)(2); and

(D) is not employed at the firm from which the worker was separated.

In the case of a worker described in subparagraph (C)(ii), the percentage referred to in subsection (b) shall be deemed to be a percentage equal to ½ of the ratio of weekly hours of employment referred to in subparagraph (C)(ii) to weekly hours of employment of that worker at the time of separation (but not more than 50 percent).

(3) ELIGIBILITY PERIOD FOR PAYMENTS.—A worker in a group of workers described in paragraph (1) may receive payments described in subsection (b) under the program established under subsection (a) for a period not to exceed 2 years from the date on

which the worker exhausts all rights to unemployment insurance based on the separation of the worker from adversely affected employment or the date on which the worker obtains reemployment, whichever is earlier.

(4) TRAINING AND OTHER SERVICES.—A worker described in paragraph (2) shall be eligible to receive training approved under section 352(b)(2) and services under section 352(b)(1).

(d) TOTAL AMOUNT OF PAYMENTS.—The payments described in subsection (b) made to a worker may not exceed $12,000 per worker during the eligibility period under subsection (c)(3).

(e) LIMITATION ON OTHER BENEFITS.—A worker described in subsection (c) may not receive a weekly adjustment allowance under section 351 during any week for which the worker receives a payment described in subsection (b).

SEC. 354. HEALTH COVERAGE TAX CREDITS.

(a) ELIGIBILITY FOR CREDIT.—Paragraph (1) of section 35(c) of the Internal Revenue Code of 1986 (defining eligible individual) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by inserting after subparagraph (C) the following new subparagraph:

"(D) an eligible adjustment assistance recipient.".

(b) ELIGIBLE ADJUSTMENT ASSISTANCE RECIPIENT DEFINED.—Subsection (c) of section 35 of such Code (defining eligible individual) is amended by adding at the end the following new paragraph:

"(5) ELIGIBLE ADJUSTMENT ASSISTANCE RECIPIENT.—The term 'eligible adjustment assistance recipient' means, with respect to any month, any individual who is receiving for any day of such month a weekly adjustment allowance under section 351 or 353 of the Investing in Climate Action and Protection Act. An individual shall continue to be treated as an eligible adjustment assistance recipient during the first month that such individual would otherwise cease to be an eligible adjustment assistance recipient by reason of the preceding sentence.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 355. ADMINISTRATION.

(a) AGREEMENTS WITH STATES.—

(1) IN GENERAL.—The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency. Under such an agreement, the State agency—

(A) as agent of the United States, shall receive applications for, and shall provide, payments on the basis provided in this subtitle;

(B) where appropriate, but in accordance with paragraph (6), shall afford adversely affected workers testing, counseling, referral to training and job search programs, and placement services;

(C) shall make any certifications required under section 351(c); and

(D) shall otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this subtitle.

(2) TERMS AND CONDITIONS.—Each agreement under this subsection shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

(3) UNEMPLOYMENT INSURANCE.—Each agreement under this subsection shall provide that unemployment insurance otherwise payable to any ad-

versely affected worker shall not be denied or reduced for any week by reason of any right to payments under this subtitle.

(4) ENTITLEMENT TO PROGRAM BENEFITS.—A determination by a State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

(5) COORDINATION OF TRAINING AND ASSISTANCE.—Any agreement entered into under this subsection shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under section 352 and under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a State agency for purposes of this subtitle.

(6) TECHNICAL ASSISTANCE.—Each State agency shall, in carrying out paragraph (1)(B)—

(A) advise each worker who applies for unemployment insurance of the benefits under this subtitle and the procedures and deadlines for applying for such benefits;

(B) facilitate the early filing of petitions under section 345 for any workers that the agency considers are likely to be eligible for benefits under this subtitle;

(C) advise each adversely affected worker to apply for training under section 352 before, or at the same time, the worker applies for weekly adjustment allowances under section 351; and

(D) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 352 and review such opportunities with the worker.

(7) COORDINATION OF WORKFORCE INVESTMENT ACTIVITIES.—In order to promote the coordination of workforce investment activities in each State with activities carried out under this subtitle, any agreement entered into under this subsection shall provide that the State shall submit to the Secretary, in such form as the Secretary may require,

the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(8) and (14)).

(b) ADMINISTRATION ABSENT STATE AGREEMENT.—

(1) IN GENERAL.—In any State where there is no agreement in force between a State or its agency under subsection (a), the Secretary shall arrange under regulations prescribed by the Secretary for performance of all necessary functions under sections 351 through 353, including provision for a fair hearing for any worker whose application for payments is denied.

(2) REVIEW OF FINAL DETERMINATIONS.—A final determination under paragraph (1) with respect to entitlement to program benefits under this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

Subtitle F—National Climate Change Adaptation Program

SEC. 361. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) According to the Intergovernmental Panel on Climate Change's Fourth Assessment Report, the United States is already experiencing a range of adverse impacts of climate change and is predicted to experience more intense impacts over the course of this century. These predicted future impacts include—

(A) significant reductions in snowpack in western mountains by the middle of this century, increasing stress on over-allocated water systems in the western United States;

(B) decreased water levels in the Great Lakes, leading to a range of adverse ecological and economic effects;

(C) decreased recharge of heavily utilized groundwater systems in the southwestern United States, resulting in increased water stress;

(D) increased surface water temperatures making achievement of water quality standards more difficult;

(E) more frequent and more intense wildfires in the western United States;

(F) acceleration of sea-level rise and changes in storm surge patterns, leading to more frequent and more severe coastal flooding, increased coastal erosion, increased rates of coastal wetland loss, and increased vulnerability of coastal infrastructure;

(G) potentially more intense storms, leading to greater coastal instability;

(H) increased magnitude and duration of severe heatwaves and increased concentration of surface ozone pollution, leading to adverse impacts on public health;

(I) potential negative impacts on public health due to changes in infectious disease transmission patterns; and

(J) increased coastal erosion and permafrost thaw in Alaska, jeopardizing public and private infrastructure and imposing substantial costs.

(2) Although prompt and aggressive efforts to mitigate global greenhouse gas emissions can reduce the magnitude and likelihood of adverse impacts of climate change on the United States, such impacts are likely to intensify for the foreseeable future even under a best-case scenario for emissions reductions.

(3) Absent effective action to manage risks and reduce vulnerability to adverse climate change im-

pacts, such impacts are likely to impose significant social and economic costs on the United States.

(4) State, local, and tribal governments are likely to bear much of the burden of responding to the impacts of climate change. Although both impacts and appropriate adaptive responses will vary by region, State, and locality, the Federal Government can bolster State, local, and tribal adaptive capacity by providing policy-relevant information and technical and financial assistance.

(5) An effective national climate change adaptation program will require improvements in coordination among Federal agencies, and among the Federal Government, State, local, and tribal governments, and nongovernmental stakeholders.

(6) To improve the United States capacity to adapt to adverse climate change impacts, Federal agencies must incorporate potential short-term, medium-term, and long-term impacts of climate change into the implementation of their respective mandates.

(b) PURPOSE.—The purpose of this subtitle is to establish an integrated Federal program to enhance the capacity of Federal, State, local, and tribal governments to reduce vulnerability to the adverse impacts of climate change on the United States and its territories.

SEC. 362. DEFINITIONS.

As used in this subtitle—

(1) COUNCIL.—The term "Council" means the National Climate Change Adaptation Council established under section 364.

(2) NATIONAL ASSESSMENT.—The term "National Assessment" refers to a National Climate Change Vulnerability Assessment prepared pursuant to section 366.

(3) NATIONAL CLIMATE CHANGE ADAPTATION FUND.—The term "National Climate Change Adaptation Fund" means the National Climate Change Adaptation Fund established under section 722 of the Clean Air Act (as added by section 101 of this Act).

(4) NOAA.—The term "NOAA" means the National Oceanic and Atmospheric Administration.

(5) PROGRAM.—The term "Program" means the National Climate Change Adaptation Program established under section 365.

(6) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa,

the United States Virgin Islands, Guam, or the Commonwealth of the Northern Mariana Islands.

(7) TRIBAL GOVERNMENT.—The term ''tribal government'' means the official government of a federally recognized Indian tribe.

SEC. 363. FUNDING.

(a) IN GENERAL.—Funds deposited in the National Climate Change Adaptation Fund shall be available for expenditure, without further need of appropriation or fiscal year limitation, to carry out this subtitle in accordance with the requirements of this section.

(b) ALLOCATION.—

(1) NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM.—For each of fiscal years 2010 through 2050, the Secretary of Commerce shall utilize not more than 15 percent of the funds deposited in the National Climate Change Adaptation Fund to carry out the National Climate Change Adaptation Program established under section 365.

(2) FEDERAL FUNDING FOR STATE, LOCAL, AND TRIBAL ADAPTATION PROJECTS.—The Federal agency or agencies charged with implementing the program established under section 369 shall utilize the remaining funds deposited in the National Climate Change Adaptation Program to provide finan-

cial assistance to State, local, and tribal governments pursuant to such program, provided that Congress has not enacted a statute codifying the program or an alternative to the program.

SEC. 364. NATIONAL CLIMATE CHANGE ADAPTATION COUNCIL.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the President shall establish a National Climate Change Adaptation Council, consisting of representatives, appointed by the head of the respective Federal agency, of—

(1) NOAA;

(2) the Environmental Protection Agency;

(3) the Department of Agriculture;

(4) the Department of Commerce;

(5) the Department of Defense;

(6) the Department of Energy;

(7) the Department of Health and Human Services;

(8) the Department of Homeland Security;

(9) the Department of Housing and Urban Development;

(10) the Department of the Interior;

(11) the Department of Transportation;

(12) the Army Corps of Engineers;

(13) the Centers for Disease Control;

(14) the Federal Emergency Management Agency;

(15) the National Aeronautics and Space Administration;

(16) the United States Geological Survey; and

(17) such other Federal agencies or departments as the President considers appropriate.

(b) CHAIRPERSON.—The representative described in subsection (a)(1) shall be the chairperson of the Council.

(c) FUNCTIONS.—The Council shall serve as a forum for interagency consultation on, and coordination of, Federal policies relating to assessment of, and adaptation to, the impacts of climate change on the United States and its Territories.

SEC. 365. NATIONAL CLIMATE CHANGE ADAPTATION PROGRAM.

The Secretary of Commerce, acting through the Administrator of NOAA, shall establish within NOAA a National Climate Change Adaptation Program for the purpose of increasing the overall effectiveness of Federal climate change adaptation efforts. Under the Program, the Administrator of NOAA shall, in consultation as appropriate with the Council—

(1) develop and publish periodic National Assessments under section 366;

(2) provide to Federal agencies, local, State, and tribal governments, and nongovernmental stakeholders policy-relevant scientific information, research products, decision tools, and technical support related to climate change impacts and adaptation to such impacts, as provided in section 367; and

(3) advise Federal agencies on issues related to climate change impacts and adaptation to such impacts, including through the provision of technical support to Federal agencies in the development of agency climate change adaptation plans as required under section 368.

SEC. 366. NATIONAL CLIMATE CHANGE VULNERABILITY ASSESSMENTS.

(a) IN GENERAL.—Not later than January 1, 2012, and every 4 years thereafter, the Administrator of NOAA shall publish and deliver to the President a National Climate Change Vulnerability Assessment evaluating regional and national vulnerability to impacts of climate change, strategies to adapt to such impacts, and priorities for further research related to climate change impacts and adaptive capacity.

(b) CONTENTS.—

(1) REGIONAL ASSESSMENTS.—Each National Assessment shall include regional assessments for a sufficient number of geographic regions within the United States and its Territories to effectively address specific climate change impacts at the regional and State or territorial levels. Each regional assessment shall—

(A) assess, at an appropriate geographic scale, the nature and probability of predicted short-term, medium-term, and long-term impacts of climate change on human health and a broad range of natural systems, resources, infrastructure, and social and economic sectors;

(B) provide a regionally prioritized list of vulnerable systems and areas and an estimate of the range of anticipated costs of climate change impacts within the region;

(C) describe current efforts within the region to adapt to climate change impacts, in areas such as public health, emergency response, infrastructure and development, water resource management, agriculture, forest management, and coastal management;

(D) identify gaps in current adaptation efforts within the region, strategies to address such gaps, and estimates of the costs of implementing such strategies;

(E) describe current research, observation, and monitoring activities focused on understanding regional climate change impacts and adaptation to such impacts, as well as research and data needs and priorities in these areas;

(F) assess the adequacy of existing mechanisms for communication and coordination within the region between Federal agencies and regional, State, local, and tribal stakeholders and recommend measures to enhance such communication and coordination; and

(G) include any other information relevant to understanding regional climate change impacts and adaptation.

(2) NATIONAL SYNTHESIS.—Each National Assessment shall include a synthesis of the regional assessments, including—

(A) a description of relevant research on national-scale, international-scale, or global-scale climate change impacts, vulnerabilities, and adaptive strategies not addressed in the regional assessments;

(B) based on the regional assessments, a nationally prioritized list of vulnerable systems and regions in the United States and a national estimate of the range of costs of short-term, medium-term, and long-term costs of predicted climate change impacts;

(C) a nationally prioritized list of strategies and actions to address climate change impacts, including estimates of the costs of implementing such strategies and actions and the appropriate roles of relevant Federal Government agencies;

(D) a description of priorities for developing Federal research, observation, and monitoring, and policy tools to meet the needs of State and local decisionmakers identified in the regional assessments;

(E) an assessment of the adequacy of existing mechanisms for communication and coordination between Federal agencies and regional, State, local, and tribal stakeholders and recommendations for measures to enhance such communication and coordination;

(F) a description of the progress made towards achieving the objectives identified in the prior National Assessment, except that such requirement shall not apply to the first National Assessment; and

(G) any other relevant results from the regional assessments that have implications for Federal climate change research, mitigation, or adaptation efforts.

(c) METHODOLOGICAL AND PROCEDURAL REQUIREMENTS.—

(1) CONSULTATION WITH COUNCIL.—In developing the National Assessments, the Administrator of NOAA shall consult with the Council and shall seek input and assistance from the Federal agencies represented on the Council within their respective areas of expertise.

(2) CONSULTATION WITH LOCAL, STATE, AND REGIONAL STAKEHOLDERS.—In developing the National Assessments, the Administrator of NOAA and participating Federal agencies shall consult with State, local, and tribal governments and nongovernmental stakeholders at the local, State, and regional levels, to facilitate coordination of efforts and to maximize the utility to local, State, regional, and tribal decision makers of the information provided by the National Assessment.

(3) BEST AVAILABLE SCIENCE.—The National Assessments shall be based on the best scientific and commercial data available.

(4) TREATMENT OF UNCERTAINTY.—To ensure that scientific uncertainties are addressed through a consistent methodology, all components of the National Assessments shall follow either—

(A) the guidance on treatment of uncertainty set forth in the Intergovernmental Panel on Climate Change's Guidance Notes for Lead Authors of the IPCC Fourth Assessment Report on Addressing Uncertainty; or

(B) such similar uniform guidelines on the treatment of uncertainty as the Administrator of NOAA may establish.

(5) UTILIZATION OF PRIOR RESEARCH AND ASSESSMENTS.—In developing the National Assessments, the Administrator of NOAA shall, to the extent practicable, take into consideration research and information contained in—

(A) the reports of the Intergovernmental Panel on Climate Change;

(B) reports or research published by the Global Change Research Program and the Climate Change Science Program; and

(C) any existing climate change adaptation strategy, report, or assessment prepared by or for a Federal, State, local, or tribal government entity.

SEC. 367. CLIMATE CHANGE ADAPTATION SERVICES.

(a) NATIONAL CLIMATE SERVICE.—The Secretary of Commerce, acting through the Administrator of NOAA, shall establish within NOAA a National Climate Service to serve as a clearinghouse to provide State, local, and tribal government decisionmakers with access to regionally and nationally relevant information, data, forecasts, and services relating to climate change impacts and adaptation to such impacts. The National Climate Service shall—

(1) develop and provide access to policy-relevant climate information products, databases, decision tools, and services for Federal, State, local, and tribal government decisionmakers and policymakers;

(2) provide technical assistance to Federal, State, local, and tribal government efforts to assess vulnerability to climate change impacts and develop appropriate strategies and plans to reduce such vulnerability;

(3) facilitate communication and coordination among Federal, State, local, and tribal stakeholders

with regard to climate change information and adaptation strategies; and

(4) undertake education and outreach initiatives related to climate change impacts, vulnerabilities, and the application of climate information in decisionmaking.

(b) REGIONAL AND NATIONAL WORKSHOPS.—To facilitate information exchange, outreach, and coordination of efforts on assessment of and adaptation to climate change impacts, the Administrator of NOAA shall, during each 4-year cycle during which a National Assessment is being prepared (or, in the case of the first National Assessment, the period between the date of enactment of this Act and January 1, 2012), convene—

(1) at least one stakeholder workshop in each region identified by the National Assessment, to which appropriate governmental and nongovernmental stakeholders from the region are invited; and

(2) at a date after all of the regional workshops described in paragraph (1) have been completed, at least one national-level workshop to which appropriate governmental and nongovernmental stakeholders from all of the regions identified by the National Assessments are invited.

(c) OBSERVATION AND MONITORING.—The Administrator of NOAA is authorized to deploy such observation and monitoring systems, including remote sensing systems, as may be necessary to support the National Climate Change Adaptation Program established under this subtitle.

SEC. 368. FEDERAL AGENCY CLIMATE CHANGE ADAPTATION PLANS.

(a) PUBLICATION AND REVIEW.—

(1) PRESIDENTIAL REVIEW.—Within 1 year after the date of publication of each National Assessment, each Federal agency with representation on the Council shall—

(A) complete an agency climate change adaptation plan detailing the agency's current and projected efforts to address the potential impacts of climate change on matters within the agency's jurisdiction; and

(B) submit such agency climate change adaptation plan to the President for review.

(2) SUBMISSION TO CONGRESS.—Within 18 months after the date of publication of each National Assessment, each Federal agency with representation on the Council shall submit the agency climate change adaptation plan described in para-

graph (1), as finalized following Presidential review, to the House Committee on Energy and Commerce, the Senate Committee on Environment and Public Works, and the committees in the House of Representatives and the Senate with principal jurisdiction over the relevant agency.

(b) REQUIREMENTS.—Each agency climate change adaptation plan shall include—

(1) a review of the current impacts of climate change on matters within the agency's jurisdiction;

(2) a review of anticipated future (short-term, medium-term, and long-term) impacts of climate change on matters within the agency's jurisdiction, including an assessment of the probability of such impacts that follows the guidelines on treatment of uncertainty established for the National Assessments;

(3) a description of priorities, within the scope of the agency's jurisdiction, for building the adaptive capacity of the United States and its territories;

(4) a review of the agency's current efforts to address climate change impacts on matters within its jurisdiction, including a description of how current and future impacts are being integrated into agency decisionmaking and a description of budg-

etary and human resources dedicated to adaptation to climate change;

(5) a description of initiatives that will be undertaken to address climate change impacts on matters within the jurisdiction of the agency, including—

(A) the strategic objectives of such initiatives;

(B) the resources that will be dedicated to such initiatives;

(C) timelines for implementation; and

(D) benchmarks and methods for assessing effectiveness;

(6) a description of current and proposed mechanisms to enhance cooperation on climate change adaptation efforts with other Federal agencies and with State, local, and tribal governments and nongovernmental stakeholders;

(7) an assessment of the agency's success in meeting the objectives outlined in its most recent agency climate change adaptation plan, except that this paragraph shall not apply to the first agency climate change adaptation plan; and

(8) an estimate of the budgetary and human resources needed to address climate change impacts on matters within the jurisdiction of the agency.

SEC. 369. FEDERAL FUNDING FOR STATE, LOCAL, AND TRIBAL ADAPTATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 2013, the President shall—

(1) directly, or through such Federal agency or agencies as the President may designate, promulgate regulations establishing an integrated program to use funds in the National Climate Change Adaptation Fund to provide financial assistance to State, local, and tribal governments, individually or jointly, for implementation of projects to reduce vulnerability to climate change impacts; and

(2) submit such regulations to the House Committee on Energy and Commerce, the Senate Committee on Environment and Public Works, and other committees of relevant jurisdiction in the House of Representatives and the Senate.

(b) CONSULTATION.—In promulgating the regulations under subsection (a), the President, or such Federal agency or agencies as the President may designate, shall—

(1) consult with the Administrator of NOAA and the Council; and

(2) take into consideration the findings and recommendations of the most recent National Assessment and any relevant agency climate change adaptation plans developed pursuant to section 368.

(c) REQUIREMENTS.—The regulations promulgated under subsection (a) shall—

(1) identify the Federal agency or agencies to be charged with administering each element of the program, and any relevant information relating to organization, governance, and respective responsibilities under the program;

(2) identify priorities and objectives for building State, local, and tribal governments' capacity to adapt to climate change impacts through financial support for State, local, and tribal projects;

(3) identify mechanisms, including grants or loans, through which funds within the National Climate Change Adaptation Fund will be used to provide financial support for projects implemented by State, local, or tribal governments;

(4) identify categories of projects eligible for funding under the program, consistent with the regional and national adaptation priorities identified in the National Assessment;

(5) describe procedures for submission, evaluation, and approval of project proposals;

(6) establish selection criteria for evaluating climate change adaptation project proposals submitted, individually or jointly, by State, local, and tribal governments, including consideration of environmental impacts and cost-effectiveness in reducing vulnerability to climate change impacts;

(7) establish criteria for allocating funding among different regions, States, localities, and Indian tribes, and among different project categories;

(8) establish criteria and mechanisms for reviewing project performance and for enforcing any restrictions imposed as a condition of supporting an approved project; and

(9) provide such other information regarding implementation of the proposed program as the President or the promulgating agency or agencies consider appropriate.

(d) PROGRAM IMPLEMENTATION.—If, after the 1-year period beginning on the date of submission of the regulations under subsection (a), Congress has not enacted a statute codifying the program established by the regulations or an alternative to such program, the agency or agencies identified in the regulations pursuant to subsection (c)(1) shall implement the regulations.

(e) PERIODIC REVISIONS.—

(1) SUBMISSION OF REVISED REGULATIONS.—If a program has been implemented pursuant to subsection (d), the President shall, not later than January 1 of the calendar year following the publication of each subsequent National Assessment, promulgate and submit to Congress revised regulations that—

(A) meet the requirements of subsection (c); and

(B) reflect any relevant information or recommendations included in the most recent National Assessment and relevant agency climate change adaptation plans.

(2) IMPLEMENTATION OF REVISED REGULATIONS.—If, after the 1-year period beginning on the date of submission of any revised regulations under paragraph (1), Congress has not enacted a statute codifying the program established by revised regulations or an alternative to such program, the agency or agencies identified in the revised regulations under subsection (c)(1) shall implement the revised 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 physical interaction between the biotic and abiotic components of an ecosystem.

(B) INCLUSIONS.—The term ''ecological process'' includes—

(i) nutrient cycling;

(ii) pollination;

(iii) predator-prey relationships;

(iv) soil formation;

(v) gene flow;

(vi) larval dispersal and settlement;

(vii) hydrological cycling;

(viii) decomposition; and

(ix) disturbance regimes, such as fire and flooding.

(3) FISH AND WILDLIFE.—The term ''fish and wildlife'' means—

(A) any species of wild fauna, including fish and other aquatic species; and

(B) any fauna in a captive breeding program the object of which is to reintroduce individuals of a species that is indigenous to the United States and the populations of which are depleted, into previously occupied range in the United States.

(4) HABITAT.—The term "habitat" means the physical, chemical, and biological properties (including aquatic and terrestrial plant communities) that are used by wildlife for growth, reproduction, and survival, food, water, cover, and space in an area or region.

(5) IMPERILED SPECIES.—The term "imperiled species" means—

(A) a species listed as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) a species proposed for listing under that Act;

(C) a candidate species under that Act;

(D) a species listed as an endangered species under any State law; and

(E) a species, the population of which is declining at a significant rate.

(6) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(7) PLANT.—The term "plant" means any species of wild flora.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

SEC. 373. USE OF AMOUNTS IN NATURAL RESOURCE CONSERVATION FUND.

(a) AVAILABILITY OF AMOUNTS.—All amounts deposited in the Natural Resource Conservation Fund established by section 722 of the Clean Air Act (as added by section 101 of this Act) shall be available upon such deposit, without further appropriation or fiscal year limitation, to carry out adaptation activities in accordance with this section.

(b) DEPARTMENT OF THE INTERIOR.—Of the amounts made available each fiscal year to carry out this section—

(1) 35 percent shall be deposited in the Wildlife Conservation and Restoration Account established under section 3(a)(2) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(2)), for

grants to States to carry out adaptation activities in accordance with comprehensive State adaptation strategies approved under subsection (j);

(2) 19 percent shall be allocated to the Secretary for use in funding adaptation activities carried out—

(A) under endangered species, migratory bird, and other fish and wildlife programs administered by the United States Fish and Wildlife Service;

(B) on wildlife refuges and other public land under the jurisdiction of the United States Fish and Wildlife Service, the Bureau of Land Management, or the National Park Service; or

(C) within Federal water managed by the Bureau of Reclamation; and

(3) 5 percent shall be allocated to the Secretary for adaptation activities carried out under cooperative grant programs, including—

(A) the cooperative endangered species conservation fund authorized under section 6(i) of the Endangered Species Act of 1973 (16 U.S.C. 1535(i));

(B) programs under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

(C) the multinational species conservation fund established under the heading "MULTINATIONAL SPECIES CONSERVATION FUND" of title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246);

(D) the Neotropical Migratory Bird Conservation Fund established by section 9(a) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6108(a));

(E) the Coastal Program of the United States Fish and Wildlife Service;

(F) the National Fish Habitat Action Plan;

(G) the Partners for Fish and Wildlife Program;

(H) the Landowner Incentive Program;

(I) the Wildlife Without Borders Program of the United States Fish and Wildlife Service; and

(J) the Park Flight Migratory Bird Program of the National Park Service; and

(4) 1 percent shall be allocated to the Secretary to provide financial assistance to Indian tribes to carry out adaptation activities through the Tribal Wildlife Grants Program of the United States Fish and Wildlife Service.

(c) LAND AND WATER CONSERVATION FUND.—

(1) DEPOSITS.—

(A) IN GENERAL.—Of the amounts made available for each fiscal year to carry out this section, 10 percent shall be deposited into the Land and Water Conservation Fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5).

(B) USE OF DEPOSITS.—Deposits into the Land and Water Conservation Fund under this subsection shall—

(i) be supplemental to authorizations provided under section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6) which shall remain available for nonadaptation needs; and

(ii) be available for expenditure to carry out this section without further appropriation or fiscal year limitation.

(2) ALLOCATIONS.—Of the amounts deposited under this subsection into the Land and Water Conservation Fund—

(A) 1⁄6 shall be allocated to the Secretary and made available on a competitive basis to carry out adaptation activities through the acquisition of land and interests in land under section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8)—

(i) to States in accordance with comprehensive wildlife conservation strategies, and to Indian tribes;

(ii) notwithstanding section 5 of that Act (16 U.S.C. 460l–7); and

(iii) in addition to any funds provided pursuant to—

(I) annual appropriations Acts;

(II) the Energy Policy Act of 2005 (42 U.S.C. 15801 et seq.); or

(III) any other authorization for nonadaptation needs;

(B) 1⁄3 shall be allocated to the Secretary to carry out adaptation activities through the acquisition of lands and interests in land under section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9);

(C) 1/6 shall be allocated to the Secretary of Agriculture and made available to the States to carry out adaptation activities through the acquisition of land and interests in land under section 7 of the Forest Legacy Program under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c); and

(D) 1/3 shall be allocated to the Secretary of Agriculture to carry out adaptation activities through the acquisition of land and interests in land under section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9).

(3) EXPENDITURE OF FUNDS.—In allocating funds under paragraph (2), the Secretary and the Secretary of Agriculture shall take into consideration factors including—

(A) the availability of non-Federal contributions from State, local, or private sources;

(B) opportunities to protect wildlife corridors or otherwise to link or consolidate fragmented habitats;

(C) opportunities to reduce the risk of catastrophic wildfires, extreme flooding, or other climate-related events that are harmful to fish and wildlife and people;

(D) the potential for conservation of species or habitat types at serious risk due to climate change, ocean acidification, and other stressors; and

(E) the potential to provide enhanced access to land and water for fishing, hunting, and other public recreational uses.

(d) FOREST SERVICE.—Of the amounts made available each fiscal year to carry out this section, 5 percent shall be allocated to the Secretary of Agriculture for use in funding adaptation activities carried out on national forests and national grasslands under the jurisdiction of the Forest Service, or pursuant to the cooperative Wings Across the Americas Program.

(e) ENVIRONMENTAL PROTECTION AGENCY.—Of the amounts made available each fiscal year to carry out this section, 5 percent shall be allocated to the Administrator for use in adaptation activities restoring and protecting—

(1) large-scale freshwater aquatic ecosystems, such as the Everglades, the Great Lakes, Flathead Lake, the Missouri River, the Mississippi River, the

Colorado River, the Sacramento-San Joaquin Rivers, the Ohio River, the Columbia-Snake River System, the Apalachicola, Chattahoochee, and Flint River System, the Connecticut River, and the Yellowstone River;

(2) large-scale estuarine ecosystems, such as Chesapeake Bay, Long Island Sound, Puget Sound, the Mississippi River Delta, the San Francisco Bay Delta, Narragansett Bay, and Albemarle-Pamlico Sound; and

(3) freshwater and estuarine ecosystems, watersheds, and basins identified as priorities by the Administrator, working in cooperation with other Federal agencies, States, local governments, scientists, and other conservation partners.

(f) CORPS OF ENGINEERS.—Of the amounts made available annually to carry out this section, 10 percent shall be available to the Secretary of the Army for use by the Corps of Engineers to carry out adaptation activities restoring—

(1) large-scale freshwater aquatic ecosystems, such as the ecosystems described in subsection (e)(1);

(2) large-scale estuarine ecosystems, such as the ecosystems described in subsection (e)(2);

(3) freshwater and estuarine ecosystems, watersheds, and basins identified as priorities by the Corps of Engineers, working in cooperation with other Federal agencies, States, local governments, scientists, and other conservation partners; and

(4) habitats and ecosystems through the implementation of estuary habitat restoration projects authorized by the Estuary Restoration Act of 2000 (33 U.S.C. 2901 et seq.), project modifications for improvement of the environment, aquatic restoration and protection projects authorized by section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), and other appropriate programs and activities.

(g) DEPARTMENT OF COMMERCE.—Of the amounts made available each fiscal year to carry out this section, 10 percent shall be allocated to the Secretary of Commerce for use in funding adaptation activities to protect, maintain, and restore coastal, estuarine, and marine resources, habitats, and ecosystems, including such activities carried out under—

(1) the coastal and estuarine land conservation program;

(2) the community-based restoration program;

(3) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), that State coastal agencies shall incorporate in accordance with coastal zone management plan elements that are—

(A) developed by a coastal state and approved by the Secretary of Commerce in accordance with section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

(B) consistent with the national adaptation strategy established by the President under subsection (i); and

(C) specifically designed to strengthen the ability of coastal, estuarine, and marine resources, habitats, and ecosystems to adapt to and withstand the impacts of—

(i) global warming; and

(ii) where practicable, ocean acidification;

(4) the Open Rivers Initiative;

(5) the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(6) the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

(7) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

(9) the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

(h) COST SHARING.—Notwithstanding any other provision of law, a State or Indian tribe that receives a grant under paragraph (1) or (4) of subsection (b) shall use funds from non-Federal sources to pay 10 percent of the costs of each activity carried out using amounts under the grant.

(i) NATIONAL ADAPTATION STRATEGY.—

(1) IN GENERAL.—Funds made available under paragraphs (2), (3), and (4) of subsection (b) and subsections (c) through (g) shall be used only for adaptation activities that are consistent with the national adaptation strategy developed by the President under this subsection.

(2) NATIONAL ADAPTATION STRATEGY.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the President shall develop and implement a national adaptation strategy for assisting fish and wildlife, fish and wildlife habitat, plants, and associated ecological processes in becoming more resilient and adapting to the impacts of climate change and ocean acidification.

(B) ADMINISTRATION.—In establishing and revising the national adaptation strategy, the President shall—

(i) base the strategy on the best available science, as identified by the Science Advisory Board established under subparagraph (D);

(ii) develop the strategy in coordination with the National Climate Change Adaptation Program established under subtitle F of this title;

(iii) develop the strategy in cooperation with State fish and wildlife agencies, State coastal agencies, United States territories, and Indian tribes;

(iv) coordinate with the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other agencies as appropriate;

(v) consult with local governments, conservation organizations, scientists, and other interested stakeholders; and

(vi) provide public notice and opportunity for comment.

(C) CONTENTS.—The President shall include in the national adaptation strategy, at a minimum, prioritized goals and measures and a schedule for implementation—

(i) to identify and monitor fish and wildlife, fish and wildlife habitat, plants, and associated ecological processes that are particularly likely to be adversely affected by climate change and ocean acidification and have the greatest need for conservation;

(ii) to identify and monitor coastal, estuarine, marine, terrestrial, and freshwater habitats that are at the greatest risk of being damaged by climate change and ocean acidification;

(iii) to assist species in adapting to the impacts of climate change and ocean acidification;

(iv) to protect, acquire, maintain, and restore fish and wildlife habitat to build resilience to climate change and ocean acidification;

(v) to provide habitat linkages and corridors to facilitate fish, wildlife, and plant movement in response to climate change and ocean acidification;

(vi) to restore and protect ecological processes that sustain fish, wildlife, and plant populations that are vulnerable to climate change and ocean acidification;

(vii) to protect, maintain, and restore coastal, marine, and aquatic ecosystems so that the ecosystems are more resilient and better able to withstand the further stresses associated with climate change, including relative sea level rise and ocean acidification;

(viii) to protect ocean and coastal species from the impact of climate change and ocean acidification;

(ix) to incorporate adaptation strategies and activities to address relative sea level rise in coastal zone planning;

(x) to protect, maintain, and restore ocean and coastal habitats to build healthy and resilient ecosystems, including the purchase of coastal and island land; and

(xi) to incorporate consideration of climate change and ocean acidification, and to integrate adaptation strategies and activities for fish and wildlife, fish and wildlife habitat, plants, and associated ecological processes, in the planning and management of Federal land and water administered by the Federal agencies that receive funding under this section.

(D) SCIENCE ADVISORY BOARD.—

(i) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish and appoint the members of a Science Advisory Board, to be comprised of not fewer than 10 and not more than 20 members—

(I) at least ¾ of whom are recommended by the President of the National Academy of Sciences;

(II) who have expertise in fish, wildlife, plant, aquatic, and coastal and marine biology, ecology, climate change, ocean acidification, and other relevant scientific disciplines; and

(III) who represent a balanced membership among Federal, State, and local representatives, universities, and conservation organizations.

(ii) DUTIES.—The Science Advisory Board shall—

(I) advise the President and relevant Federal agencies and departments on—

(aa) the best available science regarding the impacts of climate change and ocean acidification on fish and wildlife, habitat, plants, and associated ecological processes; and

(bb) scientific strategies and mechanisms for adaptation; and

(II) identify and recommend priorities for ongoing research needs on those issues.

(iii) COLLABORATION.—The Science Advisory Board shall collaborate with other climate change and ecosystem research entities in other Federal agencies and departments.

(iv) AVAILABILITY TO PUBLIC.—The advice and recommendations of the Science Advisory Board shall be made available to the public.

(v) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Science Advisory Board.

(E) COORDINATION WITH OTHER PLANS.—In developing and revising the national adaptation strategy, the President shall, to the maximum extent practicable—

(i) take into consideration research and information contained in—

(I) National Climate Change Vulnerability Assessments developed under section 366 of this Act;

(II) State comprehensive wildlife conservation plans;

(III) the North American waterfowl management plan;

(IV) the national fish habitat action plan;

(V) coastal zone management plans;

(VI) the reports of the Pew Oceans Commission and the United States Commission on Ocean Policy; and

(VII) other relevant plans; and

(ii) coordinate and integrate the goals and measures identified in the national strategy with the goals and measures identified in those plans.

(F) REVISIONS.—Not later than 4 years after the date on which the national adaptation strategy is developed, and not less frequently than every 4 years thereafter, the President shall review and update the strategy using the procedures described in this paragraph.

(j) STATE COMPREHENSIVE ADAPTATION STRATEGIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), funds made available to States under this subtitle shall be used only for activities that are con-

sistent with a State strategy that has been approved by—

(A) the Secretary of the Interior; and

(B) for any State with a coastal zone (as that term is used in the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)), the Secretary of Commerce, with respect to portions of the strategy relating to activities affecting the coastal zone.

(2) INITIAL PERIOD.—

(A) IN GENERAL.—Until the earlier of the date that is 3 years after the date of enactment of this Act or the date on which a State receives approval for a State strategy from the Secretary of the Interior and the Secretary of Commerce in accordance with paragraph (1), a State shall be eligible to receive funding under subsection (b)(1) for adaptation activities that are—

(i) consistent with the Comprehensive Wildlife Conservation Strategy of the State as approved by the Director of the United States Fish and Wildlife Service and, where appropriate, other fish, wildlife and conservation strategies; and

(ii) in accordance with a workplan developed by the State in coordination with—

(I) the Secretary of the Interior; and

(II) for any State with a coastal zone (as that term is used in the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)), the Secretary of Commerce with respect to portions of the strategy relating to activities affecting the coastal zone.

(B) PENDING APPROVAL.—During the period for which approval by the applicable Secretary of a State strategy described in paragraph (3) is pending, the State may continue receiving funds under subsection (b)(1) pursuant to the workplan described subparagraph (A)(ii).

(3) REQUIREMENTS.—To be eligible for approval by the Secretary of the Interior and the Secretary of Commerce under this section, a State strategy must—

(A) describe the impacts of climate change and ocean acidification on the diversity and health of the fish, wildlife and plant populations, habitats, and associated ecological processes;

(B) describe and prioritize proposed conservation actions to assist fish, wildlife, and plant populations in adapting to those impacts;

(C) establish programs for monitoring the impacts of climate change on fish, wildlife, and plant populations, habitats, and associated ecological processes;

(D) include strategies, specific conservation actions, and a timeframe for implementing conservation actions for fish, wildlife, and plant populations, habitats, and associated ecological processes;

(E) establish methods for assessing the effectiveness of conservation actions taken to assist fish, wildlife, and plant populations, habitats, and associated ecological processes in adapting to those impacts and for updating those actions to respond appropriately to new information or changing conditions;

(F) be developed—

(i) with the participation of the State fish and wildlife agency, the State agency responsible for administration of Land and

Water Conservation Fund grants, the State Forest Legacy program coordinator, and the State coastal agency; and

(ii) in coordination with the Secretary of the Interior and, where applicable, the Secretary of Commerce;

(G) provide for solicitation and consideration of public and independent scientific input;

(H) take into consideration research and information contained in, and coordinate with and integrate the goals and measures identified in, as appropriate, other fish, wildlife, and habitat conservation strategies, including—

(i) the national fish habitat action plan;

(ii) plans under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

(iii) the Federal, State, and local partnership known as ''Partners in Flight'';

(iv) federally approved coastal zone management plans under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(v) regional fishery management plans and habitat conservation activities under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(vi) the National Action Plan to Conserve Coral Reefs developed by the United States Coral Reef Task Force;

(vii) recovery plans for threatened species and endangered species under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f));

(viii) habitat conservation plans under section 10 of that Act (16 U.S.C. 1539);

(ix) other Federal and State plans for imperiled species;

(x) the United States shorebird conservation plan;

(xi) the North American waterbird conservation plan; and

(xii) other State-based strategies that comprehensively implement adaptation activities to remediate the effects of climate change and ocean acidification on fish, wildlife, and habitats; and

(I) be incorporated into a revision of the Comprehensive Wildlife Conservation Strategy of a State—

(i) that has been submitted to the United States Fish and Wildlife Service; and

(ii)(I) that has been approved by the Service; or

(II) on which a decision on approval is pending.

(4) UPDATING.—Each State strategy approved by the Secretary of the Interior and the Secretary of Commerce must be updated at least every 5 years.

Subtitle H—Climate Change Education and Centers for Excellence

SEC. 381. PURPOSES.

The purposes of this subtitle are—

(1) to promote citizen awareness of climate change, including the causes and impacts of climate change and greenhouse gas reduction strategies, by supporting the development and implementation of informal and formal public education initiatives in this area; and

(2) to establish national centers for excellence to encourage collaborative research, information-sharing, and public education and outreach in a variety of issue areas relating to climate change.

SEC. 382. FUNDING.

For purposes of this subtitle, the term ''Climate Change Education and Outreach Fund'' means the Climate Change Education and Outreach Fund established under section 722 of the Clean Air Act (as added by section 101 of this Act). Funds deposited in the Climate Change Education and Outreach Fund shall be available, without further appropriation or fiscal year limitation, to carry out this subtitle.

SEC. 383. NATIONAL SCIENCE FOUNDATION CLIMATE CHANGE EDUCATION PROGRAMS.

(a) ALLOCATION.—In each of fiscal years 2010 through 2050, the Director of the National Science Foundation shall use 30 percent of the funds deposited in the Climate Change Education and Outreach Fund to carry out this section. Funding provided under this section shall be in addition to any funding that is otherwise authorized or appropriated.

(b) PROGRAM.—

(1) ESTABLISHMENT.—The Director of the National Science Foundation shall establish a Climate Change Education Program to—

(A) broaden public understanding of climate change, possible long-term and short-term consequences, and potential solutions;

(B) apply the latest scientific and technological discoveries to provide formal and informal learning opportunities to people of all ages, including those of diverse cultural and linguistic backgrounds; and

(C) emphasize actionable information to help people understand and to promote implementation of new technologies, programs, and incentives related to energy conservation, renewable energy, and greenhouse gas reduction.

(2) PROGRAM ELEMENTS.—The Climate Change Education Program shall include—

(A) a national information campaign to disseminate information on and promote implementation of the new technologies, programs, and incentives described in paragraph (1)(C); and

(B) a competitive grant program to provide grants to State and local governments, educational institutions, and other organizations to—

(i) create informal education materials, exhibits, and multimedia presentations relevant to climate change and climate science;

(ii) develop climate science kindergarten through grade 12 curriculum and supplementary educational materials; or

(iii) publish climate change and climate science information in print, electronic, and audio-visual forms.

SEC. 384. ENVIRONMENTAL PROTECTION AGENCY CLIMATE CHANGE EDUCATION PROGRAM.

In each of fiscal years 2010 through 2050, the Administrator shall use 10 percent of the funds deposited in the Climate Change Education and Outreach Fund to develop educational materials related to climate change, climate science, and greenhouse gas reduction strategies for use by educators, kindergarten through grade 12 students, businesses, communities, and the general public.

SEC. 385. CLIMATE CHANGE CENTERS FOR EXCELLENCE.

(a) IN GENERAL.—In each of fiscal years 2010 through 2050, the President, through such Federal agency or agencies as the President may designate, shall use 60 percent of the funds deposited during the fiscal year in the Climate Change Education and Outreach Fund to provide cost-sharing grants to support the establishment and maintenance of centers for excellence in accordance with this section.

(b) TYPES OF CENTERS.—Grants shall be provided to eligible entities to establish and maintain one or more centers for excellence focusing on each of the following areas:

(1) Climate change science, including scientific assessment of the effectiveness of public policies related to climate change.

(2) Renewable energy technologies and policies.

(3) Energy efficiency technologies and policies.

(4) Policies to reduce vehicle miles traveled.

(5) Greenhouse gas management in the agriculture and forestry sectors.

(6) Adaptation to adverse impacts of climate change, including impacts on public health, public infrastructure, agriculture, and conservation of natural resources.

(c) FUNCTIONS.—Each center for excellence receiving assistance under this section shall, with respect to such center's designated focus—

(1) serve as a national clearinghouse for information and best-practices;

(2) develop and implement public education and outreach initiatives, including training and technical assistance where appropriate; and

(3) provide a forum for communication and collaboration among governmental and nongovernmental stakeholders and researchers.

(d) ELIGIBLE ENTITIES.—Entities eligible to receive grants to establish centers for excellence under this section shall be limited to—

(1) colleges and universities located in the United States; and

(2) not-for-profit nongovernmental organizations headquartered in the United States.

(e) REGULATIONS; SELECTION CRITERIA.—The agency or agencies to which the President delegates authority to provide grants under this section shall, not later than January 1, 2010, promulgate regulations providing for the implementation of this section. Such regulations shall include objective criteria for the competitive selection 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—

(A) reductions in deforestation and forest degradation; and

(B) increases in sequestration of carbon through afforestation, restoration of forests and degraded land that had not been forested prior to restoration, and improved forest management; and

(2) to provide such incentives in a manner that will—

(A) achieve substantial and cost-effective reductions in global greenhouse gas emissions;

(B) encourage participation by developing countries in greenhouse gas limitation regimes; and

(C) secure nonclimate environmental and social benefits, including conservation of forest ecosystems and biodiversity and protection of the livelihoods and cultural resources of indigenous and other forest-dependent people in developing countries.

SEC. 402. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committees on Energy and Commerce and Foreign Affairs of the House of Representatives; and

(B) the Committees on Environment and Public Works, Energy and Natural Resources, and Foreign Relations of the Senate.

(2) FOREST CARBON ACTIVITIES.—The term ''forest carbon activities'' means activities in developing countries that are directed at—

(A) reducing greenhouse gas emissions from deforestation and forest degradation; and

(B) increasing sequestration of carbon through afforestation, restoration of forests and degraded land that had not been forested prior to restoration, and improved forest management.

SEC. 403. FUNDING.

(a) IN GENERAL.—The Administrator, in consultation with the Secretary of State, is authorized to provide assistance from the International Forest Protection Fund, established under section 722 of the Clean Air Act (as added by section 101 of this Act), in accordance with this subtitle. Amounts deposited in the International Forest Protection Fund shall be available for expenditure, without further appropriation or fiscal year limitation, to carry out this subtitle.

(b) DISTRIBUTION OF ASSISTANCE.—

(1) IN GENERAL.—The Administrator shall distribute assistance from the International Forest Protection Fund—

(A) directly;

(B) through agreements with the International Bank for Reconstruction and Development (commonly known as the World Bank) or another international development institution;

(C) through an international fund created pursuant to the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, or an agreement negotiated under such convention; or

(D) through some combination of the mechanisms identified in subparagraphs (A) through (C).

(2) DISTRIBUTION THROUGH INTERNATIONAL INSTITUTION OR FUND.—If assistance is distributed through an international institution or fund, as authorized in paragraph (1), the Administrator shall ensure the establishment and implementation of adequate mechanisms to apply and enforce the eligi-

bility requirements in section 404 and other requirements of this subtitle.

SEC. 404. ELIGIBILITY REQUIREMENTS AND STANDARDS FOR FOREST CARBON ACTIVITIES.

Not later than January 1, 2010, the Administrator, in consultation with the Secretary of State and the Secretary of Agriculture, shall promulgate eligibility requirements and accounting, measurement, monitoring, and verification standards for forest carbon activities, including requirements—

(1) for the establishment and periodic updating of national-level greenhouse gas emissions and biological sequestration reference scenarios for the forest sector;

(2) ensuring that forest carbon activities achieve reductions in greenhouse gas emissions or increases in sequestration of carbon that are real, permanent, additional, verifiable, and enforceable;

(3) ensuring reliable measurement, monitoring, and verification of emission reductions or increases in biological sequestration;

(4) ensuring appropriate accounting for any significant increases in greenhouse gas emissions or decreases in biological sequestration directly or indirectly caused by forest carbon activities;

(5) providing for discounting of emission reductions or increases in biological sequestration based on uncertainty;

(6) that forest carbon activities be carried out and managed—

(A) in accordance with widely accepted environmentally sustainable forestry practices; and

(B) with appropriate regard for the rights and interests of indigenous peoples and communities that reside in, or depend on, forests; and

(7) that forest carbon activities be designed—

(A) to promote native species and restoration of native forests, where practicable; and

(B) to avoid the introduction of invasive nonnative species.

SEC. 405. ASSISTANCE FOR FOREST CARBON ACTIVITIES.

(a) ELIGIBLE COUNTRIES.—The Administrator, in consultation with the Secretary of State, shall identify and periodically update a list of developing countries that have—

(1) demonstrated capacity to participate in forest carbon activities, including—

(A) sufficient historical data on changes in national forest carbon stocks;

(B) technical capacity to monitor and measure forest carbon fluxes with an acceptable level of uncertainty; and

(C) institutional capacity to reduce emissions from deforestation and degradation;

(2) established a national greenhouse gas emission reference scenario based on historical data; and

(3) commenced a greenhouse gas emission reduction program for the forest sector.

(b) REQUIREMENTS FOR ASSISTANCE.—Countries on the list established under subsection (a) shall be eligible for assistance under this section for the achievement, through forest carbon activities implemented in accordance with the requirements established under section 404, of—

(1) national-level net reductions in greenhouse gas emissions from reduced deforestation and forest degradation, as demonstrated using remote sensing technology that meets international standards; and

(2) national-level net increases in sequestration of carbon through afforestation, restoration of forests and degraded land that had not been forested prior to restoration, and improved forest management.

(c) VERIFICATION OF ACHIEVEMENTS.—The Administrator, in consultation with the Secretary of State, shall periodically review relevant data and make determinations regarding achievements under subsection (b).

(d) LEVEL OF ASSISTANCE.—The Administrator shall establish a formula governing the distribution of assistance under this section, which shall be designed to—

(1) maximize the reductions in greenhouse gas emissions or increases in biological sequestration per dollar of assistance provided; and

(2) take into account past actions in each eligible country to reduce greenhouse gas emissions or increase biological sequestration, so as not to penalize countries that have taken early action.

SEC. 406. CAPACITY-BUILDING GRANTS.

(a) IN GENERAL.—For fiscal years 2010 through 2020, the Administrator may use up to 40 percent of funds deposited in the International Forest Protection Fund to provide cost-sharing grants to build the capacity of developing countries not included in the list established under section 405(a) to carry out forest carbon activities otherwise eligible for assistance under section 405.

(b) NATURE OF ASSISTANCE.—Cost-sharing grants provided under this section may be used to assist recipient countries to—

(1) develop and demonstrate capacity to carry out eligible forest carbon activities, including through—

(A) development of sufficient historical data on changes in national forest carbon stocks;

(B) development of technical capacity to measure and monitor forest carbon fluxes with an acceptable level of uncertainty; and

(C) development of institutional capacity to reduce emissions from deforestation and forest degradation;

(2) establish a national greenhouse gas emission reference scenario based on historical data; and

(3) commence an emission reduction program for the forest sector.

SEC. 407. ANNUAL REPORTS.

Not later than March 1, 2012, and annually thereafter, the President shall submit to the appropriate congressional committees a report on the assistance provided under this subtitle during the prior fiscal year. The report shall include—

(1) a description of the amount of obligations and expenditures for assistance provided to each eligible country during the prior fiscal year;

(2) a description of the forest carbon activities and capacity-building activities funded through assistance provided under this subtitle, including the amount of obligations and expenditures for assistance provided to such activities, during the prior fiscal year; and

(3) an estimate of the greenhouse gas emission reductions or biological sequestration achieved by assistance provided under this subtitle during the prior fiscal year.

Subtitle B—International Clean Technology Fund

SEC. 411. PURPOSES.

The purposes of this subtitle are—

(1) to provide United States assistance to encourage widespread deployment, in developing countries, of technologies that reduce greenhouse gas emissions; and

(2) to provide such assistance in a manner that encourages such countries to adopt policies and measures that substantially reduce emissions of greenhouse gases.

SEC. 412. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committees on Energy and Commerce and Foreign Affairs of the House of Representatives; and

(B) the Committees on Environment and Public Works, Energy and Natural Resources, and Foreign Relations of the Senate.

(2) COMPARABLE ACTION.—The term "comparable action" has the meaning given such term in section 761(1) of the Clean Air Act (as added by section 101 of this Act).

(3) ELIGIBLE COUNTRY.—The term "eligible country" means a foreign country that is determined by the President, under section 414, to be eligible to receive assistance from the International Clean Technology Fund.

(4) INTERAGENCY GROUP.—The term "interagency group" means the group established by the President under section 413(a) to administer the International Clean Technology Fund.

(5) INTERNATIONAL CLEAN TECHNOLOGY FUND.—The term "International Clean Technology Fund" means the International Clean Technology

Fund established under section 722 of the Clean Air Act (as added by section 101 of this Act).

SEC. 413. INTERAGENCY GROUP.

(a) INTERAGENCY GROUP.—The President shall establish an interagency group to administer the International Clean Technology Fund. The interagency group shall include—

(1) the Secretary of State;

(2) the Administrator;

(3) the Secretary of Energy;

(4) the Secretary of the Treasury; and

(5) any other head of a Federal department or agency the President determines to be appropriate.

(b) CHAIRPERSON.—The Secretary of State shall serve as the chairperson of the interagency group.

SEC. 414. DETERMINATION OF ELIGIBLE COUNTRIES.

(a) PUBLICATION AND REVISION OF LIST.—Not later than January 1, 2011, and annually thereafter through 2050, the President shall determine and publish in the Federal Register a list of countries eligible for assistance under this subtitle.

(b) CRITERIA FOR ELIGIBILITY.—The criteria for designation as an eligible country shall include the following:

(1) The country is a developing country.

(2) The country is responsible for at least 1 percent of annual global greenhouse gas emissions, excluding emissions from land-use, land-use change, and forestry.

(3) The President has determined, pursuant to section 764(b) of the Clean Air Act (as added by section 101 of this Act), that the country has taken comparable action.

(4) Such other criteria as the President determines will serve the purposes of this Act or other United States foreign policy and national security objectives.

SEC. 415. FUNDING.

(a) IN GENERAL.—The Secretary of State is authorized to provide assistance from the International Clean Technology Fund for projects (which may include sector-based policies and measures) in eligible countries that are approved by the interagency group under this section. Amounts in the International Clean Technology Fund shall be available for expenditure, without further appropriation or fiscal year limitation to carry out this subtitle.

(b) FORMS OF ASSISTANCE.—Assistance under this subtitle may be provided in the form of grants, loans, or a combination thereof.

(c) DISTRIBUTION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary of State, in coordination with the interagency group, shall distribute assistance from the International Clean Technology Fund—

(A) directly;

(B) through agreements with the International Bank for Reconstruction and Development (commonly known as the World Bank) or another international development institution;

(C) through an international fund created pursuant to the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, or an agreement negotiated under such convention; or

(D) through some combination of the mechanisms identified in subparagraphs (A) through (C).

(2) DISTRIBUTION THROUGH INTERNATIONAL INSTITUTION OR FUND.—If assistance is distributed through an international institution or fund, as authorized in paragraph (1), the Secretary of State and the interagency group shall ensure the establishment and implementation of adequate mechanisms to apply and enforce the project selection criteria and other requirements of this subtitle.

(d) PROCEDURES FOR REVIEW OF PROPOSALS.—The Secretary of State, in conjunction with the interagency group, shall develop procedures for requesting, reviewing, and approving project proposals from eligible countries.

(e) ELIGIBLE PROJECT CATEGORIES.—Assistance under this subtitle shall be limited to projects in the following categories:

(1) Capture and geological sequestration of carbon dioxide emissions from electric generating units or large industrial sources.

(2) Renewable electricity generation from wind, solar, biomass, geothermal, marine, or hydrokinetic sources.

(3) Production of renewable fuels that have lifecycle greenhouse gas emissions that are substantially lower than those attributable to fossil fuel-based alternatives.

(4) Increased efficiency in transmission, distribution, or consumption of electricity.

(f) CRITERIA FOR PROJECT SELECTION.—Not later than January 1, 2011, the interagency group shall develop a set of criteria to be used in determining whether to provide assistance to proposals for projects in eligible countries. These criteria shall provide that—

(1) the project falls within an eligible project category identified in subsection (e);

(2) the project will result in measurable and substantial reductions in greenhouse gas emissions relative to business-as-usual emissions;

(3) the project will not result in significant increases in greenhouse gas emissions outside the boundaries of the project relative to business-as-usual emissions;

(4) the project will not have significant adverse effects on human health, safety, or welfare, the environment, or natural resources within or outside the boundaries of the project;

(5) the project owner or operator must demonstrate capacity to implement and maintain any technologies purchased or installed with assistance from the Fund;

(6) the project is not likely to cause a significant loss of United States jobs or a significant displacement of United States production; and

(7) the project meets such other requirements as the interagency group determines appropriate to further the purposes of this subtitle.

(g) SELECTION OF ELIGIBLE PROJECTS.—In determining which eligible projects will receive assistance under this subtitle, the interagency group shall apply the criteria established under this section and shall seek to maximize greenhouse gas emission reductions achieved per dollar of assistance provided. Preference shall be given to projects that are co-financed by international development banks, private-sector institutions, or host-country governments.

(h) MONITORING, EVALUATION, AND ENFORCEMENT.—The Secretary of State, in coordination with the interagency group, shall establish and implement a system to monitor and evaluate the performance of projects receiving assistance under this subtitle. The Secretary of State shall have the authority to suspend or terminate assistance in whole or in part for a project if it is determined that the project is not operating in compliance with the approved proposal.

SEC. 416. ANNUAL REPORTS.

Not later than March 1, 2012, and annually thereafter, the President shall submit to the appropriate congressional committees a report on the assistance provided under this subtitle during the prior fiscal year. The report shall include—

(1) a description of the amount of obligations and expenditures for assistance provided to each eligible country during the prior fiscal year;

(2) a description of each project that received assistance, including the amount of obligations and expenditures for assistance provided to such project, during the prior fiscal year; and

(3) an estimate of the greenhouse gas emission reductions achieved by assistance provided under this subtitle during the prior fiscal year.

Subtitle C—International Climate Change Adaptation Program

SEC. 421. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) global climate change is a potentially significant threat multiplier for instability around the world and is likely to exacerbate competition and conflict over agricultural, vegetative, marine, and water resources and displace people, thus increasing hunger and poverty and causing increased pressure on developing countries;

(2) the strategic, social, political, economic, cultural, and environmental consequences of global climate change are likely to have disproportionate impacts on developing countries, which have less economic and financial capacity to respond;

(3) the countries most vulnerable to climate change, due both to exposure to harmful impacts

and to their lower capacity to adapt, are developing countries with very low industrial emissions that have contributed less to climate change than more affluent countries;

(4) developing countries rely to a much greater degree on the natural and environmental systems likely to be affected by climate change for sustenance and livelihoods, as well as economic growth and stability;

(5) the consequences of global climate change, including increases in poverty and destabilization of economies and societies, are likely to pose a long-term threat to the national security, foreign policy, and economic interests of the United States; and

(6) it is in the national security, foreign policy, and economic interests of the United States to recognize, plan for, and mitigate the international strategic, social, political, cultural, environmental and economic effects of a changing climate and to assist developing countries to increase their resilience to those effects.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide United States assistance to the most vulnerable developing countries in order to support the development and implementation of climate

change adaptation programs and projects that reduce the vulnerability and increase the resilience of communities to climate change impacts; and

(2) to provide such assistance in a manner that promotes and protects the national security, foreign policy, and economic interests of the United States where such interests can be advanced by minimizing, averting, or increasing resilience to climate change impacts.

SEC. 422. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Energy and Commerce, the Committee on Foreign Affairs, and any other relevant committees on national security, the environment, and foreign policy of the House of Representatives; and

(B) the Committees on Environment and Public Works, Foreign Relations, and any other relevant committees on national security, the environment, and foreign policy of the Senate.

(2) MOST VULNERABLE DEVELOPING COUNTRIES.—The term "most vulnerable developing

countries'' means, as determined by the Administrator of USAID, developing countries that are most vulnerable to climate change impacts, including countries identified by the United Nations as least developed countries and low-lying and other small island developing countries, and other developing countries that are at risk of substantial adverse impacts of climate change and have limited capacity to respond to such impacts.

(3) PROGRAM.—The term ''Program'' means the International Climate Change Adaptation Program established under section 423.

(4) USAID.—The term ''USAID'' means the United States Agency for International Development.

SEC. 423. ESTABLISHMENT.

The Secretary of State, working with the Administrator of USAID and the Administrator, shall establish an International Climate Change Adaptation Program within USAID.

SEC. 424. FUNCTIONS OF PROGRAM.

(a) ACTIVITIES AND FOREIGN AID.—

(1) IN GENERAL.—In order to achieve the purposes set forth in section 421, the Program may carry out activities and projects and make grants to

any private or public group (including public international organizations), association, or other entity engaged in peaceful activities, to—

(A) provide assistance to the most vulnerable developing countries for the development of national or regional climate change adaptation plans, associated national policies, and in the planning, financing, and execution of adaptation projects;

(B) support investments, capacity-building activities and other assistance, to reduce vulnerability and promote community-level resilience related to climate change and its impacts in the most vulnerable developing countries, including impacts on water availability, agricultural productivity, flood risk, coastal resources, timing of seasons, biodiversity, economic livelihoods, human migration, or other social, economic, political, cultural, or environmental matters;

(C) support climate change adaptation research in or for the most vulnerable developing countries;

(D) encourage the protection and rehabilitation of natural systems, the enhancement and diversification of agricultural, fishery, and other livelihoods, and the reduction of disaster risk, in order to reduce vulnerability and provide increased resilience to climate change for local communities and livelihoods in the most vulnerable developing countries;

(E) support the deployment of technologies that would help the most vulnerable developing countries respond to destabilizing impacts of climate change and encourage the identification and adoption of appropriate renewable and efficient energy technologies that are beneficial in increasing community-level resilience to the impacts of global climate change in those countries; and

(F) encourage the engagement of local communities through full disclosure of information, consultation, and with communities' informed participation relating to the development of plans, programs and projects to increase community-level resilience to climate change impacts.

(2) LIMITATION.—Not more than 10 percent of amounts made available to carry out this subtitle shall be spent in any single country in any year.

(3) PRIORITIZING ASSISTANCE.—In providing assistance under this subtitle, the Administrator of USAID shall give priority to countries that are most vulnerable to the adverse impacts of climate change, determined as a function of the likelihood and severity of such impacts and the country's capacity to adapt to such impacts.

(b) COMMUNITY ENGAGEMENT.—(1) The Administrator of USAID shall ensure that local communities in areas where any projects or activities are planned under the Program are engaged through full disclosure of information and public participation, and that any projects or activities are undertaken with the communities' informed consent.

(2) For each country receiving assistance under the Program, the Administrator of USAID shall establish a process for consultation with and disclosure of information to local, national and international stakeholders regarding any projects and activities planned under the Program.

(3) The Administrator of USAID shall, to the extent practicable, ensure that projects or activities under the Program are aligned with broader development, poverty alleviation, or natural resource management objectives and initiatives in the recipient country.

(c) REPORTING.—

(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of this Act, the Program shall submit to the President and appropriate congressional committees an initial report that—

(A) based on the most recent information available from reliable public sources, identifies the developing countries that are most vulnerable to climate change impacts and in which assistance can have the greatest and most sustainable benefit to reducing vulnerability to climate change; and

(B) describes the process and methodology for selecting the recipients of assistance or grants under subsection (a)(1).

(2) ANNUAL REPORTS.—Not later than 12 months after the date on which the initial report is submitted, and annually thereafter, the Program shall submit reports to the President and appropriate congressional committees that—

(A) describe the extent to which global climate change, through its potential negative impacts on sensitive populations and natural resources in the most vulnerable developed countries, may threaten, cause, or exacerbate political, economic, environmental, cultural or social instability or international conflict in those regions;

(B) describe the ramifications of any potentially destabilizing impacts climate change may have on the national security, foreign policy, and economic interests of the United States, including—

(i) the creation of refugees and internally displaced peoples;

(ii) international or internal armed conflicts over water, food, land, or other resources;

(iii) loss of agricultural and other livelihoods, cultural stability, and other causes of increased poverty and economic destabilization;

(iv) decline in availability of resources needed for survival, including water;

(v) increased impact of natural disasters, including severe weather events, droughts and flooding;

(vi) increased prevalence or virulence of climate-related diseases; and

(vii) intensified urban migration;

(C) describe how funds made available under section 425 were spent to enhance the national security, foreign policy, and economic interests of the United States and assist in avoiding the economically, politically, environmentally, culturally, and socially destabilizing impacts of climate change in most vulnerable developing countries;

(D) identify and recommend the developing countries that are most vulnerable to climate change impacts and in which assistance can have the greatest and most sustainable benefit to reducing vulnerability to climate change, including in the form of deploying technologies, investments, capacity-building activities, and other types of assistance for adaptation to climate change impacts and approaches to reduce greenhouse gases in ways that can also provide community-level resilience to climate change impacts; and

(E) describe cooperation undertaken with other nations and international organizations to carry out this subtitle.

SEC. 425. FUNDING.

(a) CARRYING OUT RECOMMENDATIONS.—All funds deposited into the International Climate Change Adaptation Fund established under section 722 of the Clean Air Act (as added by section 101 of this Act) shall be made available, without further appropriation or fiscal year limitation, to carry out the Program established under this subtitle.

(b) DISTRIBUTION OF FUNDS.—The Administrator of USAID shall distribute to the Program the funds for the purposes of this subtitle.

(c) OVERSIGHT.—The Administrator of USAID shall oversee the expenditures by the Program.

(d) CONDITIONAL DISTRIBUTION TO INTERNATIONAL ADAPTATION FUNDS.—The Administrator of USAID is authorized to distribute up to 50 percent of the funds available to the Program to an international fund that meets the requirements of subsection (e), and shall annually certify in a report to Congress that any such international fund meets the requirements of subsection (e). The Administrator of USAID shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to this subsection.

(e) INTERNATIONAL FUND ELIGIBILITY.—An international fund is eligible for funding under the Program provided that it is created pursuant to the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, or an agreement negotiated under the Convention and that the agreement—

(1) specifies the terms and conditions under which the United States is to provide monies to the fund, and under which the international fund is to disburse monies to recipient countries;

(2) ensures that United States assistance to the fund and the principal and income of the fund are disbursed only for purposes that are consistent with those described in section 421;

(3) requires a regular meeting of a governing body of the international fund that includes representation from most vulnerable developing countries and provides full public access;

(4) requires that not more than 10 percent of the amounts available to the fund be spent in any single country in any year; and

(5) requires the international fund to prepare and make public an annual report that—

(A) identifies and recommends the developing countries that are most vulnerable to climate change impacts and in which assistance can have the greatest and most sustainable benefit to reducing vulnerability to climate change;

(B) describes the process and methodology for selecting the recipients of assistance or grants from the fund;

(C) describes specific programs and projects funded by the international fund and the extent to which the assistance is addressing the adaptation needs of the most vulnerable developing countries;

(D) describes the performance goals for assistance authorized under the fund and expresses such goals in an objective and quantifiable form, to the extent practicable;

(E) describes the performance indicators to be used in measuring or assessing the achievement of the performance goals described in subparagraph (D);

(F) provides a basis for recommendations for adjustments to assistance authorized under this subtitle to enhance the impact of such assistance; and

(G) describes the participation of other nations and international organizations in funding and governing the international fund.

SEC. 426. MONITORING AND EVALUATION OF PROGRAM.

(a) IN GENERAL.—The Administrator of USAID shall establish and implement a system to monitor and evaluate the effectiveness and efficiency of assistance provided under this subtitle in order to maximize the long-term sustainable development impact of such assistance, including the extent to which the assistance is meeting the purposes of this subtitle and addressing the adaptation needs of developing countries.

(b) GOALS.—In carrying out subsection (a), the Administrator of USAID shall—

(1) in consultation with national governments in recipient countries, establish performance goals for assistance authorized under this subtitle and expresses such goals in an objective and quantifiable form, to the extent practicable;

(2) establish performance indicators to be used in measuring or assessing the achievement of the performance goals described in paragraph (1), including an evaluation of the extent to which the Program provides for full disclosure of information and consultation and informed participation by local communities and an evaluation of the extent to which local communities participated in the projects and programs implemented under this subtitle and

the impacts of local community participation on the goals and objectives of the projects and programs;

(3) provide a basis for recommendations for adjustments to assistance authorized under this subtitle to enhance the impact of such assistance; and

(4) include in the report to Congress and other relevant agencies required under section 424(c), the monitoring and evaluation of programs subject to this section in its findings.

TITLE V—LEGAL FRAMEWORK FOR GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE

SEC. 501. NATIONAL REGULATIONS.

(a) IN GENERAL.—Section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h) is amended—

(1) in subsection (b)(1), by striking ''subsection (d)(2)'' and inserting ''subsection (e)(2)'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

''(d) GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE.—

"(1) REGULATIONS.—Not later than 1 year after the date of enactment of the Investing in Climate Action and Protection Act, the Administrator shall promulgate regulations for State underground injection control programs establishing standards for permitting commercial-scale underground injection of carbon dioxide for purposes of geological sequestration to address climate change.

"(2) ENVIRONMENTAL REQUIREMENTS.—Standards established under paragraph (1) shall—

"(A) satisfy the requirements set forth in subsection (b); and

"(B) include requirements for monitoring and controlling the long-term storage of carbon dioxide and avoiding, to the maximum extent that is technically feasible, any release of carbon dioxide into the atmosphere, and for ensuring protection of underground sources of drinking water, human health, and the environment.

"(3) FINANCIAL RESPONSIBILITY.—

"(A) IN GENERAL.—Standards established under paragraph (1) shall also include requirements for maintaining evidence of pre-closure financial responsibility for—

"(i) taking corrective action;

"(ii) acquiring and submitting to the Administrator for retirement emission allowances established under section 711 of the Clean Air Act equal to any release of carbon dioxide into the atmosphere from a geological sequestration site; and

"(iii) compensating third parties for bodily injury, property damage, or environmental damages.

"(B) REQUIREMENTS.—The requirements referenced in subparagraph (A) shall include the following:

"(i) Financial responsibility may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, qualification as a self-insurer or any other method satisfactory to the Administrator. The Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subsection.

"(ii) In any case where the owner or operator of the geological sequestration site is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal Courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(iii) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual, or common law liability of a guarantor to its owner or operator including the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under any other applicable law.

"(iv) The requirements shall ensure that adequate resources are available to close the geological sequestration site in the event the owner or operator files for bankruptcy or ceases operations.

"(4) SUBSEQUENT REPORTS.—Not later than 5 years after the date on which regulations are promulgated pursuant to paragraph (1), and not less frequently than once every 5 years thereafter, the Administrator shall submit to Congress a report that contains an evaluation of the effectiveness of the regulations, based on current knowledge and experience, with particular emphasis on any new information on potential impacts of commercial-scale geological sequestration on drinking water, human health, and the environment.

''(5) REVISION.—If the Administrator determines, based on a report under paragraph (4), that regulations promulgated pursuant to paragraph (1) require revision, the Administrator shall promulgate revised regulations not later than 1 year after the date on which the applicable report is submitted to Congress under paragraph (4).''.

(b) CONFORMING AMENDMENT.—Section 1447(a)(4) of the Safe Drinking Water Act (42 U.S.C. 300j–6(a)(4)) is amended by striking ''section 1421(d)(2)'' and inserting ''section 1421(e)(2)''.

SEC. 502. LIABILITIES FOR CLOSED GEOLOGICAL SEQUESTRATION SITES.

(a) ESTABLISHMENT OF TASK FORCE.—As soon as practicable, but not later than 6 months after the date of enactment of this Act, the Administrator shall establish a task force, to be composed of an equal number of subject matter experts, nongovernmental organizations with expertise in environmental policy, and members of the private sector, to conduct a study of the statutory framework, environmental and safety considerations, and financial implications of potential models for Federal, State, or private sector assumption of liabilities and financial responsibilities with respect to closed geological sequestration sites.

(b) CONSIDERATIONS.—The task force shall consider financial responsibility for any environmental damages, including the submission of emission allowances to account for any releases of carbon dioxide into the atmosphere from closed geological sequestration sites.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the task force established under subsection (a) shall submit to Congress a report describing the results of the study conducted under subsection (a), including recommendations of the task force with respect to the framework described in that subsection.

TITLE VI—BUILDING EFFICIENCY STANDARDS

SEC. 601. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

"SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

"(a) UPDATES.—

"(1) IN GENERAL.—The Secretary shall support updating the national model building energy codes and standards not later than 3 years after the date of enactment of the Investing in Climate Action and Protection Act, and not less frequently than every 3 years thereafter, to achieve overall energy savings, as compared to the IECC (2006) for residential buildings and ASHRAE Standard 90.1 (2004) for commercial buildings, of at least—

"(A) 30 percent, with respect to each edition of a model code or standard published during the period beginning on January 1, 2010, and ending on December 31, 2019;

"(B) 50 percent, with respect to each edition of a model code or standard published on or after January 1, 2020; and

"(C) targets for intermediate and subsequent years, to be established by the Secretary not less than 3 years before the beginning on each target year, in coordination with IECC and ASHRAE Standard 90.1 cycles, at the maximum level of energy efficiency that is technologically feasible and lifecycle cost-effective.

"(2) REVISIONS TO IECC AND ASHRAE.—

"(A) IN GENERAL.—If the IECC or ASHRAE Standard 90.1 regarding building energy use is revised, not later than 1 year after the date of the revision, the Secretary shall determine whether the revision will—

"(i) improve energy efficiency in buildings; and

"(ii) meet the energy savings goals described in paragraph (1).

"(B) MODIFICATIONS.—

"(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (A)(ii) that a code or standard does not meet the energy savings goals established under paragraph (1) or if a national model code or standard is not updated for more than 3 years, not later than 1 year after the determination or the expiration of the 3-year period, the Secretary shall establish a modified code or standard that meets the energy savings goals.

"(ii) REQUIREMENTS.—

"(I) ENERGY SAVINGS.—A modification to a code or standard under clause (i) shall—

"(aa) achieve the maximum level of energy savings that is technically feasible and lifecycle cost-effective;

"(bb) be achieved through an amendment or supplement to the most recent revision of the IECC or ASHRAE Standard 90.1 and taking into consideration other appropriate model codes and standards; and

"(cc) incorporate available appliances, technologies, and construction practices.

"(II) TREATMENT AS BASELINE.—A modification to a code or standard under clause (i) shall serve as the baseline for the next applicable determination of the Secretary under subparagraph (A)(i).

"(C) PUBLIC PARTICIPATION.—The Secretary shall—

"(i) publish in the Federal Register a notice relating to each goal, determination, and modification under this paragraph; and

"(ii) provide an opportunity for public comment regarding the goals, determinations, and modifications.

"(b) State Certification of Building Energy Code Updates.—

"(1) General certification.—

"(A) In general.—Not later than 2 years after the date of enactment of the Investing in Climate Action and Protection Act, each State shall certify to the Secretary that the State has reviewed and updated the provisions of the residential and commercial building codes of the State regarding energy efficiency.

"(B) Energy savings.—A certification under subparagraph (A) shall include a demonstration that the applicable provisions of the State code meet or exceed, as applicable—

"(i)(I) the IECC (2006) for residential buildings; or

"(II) the ASHRAE Standard 90.1 (2004) for commercial buildings; or "(ii) the quantity of energy savings represented by the provisions referred to in clause (i).

"(2) REVISION OF CODES AND STANDARDS.—

"(A) IN GENERAL.—If the Secretary makes an affirmative determination under subsection (a)(2)(A)(i) or establishes a modified code or standard under subsection (a)(2)(B), not later than 2 years after the determination or proposal, each State shall certify that the State has reviewed and updated the provisions of the residential and commercial building codes of the State regarding energy efficiency.

"(B) ENERGY SAVINGS.—A certification under subparagraph (A) shall include a demonstration that the applicable provisions of the State code meet or exceed—

"(i) the modified code or standard; or

"(ii) the quantity of energy savings represented by the modified code or standard.

"(C) FAILURE TO DETERMINE.—If the Secretary fails to make a determination under subsection (a)(2)(A)(i) by the date specified in subsection (a)(2), or if the Secretary makes a negative determination, not later than 2 years after the specified date or the date of the determination, each State shall certify that the State has—

"(i) reviewed the revised code or standard; and

"(ii) updated the provisions of the residential and commercial building codes of the State as necessary to meet or exceed, as applicable—

"(I) any provisions of a national code or standard determined to improve energy efficiency in buildings; or

"(II) energy savings achieved by those provisions through other means.

"(c) ACHIEVEMENT OF COMPLIANCE BY STATES.—

"(1) IN GENERAL.—Not later than 3 years after the date on which a State makes a certification under subsection (b), the State shall certify to the Secretary that the State has achieved compliance with the building energy code that is the subject of the certification.

"(2) RATE OF COMPLIANCE.—The certification shall include documentation of the rate of compliance based on independent inspections of a random sample of the new and renovated buildings covered by the State code during the preceding calendar year.

"(3) COMPLIANCE.—A State shall be considered to achieve compliance for purposes of paragraph (1) if—

"(A) at least 90 percent of new and renovated buildings covered by the State code during the preceding calendar year substantially meet all the requirements of the code; or

"(B) the estimated excess energy use of new and renovated buildings that did not meet the requirements of the State code during the preceding calendar year, as compared to a baseline of comparable buildings that meet the requirements of the code, is not more than 10 percent of the estimated energy use of all new and renovated buildings covered by the State code during the preceding calendar year.

"(d) FAILURE TO CERTIFY.—

"(1) EXTENSION OF DEADLINES.—The Secretary shall extend a deadline for certification by a State under subsection (b) or (c) for not more than 1 additional year, if the State demonstrates to the satisfaction of the Secretary that the State has made—

“(A) a good faith effort to comply with the certification requirement; and

“(B) significant progress with respect to the compliance.

“(2) NONCOMPLIANCE BY STATE.—

“(A) IN GENERAL.—A State that fails to submit a certification required under subsection (b) or (c), and to which an extension is not provided under paragraph (1), shall be considered to be out of compliance with this section.

“(B) EFFECT ON LOCAL GOVERNMENTS.—A local government of a State that is out of compliance with this section may be considered to be in compliance with this section if the local government meets each applicable certification requirement of this section.

“(e) TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—The Secretary shall provide technical assistance (including building energy analysis and design tools, building demonstrations, and design assistance and training) to ensure that national model building energy codes and standards meet the goals described in subsection (a)(1).

"(2) ASSISTANCE TO STATES.—The Secretary shall provide technical assistance to States—

"(A) to implement this section, including procedures for States to demonstrate that the codes of the States achieve equivalent or greater energy savings than the national model codes and standards;

"(B) to improve and implement State residential and commercial building energy efficiency codes; and

"(C) to otherwise promote the design and construction of energy-efficient buildings.

"(f) INCENTIVE FUNDING.—

"(1) IN GENERAL.—The Secretary shall provide incentive funding to States—

"(A) to implement this section; and

"(B) to improve and implement State residential and commercial building energy efficiency codes, including increasing and verifying compliance with the codes.

"(2) AMOUNT.—In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall take into consideration actions proposed by the State—

"(A) to implement this section;

"(B) to implement and improve residential and commercial building energy efficiency codes; and

"(C) to promote building energy efficiency through use of the codes.

"(3) ADDITIONAL FUNDING.—The Secretary shall provide additional funding under this subsection for implementation of a plan to demonstrate a rate of compliance with applicable residential and commercial building energy efficiency codes at a rate of not less than 90 percent, based on energy performance—

"(A) to a State that has adopted and is implementing, on a statewide basis—

"(i) a residential building energy efficiency code that meets or exceeds the requirements of the IECC (2006) (or a successor code that is the subject of an affirmative determination by the Secretary under subsection (a)(2)(A)(i)); and

"(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1 (2004) (or a successor standard that is the subject of an affirmative determination by the Secretary under subsection (a)(2)(A)(i)); or

"(B) in the case of a State in which no statewide energy code exists for residential buildings or commercial buildings, or in which the State code fails to comply with subparagraph (A), to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

"(4) TRAINING.—Of the amounts made available to carry out this subsection, the Secretary may use not more than $500,000 for each State to train State and local officials to implement State or local energy codes in accordance with a plan described in paragraph (3).".

SEC. 602. CONFORMING AMENDMENT.

Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended by adding at the end the following new paragraph:

"(17) IECC.—The term 'IECC' means the 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.

(b) EXCEPTION.—Subsection (a)(2), (3), and (4) shall not apply to the first report delivered under subsection (a).

(c) LATEST SCIENTIFIC INFORMATION.—The analysis required under subsection (a)(1) shall—

(1) address existing reports, including the most recent assessment report of the Intergovernmental Panel on Climate Change; and

(2) include a description of trends in and projections for—

(A) total United States greenhouse gas emissions;

(B) total worldwide greenhouse gas emissions;

(C) greenhouse gas emissions in each country that is a major trading partner of the United States;

(D) atmospheric concentrations of greenhouse gases;

(E) global average temperature, including an analysis of whether an increase of global average temperature in excess of 3.6 degrees Fahrenheit (2 degrees Celsius) above the preindustrial average has occurred or is more likely than not to occur in the foreseeable future as a result of anthropogenic climate change;

(F) adverse impacts of global climate change on human populations, wildlife, and natural resources; and

(G) the health of the oceans and ocean ecosystems, including predicted changes in ocean acidity, temperatures, the extent of coral reefs, and other indicators of ocean ecosystem health, resulting from anthropogenic carbon dioxide and climate change.

(d) PERFORMANCE OF THIS ACT AND OTHER POLICIES.—The analysis required under subsection (a)(2) shall include a description of—

(1) the extent to which this Act, in concert with other public policies, will prevent dangerous atmospheric concentrations of greenhouse gases;

(2) the extent to which this Act, in concert with other public policies, will prevent a dangerous increase in global average temperature;

(3) the current and future projected deployment of technologies and practices in the United States that reduce or limit greenhouse gas emissions, including—

(A) technologies for capture and disposal of greenhouse gases;

(B) efficiency improvement technologies;

(C) zero-greenhouse gas emitting energy technologies, including wind, solar, geothermal, hydrokinetic, and nuclear technologies;

(D) low-carbon renewable fuels and bio-energy; and

(E) above-ground and below-ground biological sequestration technologies.

(4) the extent to which this Act and other public policies are accelerating the development and commercial deployment of technologies and practices that reduce and limit greenhouse gas emissions;

(5) the extent to which this Act and other public policies are reducing greenhouse gas emissions and increasing biological sequestration from agriculture and forestry in the United States and internationally;

(6) the extent to which offset credits available on international markets represent real, verifiable, additional, permanent, and enforceable reductions in greenhouse gas emissions or increases in sequestration;

(7) the extent to which this Act and other public policies are addressing climate change adaptation needs in the United States and the most vulnerable developing countries (as defined in section 422(2) of this Act);

(8) the extent to which the distributions of auction proceeds under title VII of the Clean Air Act, as added by section 101 of this Act, are advancing the purposes of this Act; and

(9) the cost-effectiveness of programs established under titles III and IV of this Act in achieving their stated purposes, and the comparative environmental and economic benefits of such programs.

(e) RECOMMENDATIONS REGARDING THIS ACT AND OTHER POLICIES.—The recommendations required under subsection (a)(3) shall include—

(1) recommendations regarding distribution of funds from the Low-Carbon Technology Fund, under subtitle B of title III of this Act, in order to accelerate reductions in greenhouse gas emissions and lower the cost of achieving such reductions through research, development, demonstration, and deployment of technologies;

(2) recommendations regarding improvements to programs implemented pursuant to this Act re-

lated to the agriculture and forestry sectors in order to accelerate reductions in greenhouse gas emissions from agriculture and increases in biological sequestration from agriculture and forestry;

(3) recommendations as to how to amend title VII of the Clean Air Act, this Act, or other Federal policies in order to avoid dangerous atmospheric concentrations of greenhouse gases or a dangerous increase in global average temperature, including consideration of the feasibility and effectiveness of—

(A) expanding the definition of the term covered entity under title VII of the Clean Air Act;

(B) expanding the scope of the compliance obligation established under section 712 of the Clean Air Act;

(C) reducing the number of emission allowances comprising the Emission Allowance Account for 1 or more calendar years under section 711 of the Clean Air Act;

(D) establishing policies for reducing greenhouse gas emissions over and above the policies established by title VII of the Clean Air Act; and

(E) other approaches, as determined by the National Academy of Sciences;

(4) recommendations regarding improvements to climate change adaptation programs implemented pursuant to this Act or alternative approaches to reducing vulnerability to climate change impacts; and

(5) recommendations regarding distribution of auction proceeds among programs, taking into account trends in the relative environmental and economic benefits delivered by, and cost-effectiveness of, each program.

SEC. 702. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW AND RECOMMENDATIONS.

(a) IN GENERAL.—Not later than January 1, 2013, and every 3 years thereafter, the Comptroller General of the United States shall carry out a review of the programs described in title III and title IV of this Act. Each such report shall include—

(1) a comprehensive evaluation of the effectiveness of each program, including—

(A) the efficiency, transparency, and soundness of the administration of each program;

(B) the performance of projects or activities receiving assistance under each program; and

(C) trends in the cost-effectiveness of each program in achieving the stated purposes of the program;

(2) recommendations, if any, for regulatory or administrative changes to each program to improve its effectiveness; and

(3) identification of programs from which funds should be redirected because of diminishing cost-effectiveness in achieving the stated purpose of the program.

SEC. 703. PRESIDENTIAL RECOMMENDATIONS.

(a) ESTABLISHMENT OF THE INTERAGENCY CLIMATE CHANGE TASK FORCE.—Not later than January 1, 2012, the President shall establish an Interagency Climate Change Task Force (in this section referred to as the "Task Force").

(b) COMPOSITION.—The members of the Task Force shall be—

(1) the Administrator;

(2) the Secretary of Energy;

(3) the Secretary of Agriculture;

(4) the Secretary of State;

(5) the Secretary of Commerce; and

(6) such other Cabinet Secretaries as the President may name to the membership of the Task Force.

(c) CHAIRMAN.—The Administrator shall serve as Chairman of the Task Force.

(d) REPORT TO PRESIDENT.—

(1) IN GENERAL.—Not later than July 1, 2013, and every 5 years thereafter, the Task Force shall submit to the President a report making recommendations, including specific legislation for the President to recommend to Congress, in response to the most recent report submitted by the National Academy of Sciences under section 701 and the most recent report of the Comptroller General under section 702.

(2) INCLUSIONS.—The Task Force shall include with the report an explanation of any inconsistencies between the Task Force's recommendations and—

(A) the report and recommendations submitted by the National Academy of Sciences under section 701; or

(B) any recommendations submitted by the Comptroller General under section 702.

(e) PRESIDENTIAL RECOMMENDATION TO CONGRESS.—Not later than January 1, 2014, and every 5 years thereafter, the President shall submit to Congress a report making recommendations, including the text of any legislation proposed, based on the report submitted to the President under subsection (d).

(f) SAVINGS CLAUSE.—Nothing in this title limits, procedurally affects, or otherwise restricts the authority of the Administrator, a State, or any person to use authorities under this Act or any other law to adopt or enforce any rule.

SEC. 704. EXPEDITED CONGRESSIONAL ACTION ON CERTAIN PRESIDENTIAL RECOMMENDATIONS.

(a) CONSIDERATION.—In any calendar year during which a report is submitted under section 703(e), the Senate and the House of Representatives may consider a joint resolution, in accordance with subsection (b), that amends section 711 of the Clean Air Act to decrease the number of allowances to be issued, if and to the extent specifically recommended by the President pursuant to section 703(e).

(b) REQUIREMENTS.—A joint resolution considered under subsection (a)—

(1) shall be introduced during the 60-day period beginning on the date on which a report is submitted under section 703(e);

(2) after the resolving clause and "That", shall contain only: "effective beginning ________________, the table in section 711 of the Clean Air Act is amended ____________.", the blanks being filled in with the effective date and reductions in the quantity of emission allowances to be issued, respectively; and

(3) shall be referred to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(c) APPLICABLE LAW.—Subsections (c) through (g) of section 802 of title 5, United States Code, shall apply to any joint resolution described in this section, except that in applying such subsections—

(1) references therein to "subsection (a)" shall refer to subsection (a) of this section;

(2) references therein to the "submission or publication date" or "submission or publication date defined under subsection (b)(2)" shall mean the date on which Congress receives the report submitted under section 703(e) of this Act;

(3) in subsection (e), the words "respecting a rule" shall be ignored; and

(4) subsection (e)(2) of such section 802 shall not apply to a resolution described in this section.

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